

# PKF worldwide tax update

MARCH 2022



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# Welcome

In this first quarterly issue for 2022, the PKF Worldwide Tax Update newsletter again brings together notable tax changes and amendments from around the world, with each followed by a PKF commentary which provides further insight and information on the matters discussed. PKF is a global network with 400 offices, operating in over 150 countries across our five regions, and its tax experts specialise in providing high quality tax advisory services to international and domestic organisations in all our markets.

In this issue featured articles include discussions on:

- (EU) VAT updates in Italy and Thailand
- Internationally Mobile Employees in China and the United Kingdom

- Recent comprehensive tax changes in Chile, Ecuador, Germany, Mexico, Romania, Spain and the United Arab Emirates
- International tax developments (CFC/thin cap, CbC Reporting, BEPS, MLI, double tax treaties, transfer pricing, etc.) in Cyprus, Peru and Taiwan.

We trust you find the PKF Worldwide Tax Update for the first quarter of 2022 both informative and interesting and please do contact the PKF tax expert directly (mentioned at the foot of the respective PKF commentary) should you wish to discuss any tax matter further or, alternatively, please contact any PKF firm (by country) at [www.pkf.com/pkf-firms](http://www.pkf.com/pkf-firms).



# Chile

## Tax reform proposals announced

Chile's newly elected president, Gabriel Boric, will take office on 11 March 2022 and has announced a number of tax reforms that tie into financing the social reforms promised during his campaign.

### Income tax

A disintegrated new income tax regime for large companies and their shareholders is proposed, i.e. corporate income tax paid by such companies would no longer constitute a credit that shareholders may offset against personal income tax at the time of profit distribution (until now Chile has applied an imputation system). However, this imputation system would stay in place at the level of small and medium-sized companies, as well as for shareholders of companies, including large companies, that are resident in a country with which Chile has a double tax treaty in force.

All double tax treaties that Chile has concluded contain a so-called 'Chile clause', i.e. the reduced rate contained in the dividend article (usually Article 10 of a treaty) is not applicable to the extent that corporate tax can be fully offset against withholding tax. In the event of a complete disintegration of the system, around 40% of the tax treaties concluded by Chile would have to be renegotiated, while for the remaining 60% a reduced rate would have to be applied, which would result in a total tax burden lower than the current one in the majority of cases. This is probably the reason why it was decided not to completely overhaul the system.

The following measures were also announced:

- Cancellation of the exemption from corporate income tax at the level of private investment funds;
- Cancellation of the tax exemption for capital gains derived from the transfer of shares quoted on the stock exchange;

- Cancellation of the tax exemption for capital gains derived from the sale of immovable property acquired before 2004;
- Cancellation of the income tax exemption on rent derived by individuals from non-luxury dwellings not exceeding 140 m<sup>2</sup> (DFL 2 real estate);
- Cancellation of the presumptive income regime currently in force, which applies to agricultural and forestry, transport and mining activities.

### Wealth tax

Introduction of a tax levied on net worth owned by the wealthiest individuals and on retained earnings. In addition, the rules establishing the inheritance and donation tax would be amended in order to provide that the commercial value of goods received by way of inheritance or donation would be considered for the purposes of calculating the tax.

### Anti-avoidance measures

Under current applicable law only tax courts can establish the existence of simulation or abuse for the purposes of the application of the general anti-avoidance rule. It is now proposed to amend this rule so that it may be administratively applied by the tax authority.

Other measures announced include: (i) allowing the prosecution of certain tax crimes by the Criminal Prosecutor's Office; (ii) creating a registry of beneficial owners; and (iii) putting in place an anonymous whistle-blowing mechanism in tax matters.

### Mining royalties

Regarding the mining sector, it is proposed to establish a mechanism including both an ad valorem component (sales tax) and a new income tax based on the operating or financial margin of mining companies. The latter component would imply modifying the specific tax on mining activities in order to make the current brackets more progressive.

## PKF Comment

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If you believe the above measures may impact your business or personal situation or require any advice with respect to Chilean taxation, please contact Antonio Melys Alvarez at [amelys@pkfchile.cl](mailto:amelys@pkfchile.cl) or call +56 22650 4332.



## Extended tax incentives for expatriates

The Ministry of Finance and the State Taxation Administration jointly issued a circular on 31 December 2021 (Circular [2021] No. 43) extending the tax policy allowing foreign individuals working in China to choose the treatment of benefits in kind as contained in Circular [2018] No. 164.

The 2018 Circular provided that from 1 January 2019 to 31 December 2021 foreign individuals could annually elect to apply special additional deductions (such as deductions for children's education, adult education, elderly care, extraordinary medical expenses, mortgage interest and housing rents) or tax-exempted allowances (for housing, language training, school fees for children) that were applicable prior to 1 January 2019. From 1 January 2022, the tax-exempted allowances have been cancelled, and the special additional deductions will equally apply to foreign individuals and domestic individuals.

Circular [2021] No. 43 allows foreign individuals to continue choosing between the exempt benefits in kind and special additional deductions until 31 December 2023 and reverses the decision to cancel the tax-exempted allowances as from 1 January 2022.

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### PKF Comment

The aforementioned tax incentives have been extended for another two years, which is a welcome New Year's gift to those concerned, but after 2023 expatriates will again face the same tax challenges. Expatriates and their employers should have a long-term plan for the future as we don't think a similar last-minute extension will happen again.

If you believe the above measures may impact your business or personal situation or require any advice with respect to Chinese taxation, please contact Jason Li at [jason@pkfchina.com](mailto:jason@pkfchina.com) or call +86 21 62531800.

## Additional tax residency test based on incorporation

An additional corporate tax residency test has been introduced based on incorporation. This additional test aims to capture Cyprus incorporated/registered companies that are not tax resident in any other jurisdiction (commonly referred to as 'stateless companies').

The existing corporate tax residency test will continue to apply, so that a company that has its management and control in Cyprus will continue to be considered as a tax resident of Cyprus, i.e. its tax residency status will not be affected by the law amendment.

In accordance with the law amendment the definition of a 'resident in the Republic' is enhanced so that a company established or registered under any applicable law in Cyprus which has its management and control exercised outside Cyprus, is considered to be a resident of Cyprus, unless such company is a tax resident in any other jurisdiction.

This means that Cyprus incorporated/registered companies will now be considered as Cyprus tax residents in cases where: (i) their management and control is exercised outside Cyprus; and (ii) they are not tax resident in any other jurisdiction. As such, they will be taxed in Cyprus on their worldwide income.

The law amendment will enter into force on 31 December 2022.

## Introduction of withholding taxes

Introduction of withholding taxes (WHT) on payments to companies in jurisdictions included in the EU blacklist of non-cooperative jurisdictions ('EU blacklist').

### Dividends

WHT at the rate of 17% applies on dividends paid by a Cyprus tax resident company to companies which are:

- resident in jurisdictions included in the EU blacklist; or
- incorporated/registered in a jurisdiction included in the EU blacklist and not tax resident in any other jurisdiction that is not included in the EU blacklist.

The WHT does not apply in the case of dividend payments on shares listed on a recognised stock exchange.

This WHT provision will apply from 31 December 2022.

(in the case of community property, the threshold is USD 1 million) as at 31 December 2020, is payable by 31 March 2022 and 2023 and is calculated as follows:

From USD	To USD	Tax on the basic fraction USD	Tax rate on the excess fraction (%)
0	999,999.99	-	0.0
1,000,000.00	1,199,999.99	-	1.0
Above 1,199,999.99		2,000	1.5

- Individuals resident in Ecuador must take into account assets located in and outside of Ecuador while individuals not resident in Ecuador must only take into account assets located in Ecuador.
- Investments in corporations required to pay the transitory wealth tax should not be taken into account nor should accounts payable to related parties.

The transitory wealth tax is also applicable to corporations with net assets equal to or greater than USD 5 million as at 31 December 2020, is payable by March 2022 and 2023 and is calculated as follows:

From USD	To USD	Tax rate on net assets (%)
0	4,999,999.99	0.0
Above 4,999,999.99		0.8

Payment of the transitory wealth tax is neither a tax credit nor is it tax deductible.

Investment holding companies are not required to file and pay the transitory wealth tax.

## PKF Comment

For further information or advice on any Cypriot tax matter, please contact Nicholas Stavrinides at [nicholas.s@pkf.com.cy](mailto:nicholas.s@pkf.com.cy) or call +357 258 68000.

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## Comprehensive tax reform introduced

The Executive Branch has introduced a comprehensive tax reform on corporate and personal income tax, VAT and net worth tax. The decree law was gazetted on 29 November 2021 and is in force from this date. The amendments are part of the government’s national plan for the creation of opportunities in the period 2021–2025 (National Development Plan).

## Transitory wealth tax for individuals and companies

The transitory wealth tax is applicable to individuals with net assets equal to or greater than USD 500,000

## Voluntary tax regime to legalise foreign-held assets and remittances

A voluntary tax regime has been established, applicable to Ecuadorian residents who have maintained assets abroad as at 31 December 2020, derived from operations subject to income tax and/or tax on the remittance of funds that were not declared and/or subject to payment of taxes.

The tax rate depends on the date on which the tax return is submitted and paid, according to the following table:

Condition	Tax rate applicable
If the tax return and payment are done by 31 March 2022	3.5%
If the tax return and payment are done by 30 June 2022	4.5%
If the tax return and payment are done by 31 December 2022	5.5%

## Various amendments to tax law and regulations

- Gains on the occasional sale of real estate obtained by individuals are exempted from income tax if they are intended for housing.
- The following income tax exemptions were cancelled:
  - Administrators operating Special Economic Development Zones (ZEDES)
  - New and productive investments in economic sectors considered basic industries
  - New and productive investments in economic sectors considered national priorities
  - Public projects through public-private associations
  - Incentive merger of entities of the popular and solidarity financial sectors
  - Activities that include Ecuadorian added value.
- The new ‘Simplified Regime for Entrepreneurs and Popular Businesses (RIMPE)’ was established as a replacement for the Simplified Tax Regime and the Tax Regime for Microenterprises, which were both cancelled.

## Reduction of the tax rate on the remittance of funds

Through Executive Decree No. 298 dated 22 December 2021 a progressive reduction by 0.25% of the tax rate on the remittance of funds during 2022 was established until reaching 4% in the last quarter of 2022, according to the following schedule:

- From 1 January 2022 the tax rate will be 4.75%
- From 1 April 2022 the tax rate will be 4.5%
- From 1 July 2022 the tax rate will be 4.25%
- From 1 October 2022 the tax rate will be 4%.

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## PKF Comment

With these measures, the Ecuadorian government aims to collect USD 1.9 billion in additional revenue over the next two years and about 0.7% of GDP in permanent revenue, thus reducing the fiscal deficit, improving the country’s image on international markets and attracting resources from international organisations.

If you believe the above may impact your business or require any advice with respect to Ecuadorian taxation, please contact Manuel García at [mgarcia@pkfecuador.com](mailto:mgarcia@pkfecuador.com) or call **+593 4 236 7833**.



## Tax legislation planned by the new German government

At the end of 2021 Germany elected a new government, which is planning several tax changes. The following is an overview of the most salient planned regulations.

### 1. Amendments relating specifically to companies

- Practical adjustments are required for the so-called option model, under which partnerships can opt for taxation in the same way as corporations.
- The extended loss offset from EUR 1 million to EUR 10 million will be extended until the end of 2023. The loss carry-back is granted for two consecutive years instead of one.
- Particularly high depreciation can be taken on investments in climate protection and digital assets produced in 2022 and 2023.



- Introduction of the global minimum taxation and constant update of the tax haven list.
- Income flowing out of Germany is to be taxed appropriately. Both non-taxation and double taxation are to be avoided.
- By extending withholding taxation – in particular, by adjusting double taxation agreements – tax avoidance is to be prevented.
- A new limitation on interest deduction: an ‘interest rate cap’ is to be introduced.
- The OECD rules against tax structuring to avoid taxes in connection with the international exchange of financial account information (CRS and FATCA) and the expansion of the exchange of information are to be implemented.
- Companies with a turnover of more than EUR 10 million must extend their DAC6 reporting obligation for international tax structuring to national tax structuring.
- Tax audits are to be modernised and accelerated. This is to be achieved through improved interfaces, standardisation and new technologies. A central organisational unit is to be set up in Germany with the purpose of ensuring that the tax administration can connect to digital transformation and to reduce tax bureaucracy.
- The promotion of employee participation is targeted. This could be done by further increasing the tax allowance.
- To generate affordable housing with social commitment, tax incentives and investment subsidies are on the table.
- Donations to charitable organisations are to be simplified.
- An electronic reporting system is to be introduced throughout Germany, which will be used for the creation, verification and forwarding of invoices (e-invoicing). The aim is to modernise and reduce bureaucracy in the interface between administration and businesses and to combat fraud. At EU level, Germany intends to lobby for a definitive VAT system (e.g. reverse charge).

- To achieve a level playing field in European competition, the import sales tax is to be further developed.
- Inclusion companies are to be strengthened. This could be done through a formal privilege in the German Value Added Tax Act.
- ‘Plastic tax’: plastic taxes are shifted to producers and distributors.

## 2. Amendments relating to all taxpayers

- Taxation procedures are simplified and digitalised.
- The benefit of plug-in hybrid vehicles will be based on purely electric driving performance. In the future, hybrid vehicles will only be subsidised if the vehicle is operated mostly (more than 50%) in purely electric drive mode.
- The tax regulations on home offices for employees are to be extended until 31 December 2022.
- The saver’s allowance will be increased to EUR 1,000 (to EUR 2,000 in the case of joint tax assessment) as of 1 January 2023.
- Straight-line depreciation for new residential construction will be increased from 2% to 3%.
- Tax evasion and tax avoidance are to be intensively prevented.
- The individual federal states within Germany are to be given flexibility in structuring real estate transfer tax. The aim behind this is to facilitate the acquisition of owner-occupied residential property.

### PKF Comment

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If you believe any of the above measures may impact your business or require any advice with respect to German taxation, please contact Daniel Scheffbuch at [d.scheffbuch@pkf-wulf.de](mailto:d.scheffbuch@pkf-wulf.de) or call +49 711 69 767 238.



# Ghana

## New tax legislation introduced

The following Acts were gazetted on 31 December 2021.

### **Income Tax (Amendment) (No. 2) Act, 2021 (Act 1071)**

The Act amends various sections of the Income Tax Act, 2015 (Act 896). It provides for the following:

- i) Review of the rates of income tax for individuals.
- ii) Reduction in the withholding tax rate for the sale of unprocessed gold by small scale miners from 3% to 1.5%.
- iii) An amendment to the modified tax system. It provided that the tax is applied on a turnover of more than GHS 20,000 but with a cap of GHS 500,000. The presumptive tax rate is 3%.
- iv) Extension of the COVID-19 concessions granted in 2021 for a further six months in 2022.

### **Value Added Tax (Amendment) Act, 2021 (Act 1072)**

The Act amends various sections of the Value Added Tax Act, 2013 (Act 870). It provides for the following:

- i) Review of the value added tax flat rate scheme to limit the application of the flat rate to retailers with an annual turnover not exceeding GHS 500,000.
- ii) Extension of the zero-rate value added tax on African textile prints for textile manufacturers by a period of two years.

### **Penalty and Interest Waiver Act, (Amendment) 2021 (Act 1073)**

The Act amends various sections of the Penalty and Interest Waiver Act, 2021 (Act 1065). The Act provides for the extension of the period for application for a waiver of penalties and interest on accumulated tax arrears up to December 2020 for persons who make arrangements with the Ghana

Revenue Authority for payment of the principal tax to 30 June 2022.

## Recent case law

Three cases are reviewed here:

### ***Africa Mining Services (Ghana) PTY Limited vs the Commissioner General of the Ghana Revenue Authority, in suit number CM/ MISC/0245/2021 dated 14 October 2021 in the matter of an application for judicial review, an order of certiorari and orders of injunction***

This is a ruling by the High Court (Commercial Division) in an application for judicial review, specifically an application for certiorari to quash the decision of the Commissioner General of the Ghana Revenue Authority (GRA).

The facts of the case are that the GRA audited the Applicant, Africa Mining Services (Ghana) PTY Limited and assessed it to a tax liability of USD 14,912,658.71. The Applicant notified the Commissioner General of its intention to object to the assessment.

The Revenue Administration Act, 2016 (Act 915) requires a person objecting to an assessment by the Commissioner General to pay 30% of the tax assessed before the objection is heard. Act 915 gives the Commissioner General the discretionary power to waive or vary the 30% conditional payment.

The Applicant in filing the objection divided the liability into what it deemed to arise from computational error (USD 11,196,390.59) and interpretational error (USD 3,716,268.12), paid the 30% requirement on what it deemed as interpretational error and requested that the Commissioner General exercises its discretionary power to waive or vary the 30% conditional payment of what it deemed to be computational error. The Commissioner General declined to exercise the discretion to waive or vary the 30% payment. It is from this decision that the Applicant brought the instant application. Among the reliefs sought were an order for certiorari to quash the Commissioner General's decision not to waive the 30%, an order granting the waiver, an order for the Commissioner General to determine the objection and an order for injunction restraining the Commissioner General from enforcing collection.

The Respondent (the Commissioner General) opposed the applications contending that the application was not properly before the Court as the application was an objection to an assessment disguised as judicial review. The Respondent observed that the requirements under Act 915 for bringing an objection had not been complied with.

The issues that the Court set down for ruling were: determination of the scope of the discretion of the Respondent to vary or waive the conditional payment, whether or not Act 915 allowed a distinction between computational and interpretational errors to determine the 30% payment due, whether the Respondent was caught in any illegality or unreasonableness and whether the Applicant was entitled to the reliefs sought.

The Court declined to grant the Applicant's reliefs on the grounds that the power granted to the Commissioner General under the Act was a broad one not restricted to waiving. The Commissioner General could waive, vary, suspend or request a security to be posted. The Commissioner General therefore cannot be compelled to waive the 30% payment. Further, the Court held that Act 915 did not allow the distinction between interpretational and computational errors that the Applicant sought to be applied.

***Blue Sky Products (Ghana) Limited vs the Commissioner General of the Ghana Revenue Authority, in suit number CM/TAX/0014/2021 dated 23 November 2021 in the matter of a tax appeal under Order 54 Rule 1 of the High Court (Civil Procedure) Rules, 2004 (C.I.47)***

This is a decision of the High Court (Commercial Division) to a tax appeal by the Applicant. The Applicant, Blue Sky Products (Ghana) Limited was registered as a free zone enterprise (FZE) under the Free Zone Act 1995 (Act 504). As a FZE, the company is expected to export at least 70% of its products.

Act 504 and the Income Tax Act, 2015 (Act 896) provide for a ten-year tax-free holiday for FZEs. After the ten years, Act 896 provides that FZEs pay tax at 15%. Act 896 also provides that exporters of non-traditional goods pay tax on their exports at a concessionary rate of 8%. The Applicant, having exhausted its ten-year tax holiday, sought to be taxed at 8% instead of the 15% provided under Act

896 specifically for FZEs. The Commissioner General of the Ghana Revenue Authority (GRA) refused to uphold this position and held that the concessionary rate of 8% granted to exporters of non-traditional goods is applicable solely to such companies other than a company registered as a FZE. The Applicant was of the opinion that this ruling by the Commissioner General was an error of law and also inconsistent with article 17 of the 1992 Constitution of Ghana (which provides equality and freedom from discrimination), hence the instant appeal.

The Court held, dismissing the appeal, that the facts had been established that:

1. The Appellant is a FZE that had taken advantage of tax incentives of a whole ten years tax holiday provided under the laws.
2. It is not in contention that a FZE and an exporter of non-traditional goods have two distinct tax incentive regimes.
3. Discrimination under article 17 of the 1992 Constitution will only apply when two or more separate entities within the same tax regime/ bracket are made to enjoy separate tax incentives. It is not applicable to instances such as this when the entities are given the option to choose and cannot be taken as discrimination when each entity is allowed to enjoy the exclusive benefits within its domain.

In conclusion the Court ruled that the applicable rate for tax chargeable on FZEs that have exhausted their concessionary holiday shall be 15% and not 8%, that the two tax regimes are distinct and a taxpayer cannot benefit from both.



## ***Movelle Company Ltd vs the Ghana Revenue Authority, in suit number CM/RPC/0499/2020 dated 25 October 2021***

The Plaintiff is an importer of frozen meat and meat products. In December 2013, the government of Ghana required all importers of poultry products to obtain permits to bring in their poultry imports to Ghana. This was in keeping with the government policy of promoting locally produced poultry. The Plaintiff claimed to have imported 58 forty-footer containers of frozen poultry products between November 2013 and February 2014. Per the policy of the government, permits had to be sought before the goods could be cleared. There was a delay in the permit processing so the goods could not be cleared before the expiry of the time allowed for the goods to remain in the custody of Customs. Agents of the Ghana Revenue Authority (GRA) deeming the goods as perishable ones auctioned 41 forty-footer containers without notice to the Plaintiff and paid the money to the Consolidated Fund.

The Plaintiff brought an action against the Defendant seeking, among other reliefs, a declaration that the seizure and auction was unlawful and a breach of duty as the Defendant did not follow statutory and administrative procedures, an order account for the proceeds of the auctioned goods (USD 3,894,750), interest, special damages, general damages and the cost of legal fees.

The Defendant opposed, contending that the Plaintiff delayed in clearing the goods because it did not seek the necessary permit before importing the goods, as was required by the government's directives, and that it had acted lawfully and followed due process.

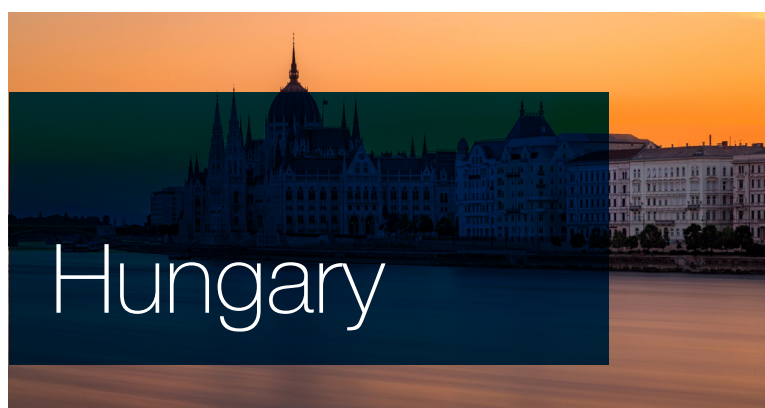
The issues set down by the Court were a determination of the legality of the seizure, whether due process was followed, whether the Plaintiff was entitled to account, general damages and other reliefs sought.

The Court held that on review of the government policy directive and the Customs, Excise and Preventive Service (Management) Act, 1993 (PNDCL 330), the Plaintiff should have sought the permit before importing the goods and not after importation. The Defendant also had a duty to notify the Plaintiff of the intended auction. The Plaintiff was entitled to account of USD 1,442,072.50 and not USD 3,894,750.

### **PKF Comment**

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If you believe the above measures may impact your business or require any advice with respect to Ghana taxation, please contact Frederick Bruce-Tagoe at [fbrucetagoe@pkfghana.com](mailto:fbrucetagoe@pkfghana.com) or call +233 302 221 266.



### **Decrease in payroll taxes – more than expected**

Historically, a tripartite agreement (between the government, trade unions and representatives of Hungarian employers) was concluded in November 2016 to gradually halve payroll taxes during the period from January 2017 to July 2022 depending on the pace of wage increases.

From January 2022 onwards, the new rate of social security contributions (SSC) has been cut to 13% along with the cancellation of the 1.5% vocational training contribution. This reduction was made possible by the hiked minimum wage for 2022. The government therefore kept its part of the agreement, even earlier than expected and with a greater reduction than originally agreed.

### **PKF Comment**

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Payroll taxes paid by employers were lowered from 28.5% to 13% over the last six years. As wages also increased, the income transfer between the government and employees has been implemented successfully.

## Favourable taxation of crypto assets

In accordance with the personal income tax regime effective from 1 January 2022 onwards, only the exchange from a crypto asset into a non-crypto asset should be subject to tax.

As opposed to the former classification, both trading and mining are treated as income taxed separately from 2022. Due to these changes, the taxation of income derived from crypto assets becomes quite similar to controlled capital market transactions (e.g. the possibility of tax equalisation).

In addition, income derived from crypto assets is not subject to social contributions or other contributions. Only the 15% personal income tax will thus be due.

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### PKF Comment

For further information or advice concerning the above or any advice with respect to Hungarian taxation, please contact Krisztián Vadkerti at [vadkerti.krisztian@pkf.hu](mailto:vadkerti.krisztian@pkf.hu) or call +36 1 391 4220.



## First Italian online set-up of a 'limited liability company' (s.r.l.)

The first Italian online 'limited liability company' (s.r.l.), pursuant to the new procedure of EU Directive 2019/1151, was set up in Rome.

The National Notary Council designed and managed the new platform in compliance with the Directive enforced in Italy on 14 December 2021 and confirmed that Italy is one of the first countries in Europe to have implemented the new online procedure for the digital incorporation of limited liability companies (s.r.l.).

To date about 2,000 notaries can provide this service but the number will be increased over time. The deed can be signed through a digital signature or other qualified electronic signatures and the notary is allowed to provide, through the platform, a suitable electronic signature for those parties unable to provide it directly.

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### PKF Comment

The new procedure will make the incorporation of new limited liability companies easier, saving involved parties the effort of having to travel to Italy.

If you believe this procedure may be of interest to any of your clients, please contact Caterina Vernazza – Advisory Team at [c.vernazza@pkf-tclsquare.it](mailto:c.vernazza@pkf-tclsquare.it) or [advisory@pkf-tclsquare.it](mailto:advisory@pkf-tclsquare.it) or call +39 010 81 83 253 (Genoa office).

## VAT refunds for companies with a permanent establishment in Italy

The Italian Revenue Agency, in response to an official tax ruling, has clarified that the right to get an annual VAT refund, granted to non-resident companies in Italy without a permanent establishment, with a VAT registration in Italy or with an appointed tax representative, is also available for companies with a permanent establishment in Italy.

However, this opportunity is limited to domestic supplies if the permanent establishment in Italy is not involved in the operations.

On the other hand, the Revenue Agency came to the opposite conclusion in a case where the permanent establishment pays VAT at Customs for the import of goods into Italy, considering the involvement of the permanent establishment as essential for the completion of customs operations carried out by the parent company.

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## PKF Comment

For any queries related to VAT, you can reach out to Matteo Macciò at [m.maccio@pkf-tclsquare.it](mailto:m.maccio@pkf-tclsquare.it) or call **+39 010 81 83 253** (Genoa office).



## 2022 Tax Reform

On 12 November 2021 the 2022 Tax Reform was gazetted and entered into force on 1 January 2022.

As we anticipated in our last update (Q4 2021), the Reform does not include the introduction of new taxes or an increase of existing rates, apart from adjustments for inflation. The Reform is focused on the implementation of measures to facilitate compliance with the payment of taxes through administrative simplification and to close loopholes for tax avoidance, evasion and fraud.

The following are the most salient features of the 2022 Tax Reform:

## Anti-avoidance rule – ‘business reason’ for restructuring of entities, spin-offs and mergers

A business reason will be fundamental to access various tax benefits such as the sale of shares at tax cost or deferring the payment of income tax derived from a restructuring, as well as the absence of the sale of assets in spin-offs and mergers.

### Federal income law

- No changes in tax benefits.
- No changes in interest rates for omissions regarding tax compliance.

### Income tax law

- Thin cap test with tax attributes was reformed, which will include the reduction of future tax losses. This procedure would not be applicable when the variation between this option and equity is higher than 20%.
- Transfer pricing informative returns must be filed no later than 15 May (under current regulations they need to be submitted along with the annual tax return on 31 March).
- Obligation to submit a notice with the Authority when taxpayers want to dispose of fixed assets that are no longer useful for operations.
- Creation of a new ‘trust regime’ for small taxpayers focused on administrative simplification regarding compliance of tax obligations.

### VAT law

- Non-crediting of VAT paid to vendors if they are related to revenue not subject to VAT; taxpayers who carry out activities that are not subject to VAT will not be able to credit the tax paid to suppliers or on the importation of goods when they are linked to said activities; VAT paid to suppliers will be considered a tax deduction for income tax purposes.

### Federal tax code

- New requirements and regulations on tax invoices were put in place.
- Documentation support and evidence regarding the issuance of credit notes will be required.



- Restriction of electronic certificates for the issuance of invoices in cases where information declared in returns shows discrepancies.
- Obligation to submit a tax audit report (opinion) on the financial statements by a CPA before the authority is reinstated; the obligation is applicable for taxpayers with tax revenue in the previous year equal to or greater than MXN \$ 1,650,490,600, as well as for companies that – at the immediately preceding year end – listed their shares on the stock market. The report must be filed no later than 15 May of the year immediately following the end of the fiscal year in question. For taxpayers with tax revenue in the previous year of less than MXN \$ 1,650,490,600, the statutory audit report is optional, but the option must be stated in the annual income tax return of the year in question.

## 2022 Miscellaneous Tax Resolution

The Miscellaneous Tax Resolution for 2022 (Resolución Miscelánea Fiscal para 2022) was gazetted on 27 December 2021. It contains a package of omnibus rules with an annual validity that the tax authority issues to facilitate the application of the laws by explaining particular aspects.

Hereafter you will find some changes to the deadlines of tax obligations.

### Transfer pricing

Obligations	Submission
Submission of Annex 9 of the Multiple Information Return (DIM 9) for fiscal year 2021 for taxpayers who do not issue a tax opinion and are not required to file the Annual Local Informative Declaration of Related Parties.	31 March

Submission of Annex 9 of the Multiple Information Return (DIM 9) of fiscal year 2021 for taxpayers who are required to present the opinion or have an obligation to present the Annual Local Informative Declaration of Related Parties.	15 July
Submission of Annexes 16 of operations with related parties and 17 of information on its related parties of the tax opinion.	
Submission of the Annexes of operations with related parties and of information on their related parties for taxpayers obliged to present information on their fiscal situation (ISSIF).	30 September
Submission of the Annual Informative Master Declaration of Related Parties.	31 December
Submission of the Annual Country-by-Country Report.	

### Income tax

- The statutory audit report for fiscal year 2021 must be submitted no later than 15 July 2022.
- Regarding the cancellation of invoices, according to the 2022 Tax Reform taxpayers planning on cancelling invoices must do so within a year of issuance; however, the Authority grants an additional one-month period to cancel invoices, i.e. the cancellation of invoices must be done no later than 31 January of the subsequent year in question.

BACK 

### PKF Comment

If you believe any of the above measures may impact your business or personal situation or require any advice with respect to Mexican taxation, please contact Antonio Garcia at [antonio.garcia@pkf.com.mx](mailto:antonio.garcia@pkf.com.mx) or call +52 (81) 8363 8311 and Jimmy Cruz at [jimmy.cruz@pkf.com.mx](mailto:jimmy.cruz@pkf.com.mx) or call +52 (33) 3122 2081.



# Netherlands

## Change to Dutch loss compensation rules as of 1 January 2022

In December 2021, the Dutch Parliament approved a new regulation regarding the offsetting of tax losses at the level of corporate taxpayers. It applies as of 1 January 2022 and, in summary, no longer limits the loss settlement carry forward to a certain number of years, but to a certain amount per year. With the new loss settlement regulation, the government strives to stabilise its tax revenues.

More specifically, the regulation provides that losses can be carried back one year and carried forward without a limitation in years. However, the amount of losses to be offset in one given year is limited. A threshold of EUR 1 million was introduced, which is linked to the taxable profit in the year of settlement. The first EUR 1 million of profit can be completely offset against losses. The taxable profit that exceeds the EUR 1 million threshold can only be offset up to 50% against losses of previous years (or the next year). The remaining losses can be offset in subsequent years.

Furthermore, a transitional regulation provides that the new regime for offsetting losses also applies to losses originating from 2013 until 2021.

BACK 

### PKF Comment

The new loss offsetting regulation in the Corporate Income Tax Act will most likely have a positive effect for businesses with taxable profits below EUR 1 million. As of 1 January 2022 these companies are able to offset their losses without limitation. However, for companies with annual taxable profits exceeding EUR 1 million, this regulation can result in taxation even when tax loss carry forwards are still available. For further information on the change in loss compensation for Dutch CIT, please contact Eelco van der Vijver at [eelco.van.der.vijver@pkfwallast.nl](mailto:eelco.van.der.vijver@pkfwallast.nl) or call +31 20 653 18 12.

## Postponement of proposed changes to taxation of employee stock options

In the PKF Worldwide Tax Update of December 2021 (Q4 2021), we announced that new legislation regarding the taxation of employee stock options was proposed ('Changes announced to the timing of taxation of employee stock options'). The proposed legislation was due to take effect on 1 January 2022. However, recently it became known that this proposed legislation is postponed because of uncertainty in relation to the feasibility and scope of certain aspects of the legislation. It is uncertain when an amended proposal will be presented.

BACK 

### PKF Comment

There are two issues with the current proposal: (i) whether the aim of the proposal is in proportion to the burden of execution; and (ii) the form in which the proposal can be used by large companies. These questions are expected to be answered at the beginning of 2022, after which the Dutch Parliament will again vote on it. For further information or advice on employee stock option rights in the Netherlands, please contact Ruud van der Linde at [ruud.van.der.linde@pkfwallast.nl](mailto:ruud.van.der.linde@pkfwallast.nl) or call +31 10 266 08 34.







## Thin capitalisation rules published

On 30 December 2021 the Peruvian tax authority (SUNAT) issued Supreme Decree 402-2021-EF clarifying the regulations for the interest deduction limitation rules. The Decree was gazetted on the same date and has been in force from 1 January 2022.

As from 1 January 2021, new thin capitalisation rules provide that interest paid by resident taxpayers is not deductible where the indebtedness exceeds 30% of the earnings before interest, taxes, depreciation and amortisation (EBITDA) of the previous year. The amount of net interest that surpasses the 30% EBITDA limit can be carried forward for up to four years.

The regulations contained in the Decree establish how to determine EBITDA when a taxpayer does not have net income or has losses equal to or higher than net income, and also provide for rules on carrying forward disallowed interest expenses and reorganisations.

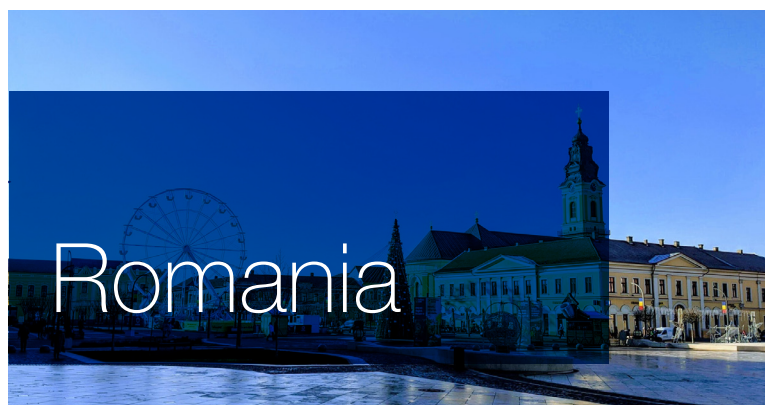
- Calculation of EBITDA in fiscal years without net income: when the taxpayer does not have net income in a given fiscal year (or when losses are equal to or exceed net income), EBITDA will be equal to the sum of interest, depreciation and net amortisation deducted in that year.
- Net interest deduction in subsequent years: interest expenses that are not deductible because they exceed the 30% threshold may be deducted in the following four years, but always subject to the threshold of those years. For this purpose, net interest corresponding to the oldest fiscal year will be considered first.
- Applicable EBITDA in business reorganisations: in case of a business reorganisation, taxpayers who have just been constituted or started activities in the course of a given fiscal year will calculate the threshold for the deduction of interest based on the EBITDA of that fiscal year.

- EBITDA for fiscal year 2020, on the basis of which the limit applicable to fiscal year 2021 is calculated, will be determined as follows: net income after compensation for losses plus the amount of respective depreciation and amortisation and amount of interest deducted to establish said net profit, and minus taxable interest income for said year.

BACK 

### PKF Comment

If you believe the above measures may impact your business or require any advice with respect to Peruvian taxation, please contact Renato Vila at [rvila@pkfperu.com](mailto:rvila@pkfperu.com) or call +51 142 16 250.



## Various tax changes enacted

The following commentary sets out a summary of recently enacted tax changes.

### Changes regarding VAT

Starting from 1 January 2022, the reduced VAT rate of 5% will also be available on the sale of qualifying apartments with a price ranging from RON 450,000 to RON 700,000 (excluding VAT). The main condition to apply the reduced rate in this case is that private persons acquiring such properties are only allowed to acquire one qualifying apartment under the reduced rate.

Also, starting from 1 January 2022, the reduced VAT rate of 5% will apply to the delivery of thermal energy in the cold season, intended for the following categories of consumers: population, public and private hospitals, non-governmental organisations

and religious units, accredited social service providers, public and private.

### Other legislative changes

The non-taxable threshold for gifts in cash and/or in kind, including gift vouchers offered by employers to employees and their children on certain regulated occasions (e.g. Christmas, Easter) will be increased from RON 150 to RON 300. Gift vouchers which exceed this threshold will be included in the taxable base of social contributions. Gift vouchers can only be granted to employees.

Taxpayers that withhold taxes and contributions from their employees or business partners and do not forward said funds to the public treasury within 60 days will be subject to criminal charges of tax evasion.

The electronic system 'E-factura' will become mandatory for all suppliers of products with a high tax risk starting from 1 July 2022, before which the system is optional.

Extension for the application of the tax amnesty – the deadline for submitting applications for cancellation of ancillary tax liabilities related to principal tax liabilities with maturities prior to 31 March 2020 (including those resulting from tax inspections) – is extended from 31 January 2022 to 30 June 2022.

The minimum gross basic salary in the country guaranteed in payment can be applied for an employee for a maximum period of 24 months from the conclusion of the individual employment contract. After the expiration of the respective period, (s)he will be employed with a basic salary higher than the minimum gross basic salary in the country guaranteed in payment.

### Romanian tax authorities update the list of large taxpayers

The Romanian National Tax Office has come up with a new order No. 1721 and has thereby updated the list of large taxpayers. This list is based on new criteria for selecting large taxpayers. The criteria are based on a set of general and specific cumulative criteria that are related to the taxpayer's global financial indicators, tax weight, type of activity, organisational structure, investments made over the past three years or membership to a group.

According to these criteria, there were 2,940 taxpayers which are classified as 'large' as at 31 December 2021. As from January 2022, the updated list will include 3,364 taxpayers.

These new large taxpayers will be required to prepare annual transfer pricing reports. Transfer pricing documentation will have to be prepared when interest arising from inter-company financial transactions exceeds the EUR 200,000 threshold. In the case of service transactions, the threshold is EUR 250,000, while for the acquisition or sale of tangible or intangible assets the threshold is EUR 350,000.

For transactions exceeding these thresholds, large taxpayers should ideally have the transfer pricing reports ready within ten days after the annual tax return deadline. Where the threshold is not reached the tax authorities will determine the transfer pricing requirements on an individual basis.

BACK 

### PKF Comment

If you believe the above measures may impact your business or personal situation or require any advice with respect to Romanian taxation, please contact Florentina Susnea at [florentina.susnea@pkffinconta.ro](mailto:florentina.susnea@pkffinconta.ro) or call +40 213 173 190/ +40 722 209 753.





# South Korea

## Expansion of R&D tax credits

Amendments to the Restriction of Special Taxation Act (RSTA) have been introduced in order to expand tax support for R&D and facility investment to secure national strategic technologies in three major fields: semiconductors, batteries and vaccines. The amendments have become effective from 1 January 2022.

## Reinforcement of tax support for R&D and facility investment for national strategic technology (RSTA article 10 and article 24-1)

With respect to R&D and facility investment in national strategic technology (technology prescribed by presidential decree as a technology that is recognised for its strategic importance in terms of national security among R&D and human resources development expenses and that has a significant impact on the overall national economy), the tax credit rate exceeding the current rate for R&D and facility investment in new growth and source technology shall be applied until 31 December 2024.

The deadline for applying the tax credit for R&D expenses for new growth and source technology has been extended by three years until 31 December 2024.

## Extension of the deadline for applying special tax exemptions for technology transfer and acquisition (RSTA article 12)

The tax exemption for technology royalty income generated by licensing technology such as patent rights is expanded to technology royalty income of medium-sized enterprises, and the tax exemption shall be extended by two years until 31 December 2023.

## Ex post management of tax exemption for companies located in R&D special zones (RSTA article 12-2(1), article 12-2(7) and (8))

High-tech companies located in special R&D zones which are created to promote the invention of new technologies through R&D activities and the spread and commercialisation of R&D performance are eligible for a special tax exemption. If these companies unwind their business or relocate their place of business to an area other than the zone, the tax exemption shall be repealed.

The deadline for applying for special tax exemptions, such as a corporate tax exemption, has been extended by two years until 31 December 2023.

## Relaxation of tax credit requirements for technology innovation stock acquisition and extension of application deadline (RSTA article 12-4(1))

In order to stimulate venture investment by domestic corporations, the deadline for applying for tax credits for the acquisition of technology innovation-type stocks (subject to specified conditions being met to be considered as technology innovation-type stocks) has been extended by three years until 31 December 2024.

Among the tax credit requirements, the base date of the requirement to underwrite in excess of 50% (more than 30% in the case of substantial control) of the total number of issued stocks or total investment is changed from the date of initial acquisition to the end of the business year in which the date of initial acquisition falls.

## Expansion of tax incentives on income or gains from exercising stock options in venture firms (RSTA article 16-2(1), article 16-3(1) and article 16-4(1))

The target of tax exemption and taxation deferral on income or gains obtained through exercising stock options is expanded to executives and employees of companies acquired by venture firms as well as executives and employees of venture firms.

The threshold for tax-exempt gains as a result of the exercise is raised to KRW 50 million. The application period for the special tax incentives has been extended by three years until 31 December 2024.

## Expansion of tax credit for performance sharing plan of small and medium-sized enterprises (SMEs) (RSTA article 19-1 and article 19-2)

In order to spread the performance sharing plan that provides employees with a part of business profits as performance-based bonuses, the tax credit for performance sharing SMEs is increased from 10% to 15% of the payouts made in respect of business performance.

The application period for tax credits has been extended by three years until 31 December 2024.

## Extension of the special taxation period for investors in specific infrastructure collective investment scheme (RSTA article 26-2(1))

A special taxation regime has been granted to dividend income to be received by 31 December 2022 from a specific infrastructure collective investment scheme in order to promote investment in specific infrastructure.

In the case of underwriting a specific infrastructure collective investment scheme by 31 December 2022, the special taxation regime shall be granted to dividend income thereafter for three years.

BACK 

### PKF Comment

If you believe the above measures may impact your business or personal situation or require any advice with respect to South Korean taxation, please contact Jooil Park at [jooil.park@shcgr.kr](mailto:jooil.park@shcgr.kr) or call +82 2 3011 1173.



## An overview of salient tax measures in the 2022 State Budget Bill

On 28 December 2021, Spanish Congress approved the 2022 State Budget Bill. Measures included in this Budget Bill are introduced by Law 22/2021 that was gazetted the following day (29 December 2021).

The Bill contains two principal tax measures affecting in particular corporate income tax (15% minimum taxation) and personal income tax (contributions to social welfare systems).

### Corporate income tax (CIT)

#### 15% minimum CIT rate

A new concept of 'minimum tax liability net of all credits' has been established, which cannot be less than 15% of the taxable base. The salient features are:

- Applicable to tax periods beginning from 1 January 2022 onwards.
- Scope: taxpayers with an annual net turnover of at least EUR 20 million in the preceding year or subject to the tax consolidation regime (irrespective of turnover).
- Calculation of minimum tax rate: 15% of the tax base after adjustments to the accounting profit, some specific reductions and deductions (for avoidance of double taxation, investments done by port operators, related to Tax Regime of the Canary Islands, capitalisation reserve) and application of tax loss carry forwards.
- The minimum CIT rate is: (i) reduced to 10% of the tax base for newly created entities; and (ii) increased to 18% for financial institutions and entities engaged in exploration, research and mining in relation to mineral deposits and underground hydrocarbon storage facilities.
- Excluded from this measure: taxpayers subject to a reduced tax rate (articles 29.3, 29.4 and 29.5 of the CIT code; not-for-profit organisations, entities with variable capital, financial investment funds, real estate investment funds, etc.).



### Entities engaged in the rental of housing: decrease of the applicable allowance

For periods starting from 1 January 2022 onwards, the reduction of allowance applicable to the income of entities under the rental housing tax regime ('REAV') decreases from 85% to 40%.

Although this tax regime does not fall into the scope of the minimum tax rate rule, the lower allowance results in an effective tax rate of 15% on these revenues (60%\*25% = 15%).

### Personal income tax (PIT)

#### Reductions for contributions to employee social welfare systems

- **Introduction of new amendments**

- In 2021: the limit of the tax reduction to the personal income tax base for contributions to social welfare systems was reduced from EUR 8,000 to EUR 2,000 per year, except for company contributions, for which the limit was increased from EUR 2,000 to EUR 10,000 (this measure aimed to enhance employment pension plans).
- In 2022: the limit is again reduced, with the maximum reduction for individual contributions at EUR 1,500 per year. However, if contributions are performed by the company the limit rises to EUR 8,500, thus maintaining a maximum combined limit of EUR 10,000.

In addition, this increase of EUR 8,500 can also come from individual contributions, provided these are equal to or lower than company contributions.

- **Other tax amendments**

- Arrears interest is set at 3.75% and the legal interest rate at 3%.
- Economic activity tax: new classification code 863 for 'journalists and other information and communications professionals'.
- Increase of the thresholds for the application of the simplified VAT regime (EUR 150,000) and the special VAT regime for agriculture, livestock and fishing (EUR 250,000).

BACK 

### PKF Comment

Although the 2022 Budget Bill does not introduce as many changes compared with past years, mainly because of the already implemented anti-tax avoidance directives during 2021 (anti-hybrid rules, controlled foreign companies (CFC) rules and exit tax), the minimum tax liability of 15% will affect numerous companies seeking to apply various incentives and deductions for the purpose of CIT calculations (e.g. deductions regarding R&D and technological innovation).

If you believe the above measures may impact your business or personal situation or require any advice with respect to Spanish taxation, please contact Iñigo España Ariza at [inigo.espana@pkf-attest.es](mailto:inigo.espana@pkf-attest.es) or call +34 945 137 426.



### Various tax measures announced by Ministry of Finance

The Ministry of Finance has implemented various tax measures and incentives to reduce the tax burden for taxpayers and increase the efficiency of the tax collection mechanism. Some salient tax measures and incentives, which have been effective since 1 January 2022, are as follows:

- The annual deduction amount for estate tax purposes is increased from TWD 12,000,000 to TWD 13,330,000, and the annual deduction amount for gift tax purposes is increased from TWD 2,200,000 to TWD 2,440,000.

- The basic living expense tax deduction for each individual taxpayer is increased from TWD 182,000 to TWD 192,000 (the new deduction amount will be applicable when filing personal income tax returns in May 2022).
- Extension until 31 December 2024 of the reduced tax rate of 0.15% for securities transaction tax on same-day securities transactions.
- Extension for another ten years until 31 December 2031 of the tax incentives under the Statute for the Development of Biotech and New Drug Industries. The tax credit is also extended to include contract research and manufacture organisations. However the percentage of R&D expenditure qualifying for the tax credit is reduced to 25%.
- Individual taxpayers can use mobile payment or electronic payment accounts to pay taxes when filing 2021 personal income tax returns via mobile phones in May 2022.
- The newly released amounts and brackets for taxable items for the year 2022 can be summarised as follows:

Taxed item	Unit: NTD 1,000	2021	2022	
Estate Tax	Exemption	12,000	13,330	
Gift Tax	Exemption	2,200	2,440	
Individual Income Tax	Exemption	Under 70 y/o	88	92
		Over 70 y/o	132	138
	Standard Deduction	Single	120	124
		Married	240	248
	Special Deduction	Salary	200	207
		Disabled	200	207
	Tax brackets	5%	Under 540	Under 560
		12%	540~1,210	560~1,260
		20%	1,210~2,420	1,260~2,520
		30%	2,420~4,530	2,520~4,720
40%		Above 4,530	Above 4,720	

## Double tax treaty with Saudi Arabia enters into force

On 1 November 2021, the Taiwan–Saudi Arabia double tax treaty entered into force. The treaty generally applies from 1 January 2022.

The withholding tax rates are as follows:

- 12.5% on dividends;
- 10% on interest;

- 4% on royalties paid for the use of, or the right to use, industrial, commercial or scientific equipment and 10% in all other cases.

BACK 

### PKF Comment

If you believe the above measures may impact your business or personal situation or require any advice with respect to Taiwanese taxation, please contact Ronnie Chang at [rc@pkf.com.tw](mailto:rc@pkf.com.tw) or call +886 2 8792 2628.



## Internet services now subject to VAT in Thailand

The domestic tax legislation of most countries has been written from the standpoint that a business requires to be in the country and have a base from which to operate in order to serve its customers. Such legislation never envisaged that any company could be located in another country and sell to mass customers within its country without ever having to step foot inside it. The result of this has been that domestic tax legislation, and even international tax treaties, have been playing catch-up with internet service providers and electronic platform operators ever since.

In Thailand, overseas digital service providers and operators of electronic platforms are now required to register for value added tax (VAT) if they have an annual revenue in excess of THB 1.8 million (approximately USD 55,000). Consequently, they will have VAT compliance obligations including filing monthly VAT returns and paying VAT to the

Thai Revenue Department (Thailand tax authority), although, unlike domestic Thai VAT registrants, they will not be required to issue a tax invoice to Thai customers or maintain an input tax report. Consequently, such overseas e-service providers who register for Thai VAT are likely to always be in a VAT liability/payment position because they will charge 7% VAT on their sales (output VAT) and are unlikely to have purchases i.e. no input VAT to credit against the output VAT.

For overseas digital service providers and operators of electronic platforms to be required to register for VAT however, three further conditions need to be present:

1. The digital services are provided from overseas;
2. Services are provided by electronic means and are used in Thailand;
3. The recipient of the service is not a VAT registrant.

### **Excluded services**

The above requirement to register for Thai VAT does not however apply to overseas digital service providers and operators of electronic platforms who provide certain e-services including telecommunications, online payments or live teaching services and sales of e-books or e-magazines

### **Thailand's VAT for Electronic Services (VES) system**

Overseas digital service providers and operators of electronic platforms meeting the VAT registration limit must register under the VES system. The VES system provides the tax ID number for each non-resident VAT registrant and maintains a public list of non-resident digital businesses as they register.

Companies which have already registered under the VES system include Agoda, Airbnb, Alibaba, Amazon, Apple, Bloomberg, Booking.com, Cleverbridge, Digital River Ireland, DropBox, eBay, Epic Games, Google, Huawei, Ionos, LinkedIn, McAfee, Microsoft, Netflix, Spotify, The Walt Disney Company, Tiktok, Twitter and UpCloud.

### **E-services captured**

The types of e-services captured by the new VAT requirements include online games, movie and music streaming services, online advertising services,

mobile application services, online software sales or licensing, web hosting and any other services that are delivered over the internet or via another electronic (automated) network.

Agents and intermediaries of non-Thai e-service providers are also required to register for Thai VAT if they:

- a) Provide a complete suite of e-services (presentation, delivery and payment collection);
- b) Receive payments for e-services; and
- c) Provide e-services on behalf of non-resident e-service providers.

BACK 

### **PKF Comment**

With the introduction of VAT obligations for overseas digital service providers and operators of electronic platforms exceeding the registration threshold, Thailand has followed other countries in Asia taxing e-services. Notably, Indonesia, Malaysia, the Philippines and Singapore have all implemented new rules relating to the taxation of digital sales from non-residents.

Against the background of falling tax revenues due to COVID-19, the introduction of VAT on e-services in Thailand was very welcomed and is expected to raise approximately THB 5 billion (approximately USD 167 million or EUR 138 million) in its first year.

PKF Thailand helps companies meet their VAT and other taxation obligations in Thailand, including filing the necessary returns and other required documentation. For help and advice on any Thai VAT or tax matter, please contact Philip Bond at [philip.bond@pkf.com](mailto:philip.bond@pkf.com) or call **+66 621 455 799**.



# United Arab Emirates

## UAE to introduce federal corporate tax effective for financial years starting on or after 1 June 2023

### Background and introduction

The Ministry of Finance (MOF) of the United Arab Emirates (UAE) announced on 31 January 2022 that the UAE will introduce federal corporate tax ('UAE CT') (applicable across all emirates) on accounting net profits (after certain adjustments) that will be effective for financial years starting on or after 1 June 2023. UAE CT is planned to be introduced as the most competitive in the world and is also the lowest among the other GCC countries.

This is only an initial introduction to the proposed UAE CT law while the UAE CT legislation is being finalised. Details about the proposed UAE CT regime are set out in the press release and the Frequently Asked Questions (FAQs) published on the website of the MOF and Federal Tax Authority (FTA).

### Broad objectives for introducing CT in the UAE

- To cement the UAE's position as a world-leading hub for business and investment. This is supported by the UAE's extensive double tax treaty network.
- To achieve the UAE's strategic ambitions and incentivise businesses/multinationals to establish, invest and expand their activities in the UAE.
- Confirm the UAE's commitment to meeting international standards for tax transparency and preventing harmful tax practices.

### Key aspects of the CT regime in the UAE

#### Tax Rate

A progressive UAE CT regime to support small businesses and start-ups is proposed as follows:

Net Accounting Profits after making certain adjustments (AED)	Proposed UAE CT rate
Nil - 375,000	0%
375,000 and above	9%

These UAE CT rates would be different for large multinational entities that are covered by the Organisation for Economic Co-operation and Development (OECD) Base Erosion and Profit Shifting rules, as part of the Pillar Two initiative.

#### Tax base for applicability of UAE CT

The UAE CT rate is to be applied on accounting net profits reported in the financial statements which are prepared in accordance with internationally accepted accounting standards, after making the specified adjustments that will be prescribed in the UAE CT law.

#### Exempt income

- Dividends and capital gains earned by a UAE business from its qualifying shareholdings.\*
- Qualifying intra-group transactions and reorganisations.\*

\* Subject to certain conditions which are yet to be announced

#### Effective date

UAE CT will be effective for financial years starting on or after 1 June 2023. The MOF, as part of its FAQs, has further explained this by way of the following examples:

- Businesses having a financial year starting on 1 July 2023 and ending on 30 June 2024 will become subject to UAE CT as from 1 July 2023.
- Businesses having a financial year starting on 1 January 2023 and ending on 31 December 2023 will be subject to UAE CT as from 1 January 2024.

#### Scope

- All UAE businesses and commercial activities of legal entities (except those undertaking extraction of natural resources which will be subject to respective emirate level corporate taxation).
- All individuals having a business licence (or who are otherwise required to obtain one) to carry out commercial/professional activities in the UAE.
- However, UAE CT shall not apply to an individual's income from employment, real estate, investments



in shares, interest and other income earned from bank deposits or saving schemes or other personal income not related to a UAE trade or business.

- Foreign entities and individuals, on their trade or business conducted in the UAE in an ongoing or a regular manner.
- However, UAE CT may not apply to a foreign investor's income from dividends, capital gains, interest, royalties and other investment returns.

However, UAE CT may not apply to a foreign investor's income from dividends, capital gains, interest, royalties and other investment returns.

### Introduction of transfer pricing (TP) rules

UAE businesses will be required to comply with transfer pricing rules and documentation requirements as set out in the OECD TP Guidelines.

OECD TP Guidelines provide guidance on the application of the 'arm's length principle', which represents an international consensus on the valuation, for income tax purposes, of cross-border transactions between associated enterprises/related parties.

### Administration and compliance

- The FTA will be responsible for the administration, collection and enforcement of UAE CT. The MOF is to remain the competent authority.
- An electronic annual UAE CT return per financial period is proposed (further guidance awaited). No provisional or advance UAE CT filings required.
- No requirement to make advance UAE CT payments.
- Penalties shall be imposed in cases of non-compliance.
- Guidelines in respect of the registration process and ongoing compliance, procedures and obligations are awaited.

### Other points

- Foreign tax credit on UAE taxable income against UAE CT liability to be allowed.
- Carry forward and set off of prior year losses to be allowed (relevant for losses incurred from the effective date of UAE CT).<sup>\*</sup> UAE CT loss carry forward rules awaited.
- Free zone businesses seem to be within the scope of UAE CT and will be required to register and file a UAE CT return. However, they will continue to benefit from incentives already promised under specific free zone regulations/decrees if they comply with all regulatory requirements and do not conduct business with mainland UAE. Financial free zones to be treated at par with other free zones for UAE CT purposes.
- Banking sector to be subject to UAE CT regime (further details awaited).
- 'Fiscal unity' concept to be introduced for UAE CT purposes. Taxpayers to be provided with an option to form a 'tax group' and file a single CT return for the entire group.<sup>\*</sup>
- Option to set off losses within group companies (group loss utilisation rules awaited).<sup>\*</sup>
- Withholding tax on domestic as well as cross-border payments/transactions currently not applicable under the proposed UAE CT regime.

<sup>\*</sup> Subject to certain conditions which are yet to be announced

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### PKF Comment

If you believe any of the above measures may impact your business or personal situation or require any advice with respect to UAE taxation, please contact Ms. Sarika Dhameja at [sdhameja@pkfuae.com](mailto:sdhameja@pkfuae.com) or Mr. Chaitanya Kirtikar at [cgk@pkfuae.com](mailto:cgk@pkfuae.com) or call +971 4 3888 900.



# United Kingdom

## Health and Social Care – National Insurance contribution increase from 6 April 2022

The UK government has introduced a new 1.25% Health and Social Care Levy to fund investment in the NHS and social care. The Levy will be effective from April 2022 via a 1.25% increase in National Insurance contributions (NICs) for working age employees, self-employed people and employers.

From April 2023 onwards, the Levy will be separated from NICs as a stand-alone tax and will also apply to the earnings of individuals working above state pension age. National Insurance contribution rates will return to 2021/22 tax year levels.

UK payroll software providers and employers are asked to include a message showing '1.25% uplift in NICs funds NHS, health & social care' on all payslips between 6 April 2022 and 5 April 2023.

## National Insurance holiday for employers of veterans

From 6 April 2021 employers who hire former members of the UK regular armed forces during the first year of their civilian employment will be eligible for a zero-rate of secondary (employer's) NICs for income up to the upper secondary threshold (currently GBP 4,189 per month) for up to 12 months. The potential tax saving is approximately GBP 5,000 per employee.

For the 2021/22 tax year, employers will be able to claim back any NICs qualifying for relief, through a revised Full Payment Submission or by writing to HMRC.

From April 2023 onwards, employers will be able to apply the relief through real time information by using National Insurance category letter 'V'.

Employers must ensure that they keep records showing that they have hired a qualifying veteran (such as veterans' ID card, discharge papers or P45 from HM Armed Forces).

## Brexit – French social security authorities' restriction of A1 social security certificates

HMRC have commented that they are aware of reports that, in respect of UK/France secondments, the French social security authorities are not agreeing A1 applications under Article 16 of Regulation (EC) 883/2004 (normally applicable where an individual is on secondment for a period exceeding 24 months) that extend beyond 30 June 2021 as a matter of policy.

HMRC and the French social security authorities have agreed to review the process by which PDA1 applications under Article 16 of Regulation (EC) 883/2004 from individuals in scope of the Withdrawal Agreement are considered.

The French social security authorities have agreed that individuals should continue to pay UK National Insurance pending further advice from HMRC and the French social security authorities in cases where they: (i) have been UK-insured whilst working in France but their PDA1 has expired; and (ii) have applied to HMRC for an Article 16 exception to extend their previous PDA1 which remains outstanding.



## COVID-19 – statutory sick pay rebate and extension of notification period

In light of the Omicron variant driving an increasing number of COVID-19 cases in the UK and more workers taking time off work, the UK government has reintroduced the statutory sick pay rebate scheme.

Small and medium-sized employers (those with fewer than 250 employees) will be eligible for the scheme from 21 December 2021 and they will be able to make claims retrospectively from mid-January 2022.

HMRC will reimburse the cost of statutory sick pay for COVID-related absences, for up to two weeks per employee.

In addition, new rules have been introduced to allow employees to self-certify sickness absence for the first 28 days (previously the limit was seven days), to enable GPs to focus on the COVID-19 booster programme. The changes take effect between 10 December 2021 and 26 January 2022.

This means employers cannot ask employees for proof of sickness until the absence has lasted for 28 days or more (regardless of whether absence is COVID-related). GPs will still be required to supply fit notes for periods of absence exceeding 28 days.

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### PKF Comment

If you believe the above measures may impact your business or personal situation or require any advice with respect to UK global mobility, please contact Louise Fryer at [lfryer@pkf-l.com](mailto:lfryer@pkf-l.com) or call +44 (0)20 7516 2446.



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right size  
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