Worldwide fiscal stimulus — tax policy plays a major role

A guide to understanding opportunities and challenges in 24 key jurisdictions

Ernst & Young

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Introduction

Whatever it takes: combating the crisis

In less than a year, the "credit crunch" has deteriorated into the first global recession we've experienced since World War II. In fact, in its 31 March 2009 Economic Outlook report, the Organisation for Economic Co-operation and Development (OECD) called this the "most severe and synchronized" downturn in post-war history — forecasting gross domestic product (GDP) growth in OECD countries of negative 4.3% in 2009. As a result, many countries are facing serious structural economic issues, the effects of which can be seen in the steep decline in world trade — a contraction of 13.2% for 2009, according to recent OECD projections.

Countries around the world continue to focus intensely on efforts designed to lessen the impact of the global economic and financial crisis. Through monetary policy, regulatory action, fiscal stimulus and, most often, some combination of all three, the majority of countries — whether "developed" or "emerging" — have been undertaking a variety of activities designed to spur demand and restart the flow of credit to businesses.

In fact ...

13.2%

... is the amount by which world trade is expected to contract in 2009, according to recent OECD projections.

An average growth rate of -4.3% is projected for 2009 in OECD countries

From a monetary policy perspective, this has included traditional approaches like lowering interest rates and increasing the money supply and less traditional methods like quantitative easing, which involves the injection of new money into the financial system by a central bank through the purchase of both government and corporate debt.

From a regulatory perspective, we have seen numerous changes primarily intended to reduce systemic risk, with government guarantee programs expanding rapidly in size and scope. In many cases, governments are becoming significant shareholders in, or are in fact taking over, financial institutions that have been deemed "too big to fail."

In fact ...

2.3%

... is the average amount of fiscal stimulus measures (as a percentage of 2008 GDP), according to recent OECD figures.

In addition to these monetary and regulatory efforts, most countries have also pursued discretionary fiscal stimulus through a combination of spending and tax mechanisms. Though the approach has varied from country to country, each package has shared a common goal: to boost demand and improve liquidity and cash flow — both on an overall basis and, often, in targeted segments of the market.

Interestingly, while spending measures have generally received more public focus over the last few months, tax measures actually comprise the larger share of overall fiscal stimulus packages. In fact, according to a recent OECD report[1], tax measures represent 56% of the net effect of fiscal stimulus as an average among OECD countries. In this guide, we focus on the tax-related fiscal stimulus measures in 24 jurisdictions where we are seeing particularly robust stimulus activity and identify themes that are emerging as

[1] OECD Economic Outlook — Interim Report, 31 March 2009

governments increasingly rely on their tax systems to administer stimulus.

This tax-based approach to fiscal stimulus has included a wide range of measures in categories such as:

- Accelerated depreciation programs
- Carryforward and carryback provisions for net operating losses
- Adjustments to corporate income tax rates
- Enhancements to research and development tax credits
- Indirect tax changes
- Tax measures affecting individuals

In fact ...

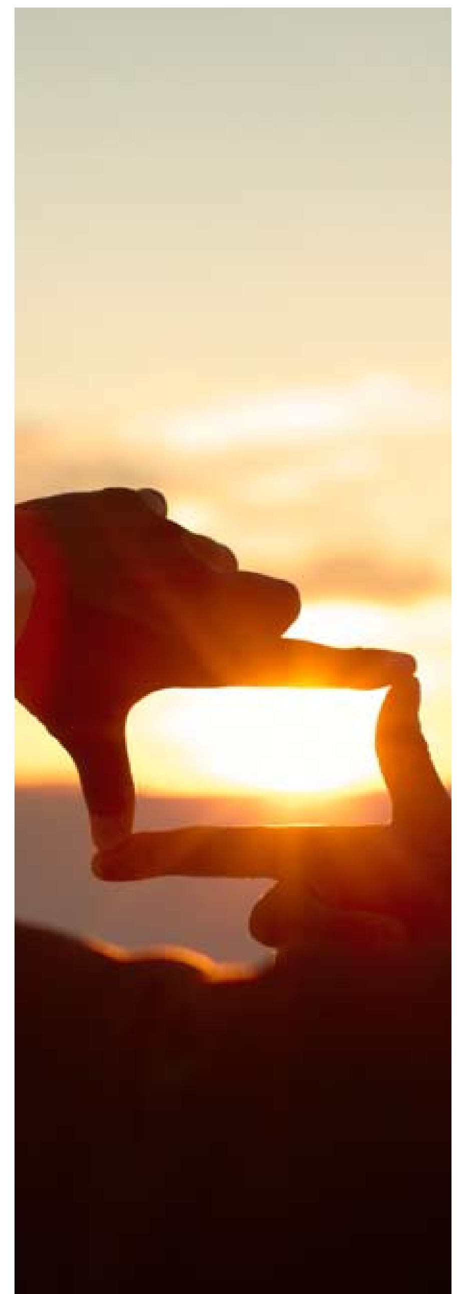
56%

... is the average portion of total fiscal stimulus attributed to tax measures, according to recent OECD figures.

Recognizing opportunities, overcoming challenges

In an increasingly global and interconnected business arena, these kinds of tax measures likely are being adopted in many of the jurisdictions in which a multinational corporation operates; tax directors must understand their implications in order to prepare for their impact. Beyond that, most observers agree that these are not the last stimulus efforts that we will see before the global economy again finds firm footing. As governments prepare their next round of actions, many will look to the experiences of their neighbors and trade partners – both positive and negative – in determining their approach. This guide can help tax executives better recognize developing trends.

It's also important to note that, while most government activities to date have necessarily focused on addressing urgent needs, history shows us that today's actions lead to tomorrow's consequences. In fact, many governments are already contending with ballooning deficits as they launch aggressive spending programs in an environment of sharply falling tax revenues. The impact of this widening gap on future tax policy and administrative decisions will be significant. World-class tax functions are already actively assessing and preparing for the future; we take a look at some of the things that tax directors are focusing on to benefit from potential opportunities while managing challenges in this volatile environment.



Accelerated depreciation

Commentary

In all, 11 of the 24 countries in this guide have introduced some form of accelerated tax depreciation measures. The primary goal of such programs is to improve cash flow for businesses by allowing them to write off the cost of investments more rapidly. However, it is also hoped that these accelerated depreciation measures will stimulate demand by providing an incentive to make necessary investments during the period covered by the program.

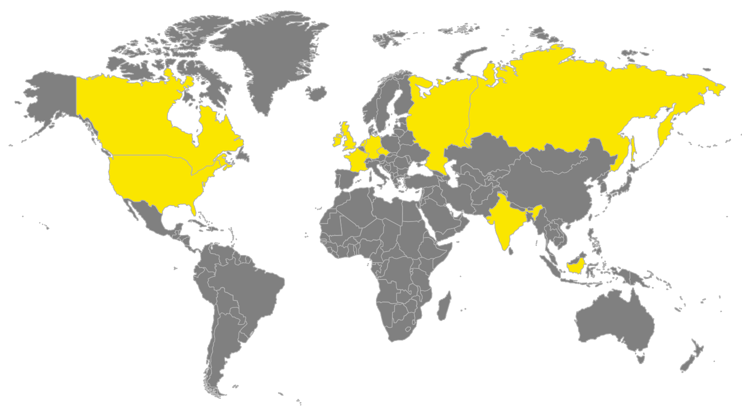
The accelerated depreciation provisions typically cover assets created and placed into service through the end of 2009, although some countries have extended the eligible period through 2010 or even 2011. In many cases, the new measures favor certain types of investment, with manufacturing, technology, energy efficiency and transportation among the most commonly targeted categories. Also, in some cases, the accelerated depreciation measures provide more generous support for small- and medium-sized enterprises (SMEs).

In fact ...

30%

... is the maximum one-off deduction allowed for many assets in Russia's new accelerated depreciation regime, an increase from 10%.

Countries introducing accelerated tax depreciation measures



- Canada
- The Czech Republic (proposed)
- France
- Germany
- India
- Ireland
- Netherlands
- Russia
- Singapore
- United Kingdom
- United States

Highlights

- Several countries have targeted certain types of investment activity. For example, Canada offers a 50% straight-line depreciation rate for manufacturing and processing equipment acquired before 2012. Eligible computer equipment acquired after 27 January 2009 and before February 2011 can be written off within one full taxation year. India offers an increase in the depreciation rate for new commercial vehicles. Ireland's special depreciation allowances for energy-efficient equipment allows the expenditure to be written off in full in the year of acquisition.
- Some countries are offering enhanced "bonus" depreciation allowances, with Russia increasing its maximum "one-off" deduction from 10% to 30% for certain assets. The United States has extended its 50% bonus depreciation to include property placed into service during 2009 (2010 for certain transportation and longer-lived property). In the United Kingdom, first-year capital allowances were increased for one year, from 20% to 40%.
- In some cases, small- and medium-sized enterprises receive enhanced accelerated depreciation benefits. For example, Germany extends special depreciation to the acquisition or production of movable assets for smaller companies.
- It is interesting to note that at least one country has included special "claw-back" provisions with their accelerated depreciation allowances. In Russia, if fixed assets are sold within five years of being brought into use, the amount of the deduction will be returned.
- Singapore has actually extended accelerated depreciation benefits to include renovation and refurbishment of existing buildings used in trade or business.
- Germany reinstated the declining-balance depreciation for assets acquired or produced during 2009 and 2010.

Loss carryforward and carryback provisions

Commentary

In this environment, many companies – including those that traditionally have been very profitable – are posting much lower profits, or even losses. To provide cash flow assistance to companies in a tax loss position, many countries have instituted, or enhanced, provisions related to the treatment of net operating losses (NOLs). In all, seven of the 24 countries we reviewed have taken some action related to carrying forward or carrying back losses to offset income.

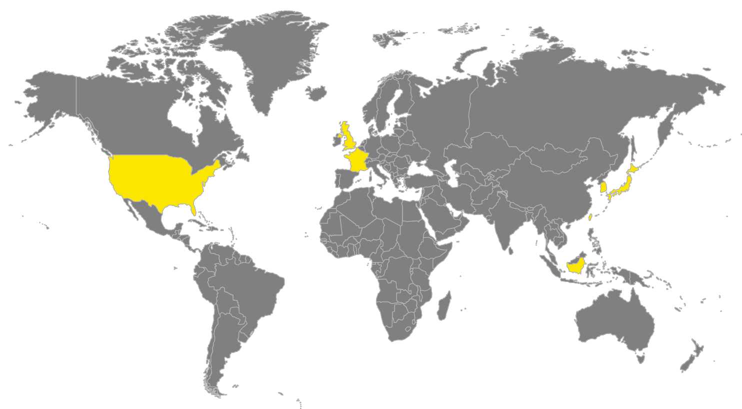
In some cases, countries have simply extended the eligible carryforward period. In others, they have introduced new carryback provisions, or extended or raised the cap on existing ones. Carrybacks are often important for increased accelerated depreciation to have a stimulus effect. Unless accelerated deductions can be taken currently, or carried back, the cash flow benefit of accelerated depreciation is lost. This approach has been appealing to governments because it focuses benefits on companies that have had a history of profitability. As with stimulus-driven accelerated depreciation measures, small- and medium-sized enterprises (SMEs) often receive enhanced benefits.

In fact ...

10

... is the number of years that losses can be carried forward under new provisions in South Korea and Taiwan, an increase from five years.

Countries introducing or enhancing NOL carryforward and carryback provisions



- France
- Japan
- Singapore
- South Korea
- Taiwan
- United Kingdom
- United States

Highlights

- One common change related to NOLs has been to extend the period in which losses can be carried forward to offset income. For example, in the Far East, both South Korea and Taiwan extended the loss carryforward period from five to ten years. This will result in the expiration of fewer NOLs from the past and more latitude in using NOLs that companies may be accumulating in the current environment.
- In most instances where carryback provisions have been introduced or enhanced, significant limitations came along with them. For instance, in the United Kingdom, the carryback period was increased from one year to three years, but is subject to a cap of £50,000 on the total amount that can be set off against profits of the earlier two years. In the United States, the carryback period was only extended for small- and medium-sized enterprises (SMEs). Similarly, Japan's new carryback program is only open to SMEs.
- France chose to enhance the cash flow benefits of their NOL carryback provisions by allowing for immediate reimbursement of the tax credit resulting from loss carrybacks, although a penalty will be assessed if the reimbursed amount significantly exceeds the amounts ultimately shown on the tax returns.
- The recent experience of the United States illustrated very clearly the implications of the price tag that comes with NOL carryback provisions. Both the House of Representatives and the Senate had passed bills that included a core business tax provision to expand the NOL carryback period from two years to five years. However, as attention focused on the cost of the stimulus package grew, one of the modifications was a severe scaling back of the NOL carryback proposal, so that the five-year carryback provision as enacted applies only to companies with gross receipts of US$15 million or less.
- Companies should also consider the tax implications of certain non-tax fiscal stimulus programs. Significant government investment in a company's debt or equity, or participation in certain stimulus programs may preclude companies from realizing certain tax benefits. For example, in the United States, proposals for a broadly-applicable expanded NOL carryback have included an exclusion from this benefit for recipients of Troubled Asset Relief Program (TARP) funds. While not yet a trend, this type of restriction merits consideration.

Corporate income tax rate reductions

Commentary

Even while most countries are experiencing intense pressure to maintain revenue collections amid the economic downturn, we continue to see countries reducing their corporate tax rates. In all, nine of the 24 countries we reviewed have instituted some form of lower tax rate. This continuation of an ongoing worldwide trend toward lower corporate tax rates (90 % of OECD countries reduced their rates between 2000 and 2009)likely indicates two things: (1) despite economic challenges, international competition for jobs and investment remains an important goal for many countries and (2) countries believe that lower tax rates support businesses, stimulate overall demand and encourage investment.

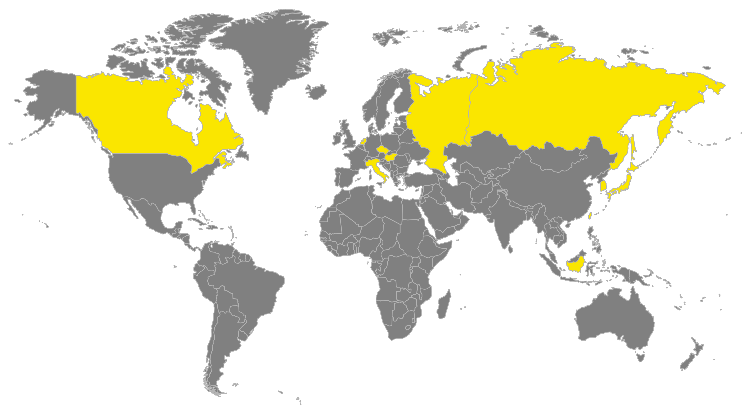
It is important to note that reductions in corporate tax rates can reduce the value of deferred tax assets, such as net operating loss carryforwards. At the same time, though, lower tax rates will also reduce the value of deferred tax liabilities, such as those created by accelerated depreciation or unrepatriated income that has not been permanently reinvested. Tax directors should include these factors into any analysis concerning tax rate reductions.

In fact ...

18%

... is the new corporate tax rate applicable to small- and medium-sized enterprises (SMEs) in Japan, a reduction from 22%.

Countries adjusting corporate tax rates



- Canada
- The Czech Republic
- Hungary
- Italy
- Japan
- Netherlands
- Russia
- Singapore
- South Korea
- Taiwan

Highlights

- Some countries are choosing to phase in their rate reductions, apparently in the expectation that the government revenue impact of the reductions will be offset as the economy improves. For example, South Korea's rate is dropping from 25% to 22% in 2009 before dropping again to 20% in 2010. Similarly, the Czech Republic's two-percentage-point reduction will be phased in over two years.
- Other countries, like Canada, have not announced any new federal corporate rate reductions, but have chosen to move forward with previously approved rate reductions(19% in 2009, 18% in 2010, 16.5% in 2011, 15% in 2012). In doing so, Canada confirmed its commitment to becoming the lowest corporate taxing jurisdiction among the major industrialized economies, with the goal of a 25% combined federal-provincial statutory rate by 2012.
- While most rate reductions have addressed the full spectrum of taxpayers, in some cases the rate reductions are limited to small- and medium-sized enterprises. In Japan, for example, the tax rate was lowered to 18% only for companies with income up to 8 million¥ (€60,000). In the Netherlands, a 20% tax rate is proposed for taxable income up to €200,000 for 2009-2010. However, a 25% rate will apply for taxable income above €200,000. In 2008, the 20% rate was, in fact, applicable for taxable income up to €275,000.
- Japan recently enacted a 95% exemption of foreign-source dividends. This change is intended to encourage Japanese multinational corporations to repatriate their foreign earnings.
- Facing extreme concerns with regard to budget and the value of its currency, Hungary has proposed actually raising its corporate income tax rate from 16% to 19% and is proposing to eliminate certain tax-base-decreasing items. (Its 4% solidarity surtax would cease in the meantime.) Despite similar budgetary conditions, the Irish government reaffirmed its commitment to its 12.5% corporate tax rate, while increasing some individual tax payments via a levy mechanism. As budget difficulties become more severe, many countries — particularly those with less diverse and robust economies — will need to determine whether corporate tax rate increases or adjustments to the tax base will be necessary to address growing deficits.

Research and development tax credit enhancements

Commentary

As the economic downturn deepens, one of the most pressing concerns for many countries is that businesses will significantly reduce their research and development (R&D) expenditures to improve their bottom line. To provide added incentive for companies to maintain their investment in innovation, and to attract new R&D activity, many countries are enhancing their R&D tax credit provisions.

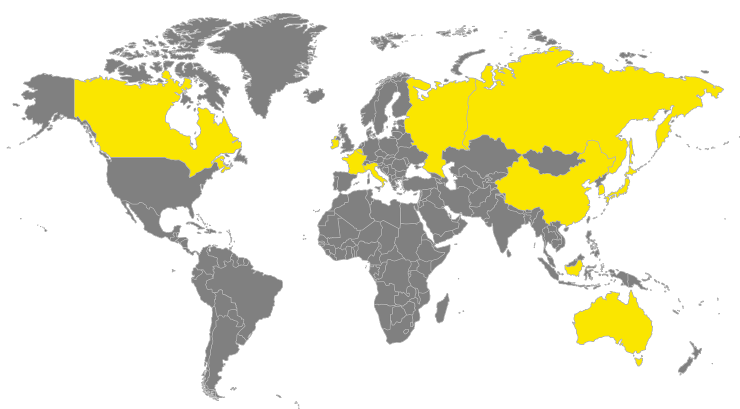
In all, 11 of the 24 countries we reviewed have taken some action with regard to the R&D credit. The most common approach has been to increase the rate of the credit. We have also seen the introduction of new or enhanced carryback provisions, enhanced refundability options and allowance of reserves for R&D expenditures to be deducted. In some cases, R&D benefits are being particularly enhanced for small- and medium-sized enterprises (SMEs).

In fact …

25%

… is the new rate of tax credit for incremental R&D expenditures in Ireland, an increase from 20%.

Countries enhancing research and development tax credits



- Australia (proposed)
- Belgium
- Canada
- China
- France
- Ireland
- Italy
- Japan
- Russia
- Singapore
- South Korea

Highlights

- Because many smaller businesses have been experiencing greater cash flow difficulties related to the economic downturn, some countries have been offering enhanced R&D credit provisions for small- and medium-sized enterprises (SMEs). For example, South Korea is increasing the R&D tax credit rate for SMEs only. Similarly, Australia's proposed new R&D provisions would provide a 10% higher rate for SMEs.
- In Ireland, the rate of tax credit for incremental expenditure undertaken by a company on qualified R&D has been increased from 20% to 25%. With this increase, the total tax relief available for qualified R&D expenditures in Ireland can be as high as 37.5% (when the tax credit is combined with a tax deduction available for R&D spending). An allowance for capital expenditure on intangible assets is also planned.
- Some countries have added carryback provisions and refund elements to their R&D provisions. Ireland, for instance, is now allowing the carryback of excess credits to the previous year, with a refund of excess credit over a three-year period. France is offering a refund of R&D credits from 2005, 2006 and 2007 that have not been previously utilized. The R&D credit for 2008 is eligible for immediate refund if the credit exceeds tax due. In Australia's proposed rules, such a refund mechanism would be available only to smaller companies, while larger companies will be eligible for a tax credit in another year.
- Under Italy's stimulus Decree, the R&D tax credit that was introduced in 2007 will be extended to Italian entities and branches engaging in R&D as contractors and sub-contractors of foreign principals, so long as they reside in an eligible country.
- In Japan, there is a proposal to increase the maximum creditable amount for certain R&D activity from 30% to 40% of the total tax due, along with an increase in the carryforward period from one year to three years.
- Facing extreme concerns with regard to budget and the value of its currency, Hungary has proposed actually raising its corporate income tax rate from 16% to 19% and is proposing to eliminate certain tax-base-decreasing items. (Its 4% solidarity surtax would cease in the meantime.) Despite similar budgetary conditions, the Irish government reaffirmed its commitment to its 12.5% corporate tax rate, while increasing some individual tax payments via a levy mechanism. As budget difficulties become more severe, many countries — particularly those with less diverse and robust economies — will need to determine whether corporate tax rate increases or adjustments to the tax base will be necessary to address growing deficits.

Indirect tax activity

Commentary

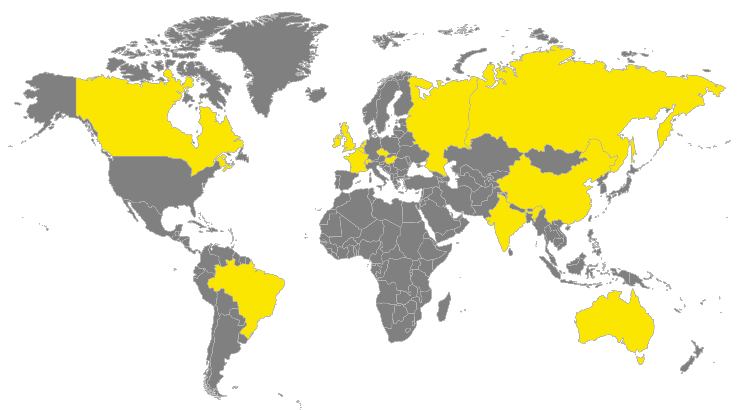
Many countries have sought to maintain demand by reducing the costs of goods and services through temporarily lowering indirect taxes, such as value-added tax (VAT). In all, 15 of the 24 countries we reviewed have taken some action related to indirect taxes. One common action has been to reduce the VAT rate, either overall or for certain products. Another prevalent approach has been to suspend or defer planned VAT increases. Some countries are also looking to improve cash flow by accelerating the refund of VAT credits. Customs duties and excise taxes are also receiving a lot of focus. To date, most actions with respect to customs and duties have supported more open trade between nations, a positive sign in an environment where increased protectionism has been a concern.

In fact ...

2.5%

... is the amount by which the United Kingdom has temporarily cut their VAT rate, from 17.5% to 15%.

Countries taking actions related to indirect taxes



- Australia (proposed)
- Belgium
- Brazil
- Canada
- China
- The Czech Republic
- France
- Hong Kong
- Hungary
- India
- Ireland
- Netherlands
- Russia
- Switzerland
- United Kingdom

Highlights

- Reducing the VAT rate has been a prevalent approach, either generally – as with the United Kingdom's temporary cut from 17.5% to 15% – or through more targeted cuts. For example, several countries, such as the Czech Republic, Brazil and China have enacted special VAT reduction measures related to the purchase of automobiles.
- Recognizing the dire circumstances that many companies find themselves in with regard to cash flow and profitability, several countries that had previously scheduled VAT increases chose to postpone their implementation. For example, the Netherlands cancelled a scheduled VAT increase from 19% to 20%, and Switzerland postponed its scheduled increase.
- Further reductions in VAT rates are now a possibility for European Union (EU) Member States, after the ECOFIN meeting of 10 March 2009, where Ministers agreed to allow reduced VAT rates in certain sectors, such as labor-intensive local services, like restaurant services. This may prompt governments to do more in this area. For example, following from the 10 March ECOFIN meeting the French government has decided to reduce the VAT rate from 19.6% to 5.5% for restaurant services, effective 1 July 2009.
- Some countries have focused on improving cash flow through a more efficient refund of VAT credit. For example, France is now allowing for VAT refund claims to be made monthly (instead of quarterly). Russia has increased the time limit for presenting supporting documents for VAT reimbursements. Belgium is accelerating the refund of VAT credits. China has increased export VAT refund rates and will allow companies to credit VAT on capital expenditures against output VAT.
- Responding to severe budget difficulties and a need to protect their currency, Hungary and Ireland are the only two among the 24 countries we reviewed to have actually proposed or have enacted increases to their VAT rates. In their May parliament session, Hungary proposed measures to increase VAT from 20% to 25%, effective 1 July 2009. This exceeds earlier estimates that it would only rise to 23% and is the highest rate allowed under EU legislation. Hungary is also assessing additional special VAT rate (excise tax) increases for fuel, tobacco and alcohol. In response to the economic crisis, both of these countries have adopted contractionary, not stimulus, policies.
- Other indirect-tax-related actions have also targeted demand. For example, India cut export duty on iron ore, as well as reduced its customs duties. One interesting approach comes from Hong Kong, which in 2008 abolished the 40% duty rate on alcohol and followed up with an increase of 50% in tobacco duties in its recent 2009-10 budget.
- Some countries are proposing to reduce tariffs on targeted imported items, an encouraging sign amidst concerns that economic challenges may lead to protectionist behavior. For example, Australia has submitted a proposal to reduce tariffs on imported cars, and Canada has eliminated tariffs on a range of machinery and equipment imported to Canada on or after 28 January 2009.

Personal income tax measures

Commentary

In an environment where unemployment is higher, and overall consumer confidence is lower, than they have been in decades, many countries are introducing tax measures to support the individual taxpayer. In fact, as an OECD average, the monetary impact of tax measures tied to individual taxes outweigh those tied to business taxes by more than a three to one margin. The general goal of these measures is to increase after-tax pay and, by extension, overall demand. There is some question regarding the overall effectiveness of these efforts, though, in terms of stimulus. For instance, one recent study in the United States[1] showed that during periods of low confidence, larger proportions of tax refunds go to savings and repaying debt rather than spending.

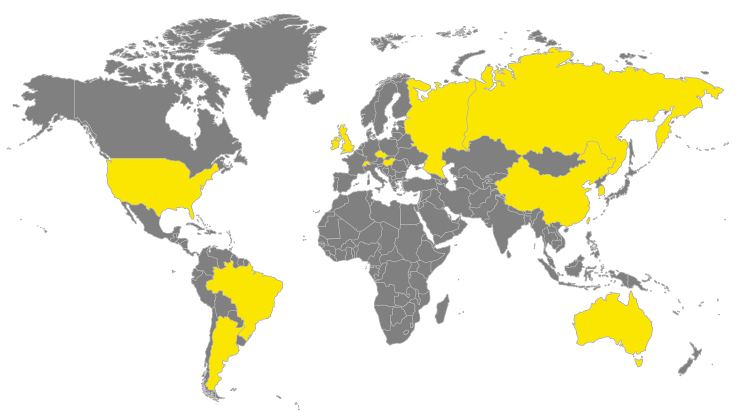
In all, 12 of the 24 countries we reviewed have taken some action related to personal income taxes. In this area, we may be seeing the widest variety of actions, but the most common approach has been to expand the range of deductible items. Reducing tax rates for lower-income taxpayers has been another common measure. Other approaches have included reducing individuals' social security contributions and enacting special credit/rebate programs.

In fact ...

3:1

... is the margin by which the monetary impact of fiscal stimulus tied to individual taxes exceeds that tied to business taxes.

Countries taking actions related to personal income taxes



- Argentina
- Australia
- Brazil
- The Czech Republic
- Hungary
- Ireland
- Russia
- South Korea
- Switzerland
- Taiwan
- United Kingdom
- United States

[1] Did the 2008 Tax Rebates Stimulate Spending? – Matthew D. Shapiro and Joel Slemrod – University of Michigan and NBER

Highlights

- The most common activity has been to expand the range of deductible items, with Argentina, Russia, Switzerland and Taiwan among the countries that have sought to reduce the income tax burden in this way. For example, in Russia, the maximum deduction available for expenditures associated with the new construction or acquisition of housing has been increased. In Switzerland, a higher tax deduction for families has been instituted. For countries that are already struggling with growing deficits, this approach may be easier to implement than refundable credit/rebate programs.
- Reducing rates has been another frequent approach, with South Korea and Taiwan among those who have either lowered rates directly or adjusted their rate brackets to allow more taxpayers to be subject to lower tax rates. Brazil has adopted the introduction of intermediary rates as a relief for lower-and middle-income taxpayers. At the same time, it announced a significant increase in its VAT, Hungary announced a series of personal income tax rate reductions, indicating that it is moving toward the OECD-recommended focus on taxing consumption more heavily.
- One of the most prominent campaign and early agenda items for US President Obama was a refundable tax credit for working individuals and families — dubbed the Making Work Pay credit. Now passed, this credit is an important part of the United States' fiscal stimulus effort. One unique aspect of the credit is that it will be delivered by employers through a reduction in withholding for federal income tax, which means that individuals will begin to see the benefits of the new credit sooner.
- With its budget announcement in April, the United Kingdom presented a series of significant income tax increases geared toward high earners, signalling an increased focus on reducing their budget deficit. These included the withdrawal of personal allowance reliefs for those earning more than £100,000, a new 50% top rate of income tax for those earning £150,000 and up and the gradual restriction of tax relief for pension contributions for high earners.
- In Ireland, marginal income tax rates have increased by up to 8.5% as compared to 2008, as a result of a combination of increases in both the income levy and health levy. Pension contributions are also restricted for 2009.

Where do we go from here?

Focus areas for successfully navigating the current environment

These tax measures included in stimulus packages are clearly only part of an ongoing effort to contain and minimize the extent of a global recession. Tax policy developments definitely will not end with the actions detailed in this guide, and these future decisions will have a major impact on the ultimate return companies can expect from investments.

While not directly related to stimulus efforts, the national budgets that are being announced around the world provide many clues as to the direction of tax developments to come. For example, the restriction of tax relief and new, higher, tax rate for top earners outlined in the United Kingdom's April budget announcement could signal a movement there toward fiscal tightening. The May budget announcements in Australia and the United States will also have significant implications for tax. This guide will be updated periodically to account for major announcements and made available via a dedicated web page at http://www.ey.com/stimulus.

Companies must recognize that governments will soon have to find a way to pay for the tax relief they are providing now in response to the current economic environment. Governments are keenly interested in maintaining consistent, predictable revenue flows even in the face of economic challenges and fiscal stimulus efforts. In this kind of environment, it is not unreasonable to forecast an acceleration of ongoing efforts to tighten up enforcement and compliance efforts. For that reason, it will be important for companies to have established processes for managing tax policy and controversy issues.

From the perspective of those making significant business decisions within this turbulent time, or indeed considering where to invest now to improve their position when the economy regains its stability, the changing landscape offers both opportunities and challenges.

The opportunities arise not only from tax rate reductions, but also from some of the very appealing tax incentives that currently are being liberally offered in many countries around the world.

> "The optimal fiscal package should be timely, large, lasting, diversified, contingent, collective and sustainable."
>
> *Fiscal Policy for the Crisis - International Monetary Fund, 29 December 2008*

However, these benefits also are the source for some of the main challenges governments will face in the future. Faced with this, there are several things that tax directors can focus on to improve their ability to benefit from opportunities, while minimizing the difficulties associated with the challenges to come.

Corporate tax directors should:

Focus on effective cash tax management — Find ways to save existing cash, generate new cash and strengthen balance sheets in support of overall enterprise objectives. This might include reviewing methods for recognizing income or expenses, looking for ways to accelerate the refund of prior-year taxes as a result of carrying back a 2008 net operating loss and developing effective strategies around inventory, green incentives, indirect and state and local taxes, and many others.

Look for incentive programs that support their business goals — Even in this environment, many incentive programs are still available to businesses, and some, as outlined in this guide, have been enhanced to support fiscal stimulus efforts.

Focus on improving communications and developing stronger relationships with their taxing authorities — Governments and businesses are encountering similar challenges related to financial market uncertainty and weak economies. Many companies are using regular discussions to gain a better understanding of their taxing authorities' goals and focus areas. At the same time, companies are educating the tax authorities about their business strategies and goals. These discussions can be a great way to increase certainty and avoid future controversies.

Actively monitor tax policy developments — Staying current on tax legislative and administrative developments can help businesses better understand, analyze and prepare for the impact of changes. Plus, the only way to affect the tax policy process in a way that supports business goals is to be involved and provide input early and often.

In closing, many fiscal developments continue to unfold as governments, organizations and taxpayers alike navigate their way through this unprecedented time. We won't know for weeks, months or even years what their outcome will be. Successful tax leaders will look ahead rather than just file returns for the past, since potential tax controversy or tax changes need to be factored into today's tax planning.

About this guide

The majority of stimulus packages that have been announced around the world focus on both tax and spending measures. This guide of 24 key jurisdictions focuses on the measures that make up the tax component of each country's stimulus package. The data was collected through April 2009. The economic environment continues to change daily; while every effort has been made to include the latest government responses to the financial crisis, the newest tax measures may not yet be reflected in this guide.

This guide will be updated periodically to account for major announcements and made available via a dedicated web page at http://www.ey.com/stimulus.

Argentina

Key changes reported

- Company tax measures (other)
- Other measures
- Tax measures affecting individuals

No reported activity

- Accelerated depreciation
- Grants and incentives
- Industry-specific measures
- Interest deductibility
- Profit repatriation regulations
- Rebates and refunds
- Tax credits – new or amended
- Tax policy reform
- Tax rate changes
  - Corporate income tax
  - Customs and duty
  - VAT
- Tax treatment of debt
- Treatment of losses (carrybacks, etc.)

Overview of measures to reinvigorate the economy

As a result of the global financial crisis, in September 2008, Argentina began experiencing high currency depreciation (17%), and commodity prices plummeted, impacting exports. On 24 December 2008, the Argentine congress passed a bill establishing a regime for the "regularization" of tax liabilities, the repatriation of funds and the registration of employees. Law 26,476 approved the plan announced by the Argentine president that, in the midst of the international financial crisis, aims to increase fiscal revenues for 2009 and repatriate assets and investments into Argentina. Unreported capital is estimated at US$170 billion, of which US$123.7 billion is currently deposited outside the country, according to private calculations based on the central bank's accounting reports.

Company tax measures (other)

Tax regularization regime: the regime for regularizing tax liabilities comprises debts for taxes, social security contributions and penalties as of 31 December 2007, and includes a broad amnesty for fines. Compensatory and punitive interest will also be reduced so as not to exceed 30% of the amount owed if the taxpayer joins the regularization plan in the first two months, 40% if the regularization is made in the third or fourth month, and 50% if performed in the fifth or sixth month. In addition, related criminal actions will be suspended to the extent the criminal proceedings have not reached final judgment.

Employers who decide to regularize the situation of employees (e.g., amending the starting date, salary amounts or reporting of unregistered employees) will not be subject to penalties. In addition, for the first 10 workers included in the regularization, no social security liabilities will arise.

Reporting undeclared funds and assets: taxpayers (individuals and entities) will be able to report the ownership of undeclared funds or assets in Argentina or abroad and benefit from a special tax regime. Such reporting may be effectively performed by informing the authorities of the existence of deposits in foreign banking institutions, by remitting them to accounts opened in Argentine banks or, in the case of other assets, by filing an affidavit individually identifying them. The funds and assets reported under Law 26,476 will be subject to the following special tax:

- Assets and funds located abroad but not transferred to Argentina: 8%.

- Funds located in Argentina and abroad to be used for the purchase of bonds issued by the federal government: 3%. If the bonds are transferred within a 24-month period, an additional 5% will have to be paid.
- Funds located in Argentina and abroad belonging to individuals and destined for the purchase of real estate used for dwelling: 1%. The real estate must not be transferred within a 2-year period.
- Funds located in Argentina and abroad to be used for the development of buildings and certain enumerated investments: 1%. The real property and investments must not be transferred within a 2-year period.
- Other assets and funds: 6%.

The funds subject to this tax will be exempt from other federal taxes (e.g., income tax, VAT, tax on debits and credits, minimum presumed income tax, tax on personal assets, etc.).

Reductions in social security contributions for new employees: subject to compliance with certain requirements, employers contracting new employees will benefit from a 50% reduction in social security contributions during the first year and a 75% reduction during the second year.

Other measures

Exports of services: revenues deriving from exports of services, which were subject to a reduced 1.5% turnover tax (provincial tax) rate in the city of Buenos Aires (federal district) until year 2008, have become tax exempt as of 2009, as long as certain requirements are met. Through this measure, the city of Buenos Aires' local congress grants exporters of services the same tax treatment that was being granted to exporters of goods.

Tax measures affecting individuals

Reporting undeclared funds and assets: please see above under company tax measures (other).

In order to stimulate consumption in certain parts of the society, on 24 December 2008, the Argentine congress passed a bill abrogating article 23.1 of the income tax law, which used to restrict the computation of certain personal deductions in the personal income tax return (i.e., minimum nontaxable amounts, spouse, children and other relatives, special deduction for employees and self-employed individuals) by a certain percentage depending on the individual's taxable income. Such a clause, which had been present in the income tax law since 2000, was fully eliminated for 2009 and onwards, thus implying an effective and progressive reduction in the income tax burden for certain individuals with annual taxable income exceeding ARS91,000.

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Australia

Key changes reported

- Company tax measures (other)
- Grants and incentives
- Industry-specific measures
- Other measures
- Tax measures affecting individuals
- Tax policy reform
- Tax rate changes
  - Customs and duty

No reported activity

- Accelerated depreciation
- Interest deductibility
- Profit repatriation regulations
- Tax credits – new or amended
- Tax rate changes
  - Corporate income tax
  - VAT
- Rebates and refunds
- Tax treatment of debt
- Treatment of losses (carrybacks, etc.)

Overview of measures to reinvigorate the economy

The global recession has impacted Australian growth, employment and the federal budget, withdrawing A$75 billion in revenue since November 2008 and causing Australia to follow other advanced economies into a temporary deficit.

Australia has fewer and more tightly regulated banks than many other countries. Government guarantee of deposits with Australian banks has maintained confidence. Banks have not failed, but various fund managers have failed or are encountering financial difficulties.

The A$10.2 billion dollar stimulus package was announced in October 2008. This principally comprised targeted cash payments to lower-income families and pensioners in December 2008.

The A$42 billion Nation Building and Jobs Plan (NBJP) announced in February 2009 is promoted by the government to support and maintain up to 90,000 jobs and lift GDP growth by around 0.5% in 2008-09 and 0.75 to 1% in 2009-10. Spending targets include:

- A$28.8 billion to schools, housing, energy efficiency, community infrastructure and roads and support to small businesses.
- A$12.7 billion to deliver an immediate stimulus to the economy to support growth and jobs. These measures include A$8.2 billion Tax Bonus for Working Australians, A$1.4 billion Single – income Family Bonus, A$20.4 million Farmer's Hardship Bonus, A$2.6 billion Back to School Bonus and A$511 million Training and Learning Bonus. These will be paid from early March 2009.

Company tax measures (other)

Investment allowance: A short-term stimulus measure includes a new 30% investment allowance tax deduction (at a 30% tax rate, this translates into a 9% cash tax break) for eligible assets ordered between 13 December 2008 and 30 June 2009 and installed ready for use by 30 June 2010. Further, a 10% allowance has been introduced for eligible assets ordered between 13 December 2008 and 31 December 2009 and installed ready for use by 31 December 2010.

Small business deferrals: To provide cash flow relief to small businesses, deferrals on periodic tax instalments (20% cuts for tax instalments calculated under the GDP adjusted formula) have been provided.

Grants and incentives

A$28.8 billion has been identified to support schools, housing, energy efficiency, community infrastructure, roads and small businesses.

A Green Car Innovation Fund will commence from 1 July 2009. The A$1.3 billion fund will provide assistance over ten years to design, develop and manufacture low-emission, fuel-efficient cars and components in Australia.

A $90 million green building fund has been introduced.

Industry-specific measures

A New Car Plan for a Greener Future includes the extension of the Automotive Transformation Scheme (ATS) from 2011 to 2020, providing A$3.4 billion to the automotive industry; funding for a smooth transition to the ATS from the current Automotive Component Investment Scheme; the Green Car Innovation Fund mentioned above; and A$116.3 million to promote structural adjustments through mergers and consolidation in the components sector and to facilitate labor market adjustments.

Interest deductibility

Australia has a thin capitalization system for funding of certain international investments. There is some private sector concern that the global financial crisis will necessitate the temporary relaxation of Australia's thin capitalization rules.

The Australian Taxation Office has released draft technical interpretations which, if adopted, could result in denial of interest deductions in some situations. No interest deductibility measures have been taken, but readers should continue to monitor developments closely.

Other measures

The Australian Federal budget will be handed down on 12 May 2009. Pre-budget submissions called for measures such as the introduction of tax loss carrybacks, temporary relaxation of Australia's thin capitalization rules to cushion the effects of asset impairment from the global financial crisis and improvement of interest withholding tax and other rules. Readers should continue to monitor developments closely.

Profit repatriation regulations

No immediate news. Australia allows most foreign source dividends received by companies to be non-taxable (non-assessable non-exempt).

Australia has a dividend imputation system benefiting domestic shareholders receiving dividends from income that has been taxed in Australia. Business has been seeking partial imputation credits for dividends from foreign source income (currently, these are taxable with no credit for the underlying foreign tax paid).

A review of Australia's tax rules for outbound investment (i.e., controlled foreign companies, controlled foreign trusts and foreign investment funds) by the Board of Taxation has concluded, but the report has not been released. Business hopes that the government response will bring long-term structural reform, compliance savings and improved competitiveness.

Tax credits — new or amended

(or tax offsets)

The *Cutler Review of Innovation* proposed 40% tax credit for large companies' R&D, with smaller companies to get a cash refund of 50% for their R&D, with the proposed offset also available for foreign-owned R&D. The government's response to the review is awaited in the May 2009 Federal Budget.

Tax measures affecting individuals

Personal tax cuts: significant personal tax cuts for the 2008-11 years of income, promised as part of the 2007 federal election campaign, have already been enacted. This should support consumer confidence. Further contemplated tax cuts have been postponed to a future time.

Tax policy reform

A comprehensive review of Australia's tax and welfare transfer system, under the leadership of the Treasury Secretary Ken Henry, is being conducted in consultation with businesses and the public. Recommendations are to be delivered by the end of 2009, covering capital taxation, state taxation, personal taxation, business taxation and more.

Tax rate changes

Corporate income tax (CIT)

Changes to the 30% CIT rate have been mentioned by government but no action likely until the Henry review reports.

Customs and duty

There is a proposal to phase down tariffs on imported cars from 10% to 5% by 1% a year between 2010 and 2014, instead of the currently scheduled cut straight to 5% in 2010.

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Belgium

Key changes reported

- Company tax measures (other)
- Industry-specific measures
- Rebates and refunds
- Tax measures affecting individuals
- Tax policy reform
- Tax rate changes
  - VAT

No reported activity

- Accelerated depreciation
- Grants and incentives
- Interest deductibility
- Other measures
- Profit repatriation regulations
- Tax credits – new or amended
- Tax rate changes
  - Corporate income tax
  - Customs and duty
- Tax treatment of debt
- Treatment of losses (carrybacks, etc.)

Overview of measures to reinvigorate the economy

The Belgian government has developed a recovery plan to tackle the economic downturn by supporting the cash position of companies, increasing consumption and reducing labor costs for companies.

The cash position of companies is improved by accelerating the refund of VAT credits (on a monthly basis) and by postponing the due date for the payment of salary withholding tax.

Consumption is boosted by lowering the VAT rate (e.g., investments in private immovable property) and by granting a tax credit on energy saving investments in private property.

Labor cost is reduced by allowing companies to benefit from a retention of the salary withholding tax levied (1% on all salaries, 15.6% for night and shift work and 75% of the salary paid to researchers).

The VAT measures have been published and are effective as of 1 January 2009. The other measures will mainly be implemented through the Economical Revival Act, which was adopted on 5 March 2009 by the 1st Chamber of the parliament. Some of these measures will enter into force with retroactive effect from 1 January 2009.

Moreover, in the framework of the interprofessional agreement concluded for 2009-10, a number of measures have been taken to stimulate competitiveness (e.g., partial tax deduction of meal voucher costs for the employer).

Company tax measures (other)

VAT credit refund claim: the possibility exists for Belgian VAT registered companies to apply for a VAT credit refund claim on a monthly basis instead of a quarterly basis (for activities that are typically in a VAT credit position). Companies may ask for permission to process a monthly refund on a quarterly basis (instead of at year-end).

Salary withholding tax: the proportion of salary withholding tax that the employer does not have to transfer to the Treasury increased.

The following additional measures were announced:

- **Researchers:** retention on the salary withholding tax increased from 65% to 75% as of 1 January 2009
- **General tax retention:** increased from 0.25 % to 0.75% as of 1 June 2009 and to 1% as of 1 January 2010
- **Tax retention for night and shift work:** increased from 10.7% to 15.6% as of 1 June 2009
- **Tax retention for overtime payment:** 100 hours as of 1 January 2009 and 130 hours as of 1 January 2010
- **Transfer of the salary withholding tax:** transfer of the salary withholding tax in the second and third quarter of 2009 can now be deferred for an additional three months.

Industry-specific measures

Real estate: in order to boost the Belgian real estate sector, a number of measures have been adopted. From 1 January until 31 December 2009, a reduction of the VAT rate from 21% to 6% is available for costs

related to the construction of new private dwellings, to a maximum of EUR$50,000. Moreover, the 6% VAT rate for reconstruction, which is already applicable in certain town areas, will be extended to the entire country until 31 December 2009.

Rebates and refunds

An employer entering into a loan in order to pay the wage withholding tax to the Treasury may apply for an interest subsidy for a period of six months.

Tax measures affecting individuals

- A reduced 6% VAT rate may apply for new private homes and for reconstruction (see above).
- **Support energy saving investments** (such as solar panels and insulation) in private real estate are boosted through so-called "green loans" (loans with rental subsidies and increased deduction in individual taxation) and tax credits.
- Stock options – increased delay for exercise.
- Tax credit for acquisition of computers/ computer plans.

Tax policy reform

Research and development: together with the payroll relief for researchers (up to 75%), the patent income deduction, which allows 80% exemption of gross patent income, will increase the attractiveness of Belgium as a primary location for R&D developments. Additionally, companies may obtain a favorable advance tax ruling on R&D projects (focusing on the special tax deduction for investments in R&D, also including the transfer pricing aspects) and/or benefit from the notional interest deduction (NID). The tax policy of the Belgian ruling commission is clearly positive towards new R&D projects, especially if they result in an increase in employment in Belgium.

Foreign investment: very recently, the Belgian Minister of Finance emphasized the effectiveness of the NID as a measure to attract foreign investment into Belgium. Steps will be undertaken to investigate whether the scope of the NID could be broadened to include investments outside Belgium in order to comply with the initiatives of the European Commission.

Tax rate changes

VAT

- **Real estate:** for a number of real estate investments, the general rate of 21% is decreased to 6%. The lower rate is only applicable for investments in private immovable property (housing) but is considered an important incentive for the real estate sector (see above).
- **Assisted living:** the 6% rate applicable to dwellings older than five years is extended to psychiatric nursing homes and protected living initiatives (initiatives for handicapped people, allowing them to live independently but with an adapted level of help).

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Brazil

Key changes reported

- Industry-specific measures
- Tax measures affecting individuals

No reported activity

- Accelerated depreciation
- Company tax measures (other)
- Grants and incentives
- Interest deductibility
- Other measures
- Profit repatriation regulations
- Rebates and refunds
- Tax credits – new or amended
- Tax policy reform
- Tax rate changes
  - Corporate income tax
  - Customs and duty
  - VAT
- Tax treatment of debt
- Treatment of losses (carrybacks, etc.)

Overview of measures to reinvigorate the economy

With the global financial crisis creating great turmoil in September 2008, Brazil's currency depreciation hit an astounding 46%. Responding to the international crisis, the Brazilian government enacted a set of economic recovery measures. To stimulate foreign finance transactions, Brazil reduced the financial tax (IOF) focused on foreign currency exchange transactions and leasing transactions. Brazil also temporarily reduced the federal VAT (IPI) and also reduced the income tax rates for individual taxpayers.

Industry-specific measures

Brazil reduced the Industrialized Products Tax (IPI) for specific automobiles, as detailed in the following table:

Engine volumetric capacity	Standard automobiles (gasoline engines)	Flex automobiles (gasoline/ alcohol engines)
up to 1,000	Decreases from 7% to 0%	Decreases from 7% to 0%
from 1,000 to 2,000	Decreases from 13% to 6.5%	Decreases from 13% to 5.5%
as from 2,000	Remains in 25%	Remains in 18%

The above incentives are valid for a determined period of time and are currently scheduled to expire on 30 June 2009.

Motorcycle industry: the IOF has been reduced to zero on the purchase of motorcycles.

Software industry: costs and expenses associated with the training/education of technical people rendering services to develop software, in addition to the deductibility of such expenses, may be excluded from taxable income.

Tax measures affecting individuals

The income tax rates for individual taxpayers are reduced as follows:

Taxable income (BRL)	Previous tax rate	Updated tax rate
from zero to 1,434	0%	0%
from 1,434 to 2,150	15%	7.5%
from 2,150 to 2,866	15%	15%
from 2,866 to 3,582	27.5%	22.5%
as from 3,582	27.5%	27.5%

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Canada

Key changes reported

- Accelerated depreciation
- Company tax measures (other)
- Industry-specific measures
- Interest deductibility
- Tax credits – new or amended
- Tax measures affecting individuals
- Tax rate changes
  - Corporate income tax
  - Customs and duty

No reported activity

- Grants and incentives
- Other measures
- Profit repatriation regulations
- Rebates and refunds
- Tax policy reform
- Tax treatment of debt
- Tax rate changes
  - VAT
- Treatment of losses (carrybacks, etc.)

Overview of measures to reinvigorate the economy

The minority Conservative government delivered its 2009 budget on 27 January. Unlike past budgets, and following the lead of many other countries, this year's budget is primarily aimed at addressing Canada's slumping economy through a series of fiscal initiatives.

In line with the International Monetary Fund's recommendation that governments introduce stimulative packages of approximately 2% of GDP, Canada's fiscal 2010 measures amount to 1.9% of GDP (C$30 billion). This is lower than the proposed US package, which is estimated to be approximately 3%, but higher than many other developed countries.

Through a variety of expenditure and tax measures, the budget addresses broader economic concerns such as job creation, productivity initiatives and wage preservation, restoring confidence in the financial markets, enhancing Canada's competitiveness in attracting and maintaining human and nonhuman capital, and growth in the GDP.

To this end, the government has decided to part from a string of successive surpluses towards a projected annual deficit of approximately C$1 billion, C$34 billion and C$30 billion for the 2009, 2010 and 2011 fiscal years, respectively.

Accelerated depreciation

Accelerated capital cost allowance (CCA) for manufacturing and processing equipment: the temporary increase in the CCA rate for manufacturing and processing equipment to a 50% straight-line rate has been extended for eligible assets acquired in 2010 and 2011. The half-year rule will apply, such that a full write-off may be claimed over three taxation years.

Accelerated CCA for computer equipment: a temporary increase in the CCA rate for computer equipment (including systems software) to 100% with no half-year rule such that a full write-off may be claimed in one full taxation year. This change applies to eligible computer equipment acquired after 27 January 2009 and before February 2011.

Company tax measures (other)

Small business deduction: the minister announced an increase from C$400,000 to C$500,000 in the annual business income limit of a Canadian-controlled private corporation (CCPC) eligible for the reduced small business tax rate. This increase is effective 1 January 2009 and is prorated for corporations with taxation years straddling this date. Consequential to this change, the C$3 million expenditure limit for the enhanced investment tax credit rate for scientific research and experimental development (SR&ED) expenditures incurred by a CCPC will be reduced when taxable income in the previous year exceeds C$500,000 (currently C$400,000), and will be fully eliminated when taxable income exceeds C$800,000 (currently, C$700,000). This change is effective for previous taxation years ending after 2008.

Industry-specific measures

See mineral exploration credit in **"Tax credits"** section below.

See "Accelerated depreciation" section (above) for accelerated CCA measures targeted at manufacturing and processing sector.

See home renovation tax credit under **"Tax credits"** in the "Tax measures affecting individuals" section below. This temporary measure is intended to stimulate the home renovation and construction industry.

Interest deductibility

Arguably, the budget's most significant measure is to repeal section 18.2 of the Income Tax Act, which was introduced as part of the 2007 Anti-Tax Haven Initiative and scheduled to come into force in 2012. Had it not been repealed, the provision would have restricted the deductibility of interest in certain situations when a Canadian corporation borrows funds to finance a foreign affiliate and a second deduction is available in a foreign jurisdiction (a so-called "double dip").

Tax credits – new or amended

Tax credits: mineral exploration credit – the mineral exploration tax credit, equal to 15% of specified mineral exploration expenses incurred in Canada and renounced to flow through share investors, will be extended to flow through share agreements entered into on or

before 31 March 2010. This program, initially introduced in 2000, was previously extended and scheduled to expire on 31 March 2009.

See also **"Tax credits"** under the "Tax measures affecting individuals" section below.

Tax measures affecting individuals

Personal tax: income thresholds

- **Personal amounts** – the budget proposes to increase the basic personal amount and the amount for a spouse, common law partner or wholly dependent relative from C$9,600 in 2008 to C$10,320 in 2009.
- **Higher-income thresholds** – the budget aims to deliver on the government's tax back guarantee to provide broad-based personal tax relief:
  - The upper limit of the first personal income tax bracket (15%) will increase to C$40,726 in 2009 from C$37,855 in 2008.
  - The upper limit of the second personal income tax bracket (22%) will increase to C$81,452 in 2009 from C$75,769 in 2008.

As a result of these changes, a single Canadian earning C$80,000 will pay C$259 less tax for 2009, for example.

Tax credits: the budget includes proposals for a number of new and enhanced tax credits, computed using the lowest personal tax rate (15%):

- **Home renovation tax credit** – for 2009, a new, nonrefundable temporary tax credit will be available to homeowners for home improvements to a principal residence. The credit will apply to expenditures in excess of C$1,000 and up to C$10,000, made for work performed or goods acquired after 27 January 2009 and before February 2010, in relation to an agreement entered into after 27 January 2009. Eligible expenditures must be for renovations or alterations of an enduring nature.
- Routine repairs, appliances, furniture and financing costs are ineligible for the credit. Family members (spouses/partners and minor children) will share the expenditure limit. This will generate a tax saving of up to C$1,350.
- **First-time home buyers' tax credit** – effective 2009, a new, nonrefundable tax credit based on an amount of C$5,000 will be available for first-time homebuyers who acquire a qualifying home after 27 January 2009. This will generate a one-time C$750 tax saving.
- **Age credit** – effective 2009, the amount that is the basis for the age credit is increased by C$1,000, to C$6,408. This income-tested credit begins to be phased out at C$32,312 of net income and will be completely eroded at C$75,032 of net income.

Tax rate changes

Corporate income tax

Corporate tax reductions – while there were no new corporate rate reductions announced, the minister confirmed Canada's direction to become the lowest corporate taxing jurisdiction among the major industrialized economies. He also restated the government's intention to collaborate with the provinces and territories to reach a 25% combined corporate tax rate.

The enacted Canadian federal general corporate income tax rates are as follows:

Year	2008	2009	2010	2011	2012
General corporate tax rate	19.5%	19.0%	18%	16.5%	15%
Small business rate	11%	11%	11%	11%	11%

Customs and duty

Tariff relief on machinery and equipment – the budget proposes to permanently eliminate tariffs on a range of machinery and equipment imported into Canada and used by Canadian industry, and to simplify the existing customs tariff structure.

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China

Key changes reported

- Accelerated depreciation
- Company tax measures (other)
- Grants and incentives
- Industry-specific measures
- Other measures
- Rebates and refunds
- Tax measures affecting individuals
- Tax policy reform
- Tax treatment of debt

No reported activity

- Interest deductibility
- Profit repatriation regulations
- Tax credits – new or amended
- Tax rate changes
  - Corporate income tax
  - Customs and duty
  - VAT
- Treatment of losses (carrybacks, etc.)

Overview of measures to reinvigorate the economy

On 9 November 2008, the Chinese government unveiled its four trillion yuan (US$586 billion) stimulus package for the next two years to boost domestic demand in light of a slumping export market.

It will be spent on upgrading infrastructure, raising rural incomes via land reform and supporting social welfare projects such as affordable housing and environmental protection. The package also redirects VAT from a production-based regime to a consumption-based system, which will draw US$18 billion of the total package.

Additionally in this past year, the Chinese government raised the level of tax rebates to bolster exports, reduced taxes on property purchases to support the real estate market, and cut the interest rate on savings and stamp duties of stock trading to boost the financial market.

Based on the draft budget report (dated on 15 March 2009) for the fiscal year 2009, the Chinese government will focus on reforming taxes and fees and implementing structural tax reductions to achieve a tax cut of 500 billion yuan (US$75 billion).

On 31 March 2009, the China Securities Regulatory Commission (CSRC) issued the Temporary Regulation for IPO for Growth Enterprise, to be effective from 1 May 2009. The regulations aim to provide an additional source of equity funding for growth enterprises and set the profit requirements of 10 million yuan (US$1.5 million) for the last 2 years, with net assets of at least 20 million yuan (US$2.9 million).

Accelerated depreciation

Accelerated depreciation is available to certain industries/assets. For example, with approval from the tax authorities, enterprises may shorten the depreciation or amortization period of purchased software to a minimum of two years. In addition, the depreciation period of machinery and equipment of the Integrated Circuit enterprises may be shortened to a minimum of three years.

Company tax measures (other)

To encourage development, small- and medium-sized enterprises will receive tax preferential policies.

High and New Technology Enterprises: a company that is certified as a High and New Technology Enterprise can be entitled to reduced tax rate at 15% (instead of statutory rate of 25% under the new law). If a newly established High and New Technology Enterprise is established in Pudong New Area (part of Shanghai municipality) or any of the special economic zones (i.e. Shenzhen, Hainan, Zhuhai, Xiamen, Shantou), it can further be entitled to a tax holiday of "two-year exemption, followed by 3-year 50% tax rate reduction (i.e., 12.5%)."

Resident taxpayers are allowed to deduct 150% of qualified research and development (R&D) expenditures ("R&D expense super deduction") for corporate income tax purposes. If the R&D activities result in an intangible asset, the company can amortize the intangible asset based on 150% of its actual costs.

Environment: companies engaged in approved projects of environmental protection, energy saving and water saving nature, etc. may enjoy a tax preferential treatment of "3-year exemption, followed by 3-year 50% tax reduction." The company may realize an additional 10% in tax savings by using special environmental protection equipment.

Grants and incentives

None reported, but grants and incentives continue to be available in practice especially when foreign investment is needed in less popular investment locations.

Industry-specific measures

- A VAT rebate for some textiles and clothing exporting companies was raised to 16% from 1 April 2009 under CaiShui[2009]43.
- A VAT rebate for some electronic and information exporting companies was raised to 17% starting from 1 April 2009 under CaiShui[2009]43.
- Adjustment of export duty rates for certain artificial fertilizers.
- Adjusting tax policies for import of large-scale coal mining equipment and its key spare parts and material.
- Extending availability of tax rebates on key imported components for domestically owned oceangoing ships to 2012.
- Sales tax receipts resulting from reform of taxes and fees for refined petroleum products.
- Reduction in the purchase tax rate from 10% to 5% on cars under 1.6 liters from 20 January to 31 December 2009 under CaiShui[2009]12.
- Exemption from VAT for company providing residential heat for 2009 and 2010 under CaiShui[2009]11.
- Financial subsidy for the farmers who purchase cars under 1.3 liters from 20 January to 31 December 2009.
- A tax rebate for some exported steel products will be increased.
- Reduction of holding-period requirement for business tax exemption on transfer of residential properties.
- New tax policies for the nuclear power industry.

Other measures

Rescind and cease collecting 100 items of government administrative levies.

Rebates and refunds

Export refund of consumption tax ("CT") of processing goods.

Rebate on domestically owned oceangoing ships.

Tax measures affecting individuals

Tax exemption on individual interest income earned after 9 October 2008.

Tax policy reform

Change to consumption-based VAT regime providing full input tax credit for capital goods effective 1 January 2009.

Tax treatment of debt

Interest expense: on 23 September 2008, the Ministry of Finance (MOF) and the State Administration for Taxation (SAT) jointly issued Caishui[2008]121, which stipulates that the related party debt-to-equity (DE) ratio cannot be in excess of 5:1 for financial institutions and 2:1 for other industries. The excessive interest expense is not allowed to be deducted in the current year or deferred to the following years. Thus any excess interest is lost.

Departure from DE ratio permitted under two conditions: the company is able to provide relevant information as required in the CITL and the CITLIR to substantiate that a related party financing activity is at arm's length; or the effective tax rate of a resident borrower is not higher than a resident related-party lender.

On 8 January 2009, GaoShuiFa[2009]2, Administrative Procedures for Special Tax Adjustments (Trial) was issued, and there is a separate Chapter on thin capitalizations, which first brings forth the formula to compute the disallowed interest deduction being the total interest expenses on related-party borrowings times (1- DE ratio as per Circular 121/ the actual related-party DE ratio). Additionally, a monthly average calculation is applied to reach the related-party DE ratio. When determining related-party borrowings, guarantee and other similar arrangements are included.

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The Czech Republic

Key changes reported

- Accelerated depreciation
- Company tax measures (other)
- Grants and incentives
- Industry-specific measures
- Tax measures affecting individuals
- Tax rate changes
  - Corporate income tax
- Tax treatment of debt

No reported activity

- Interest deductibility
- Other measures
- Profit repatriation regulations
- Rebates and refunds
- Tax credits – new or amended
- Tax policy reform
- Tax rate changes
  - Customs and duty
  - VAT
- Treatment of losses (carrybacks, etc.)

Overview of measures to reinvigorate the economy

In February 2009, the Czech government approved a CZK41.5 billion (approximately US$2 billion) budget stimulus package designed to help businesses and preserve jobs. However, the majority of tax changes included in the package need to be approved by the Czech parliament, where they are currently under review.

Given an uncertain political situation in the Czech Republic, the result is difficult to predict, and some of the stimulus measures approved by the government may change in due course. The stimulus package, if approved, would introduce a range of changes, including the acceleration of depreciation of certain assets and a decrease in social security payments for low-earning employees. Some changes have already been introduced, including a VAT deduction on the purchase of passenger cars, the shortening of the excess VAT refund period and an exemption from corporate income tax prepayments for self-employers and companies with up to five employees.

Accelerated depreciation

Temporary acceleration of tax depreciation in the first and second (out of six) depreciation groups (to be approved in parliament):

In the first depreciation group (e.g., computers and other stationary), from three years to 12 months (linearly).

In the second depreciation group (e.g., cars and machinery), from five years to 24 months (60% in the first 12 months and 40% in the second 12 months).

Company tax measures (other)

Social security payments (employer contribution): a decrease in the employer contribution for employees earning up to 115% of the average wage has been proposed and requires approval in parliament.

VAT: electronic filing period for excess VAT refunds has been shortened from 30 to 15 days (approved in February 2009).

Insolvency law: changes in insolvency law are aimed at assisting selected companies in maintaining employment and to protect employees of an insolvent company (to be approved in parliament).

State guarantee: loans taken by small- and medium-sized enterprises (SMEs) will receive state guarantee.

Green investment: subsidies are provided for projects involving insulation of houses and replacement of boilers with low-emission energy sources (e.g., solar panels).

Income tax prepayments: corporate income tax prepayments are not required for self-employers and companies with up to five employees (i.e., CIT would be payable at full upon filing CIT return). This measure was approved in parliament in February 2009.

Grants and incentives

- Grants are available for increasing personal mobility.
- Grants available for up to 80% of salary costs.
- Grants are provided for employee training.

Industry-specific measures

VAT deduction: a VAT deduction is provided on the purchase of passenger cars; however, a regulation taxing private use shall be observed.

Tax measures affecting individuals

Decrease in social security payments (employee contribution) of 1.5% from 2009 onwards (approved in 2008).

Tax rate changes

Corporate income tax (CIT)

Decrease in corporate income tax rate from 21% in 2008 to 20% in 2009 and 19% in 2010 (approved in 2007).

Tax treatment of debt

Softening of thin-capitalization rules:

Return to a 4:1 debt-to-equity ratio (6:1 for banks) – from current 2:1 (resp. 3:1).

Subordinated debts will be CIT-deductible.

Related-party guarantee of a bank loan should not trigger adverse tax implications – only "back-to-back" loans will be subject to thin-capitalization rules.

Retroactively effective for tax periods that began in 2008.

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European Union

Tax issues related to fiscal stimulus activities

- Member States and the effects of "acquis communautaire"
- Pressure to end retrospective changes to European Union tax law
- Ministers struggle to agree on reduced VAT rates
- European Union Member States under pressure to raise maximize tax revenue

Overview of measures to reinvigorate the economy

The European Commission (EC) on 26 November 2008 presented a plan to drive Europe's recovery from the current economic crisis. The recovery plan is based on two mutually reinforcing main elements. Firstly, short-term measures to boost demand, save jobs and help restore confidence. Secondly, "smart investment" to yield higher growth and sustainable prosperity in the longer term. The plan calls for a timely, targeted and temporary fiscal stimulus of around €200 billion or 1.5% of European Union (EU) GDP, within both national budgets (around €170 billion, 1.2% of GDP) and EU and European Investment Bank budgets (around €30 billion, 0.3% of GDP).[1] This plan was adopted in December 2008 as the European Economic Recovery Plan.

Amid worries over the fragile state of banking in Central and Eastern Europe, the World Bank, the European Bank for Reconstruction and Development and the European Investment Bank announced on 27 February 2009 that they would lend up to €24.5 billion to the region.[2]

At a meeting of the European Council on 19/20 March 2009, the Presidency Conclusions (a form of meeting minutes) stated that:

"Good progress has been made in implementing the European Economic Recovery Plan adopted last December. Although it will take time for the positive effects to work their way through the economy, the size of the fiscal effort (around 3.3% of EU GDP or over €400 billion) will generate new investments, boost demand, create jobs and help the EU move to a low-carbon economy."

Member States and the effects of "acquis communautaire"

The entire accumulation of European laws thus far is known as the acquis communautaire, and must be adopted, implemented and enforced by all Member States. The pressure on Member States to make provisions to combat the financial crisis continues to put the acquis communautaire under intense pressure, as countries strive to bring about measures that combat the downturn on one hand, while remaining aligned to the union on the other. In this section, we use some of the stimulative activities that have occurred in Germany as an example of these pressures.

The following description of a national safety measure in respect to Germany should serve only as an example of a re-birth of national thinking despite the establishment of an internal market. Other EU Member States have introduced similar legislation to safeguard their national banking system.

The implementation of parts of the stimulus packages in the Member States may lead to a variety of issues concerning the compatibility of the domestic regulations with EU law, which becomes obvious when reviewing the newly adopted provisions of the German Financial Markets Stabilization Act. Although the European Commission declared this measure of state aid as compatible with the common market on 27 October 2008, it discloses several aspects that might infringe EU law at first sight.

First, it seems questionable whether the qualification of the Financial Markets Stabilization Fund as a nonentrepreneur for VAT purposes (Sec. 14 (1) German Financial Markets Stabilization Act) is in line with the VAT directive. Furthermore, the unilateral qualification as resident in

[1] European Commission press release, 26 November 2008
[2] *Financial Times*, 27 February 2009

Germany for double-tax treaty purposes despite its exemption from German income and withholding tax does not correspond with the common requirements for treaty entitlement, such as the form of organization and the carried-out activities.

However, the imposition of German income tax on capital gains from nonresident (state) funds — levied in the form of (a lump sum) withholding tax — might be considered as an infringement of the free movement of capital or a violation of the freedom of establishment as far as the EC parent-subsidiary directive is not applicable. This consequence might result from the fact that, although the foreign (state) fund itself and the Member States themselves are not protected by the internal market freedoms, the favored companies (e.g., financial institutions) are negatively affected by this legislation. Therefore, a justification for the unequal treatment would have to be checked in every particular case.

Accordingly, although the change of loss trafficking rules preventing the total or prorata loss of carryforwards for corporate income and trade tax purposes (Section 8c German Corporate Income Tax Act, Section 10a German Trade Tax Act) in the case of the direct or indirect assignment of shares from or to the German state fund may not entitle the foreign state itself, the resident subsidiaries of the funds as private companies would be entitled to enforce their rights deriving from EU law. In fact, the same should apply to the tax exemption from German real estate transfer tax, which is exclusively granted for the German state fund.

Until now, the European Court of Justice (ECJ) has not yet established a suitable justification for such infringements of the respective EU law. However, it is well imaginable that the court might create a new justification on the grounds of public interest in form of the conservation of a functioning financial market. Plus, it can be doubted whether the one-sided support of the German state funds by the means of tax benefits is reasonable as it could be equally efficient to promote foreign states' stabilizing measures. The restriction of the tax benefits to the German state fund does not at all seem to be compellent.

Finally, further questions might arise when considering the treatment of foreign private investors investing in a domestic financial institution or its foreign parent or the treatment of resident investors investing in a foreign parent of a resident financial institution. Of course, it is questionable whether the situation of a private investor is comparable to the situation of a Member State. However, assuming the comparability of the two situations (private investments, public investments), a justification of the different treatments and the violation of EU law must be found.

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European Union (cont'd.)

Pressure to end retrospective changes to European Union tax law

At a time of worldwide financial crisis, there is mounting concern over the losses in national tax revenues that may be caused by the retrospective impact of decisions made by the ECJ. Germany and several other Member States of the EU have therefore been studying the impact of ECJ decisions and assessing their subsequent financial consequences in the Member States, in comparison with different approaches applied by national constitutional courts. Under ECJ law, decisions are generally applied retroactively. Exemptions are possible only in very limited circumstances, a principle followed by the ECJ in the early Defrenne case (C-149/77) and in other taxation cases such as Meilicke (C-292/04). For governments, however, retrospective changes in tax law can play havoc with national budgeting.

On 22-23 September 2008, at a special conference in Berlin, an international commission of European constitutional law experts presented their results about the practice of the national constitutional law courts in the 27 EU Member States. They concluded that the majority of the national constitutional courts or highest administrative courts of the EU Member States apply their decisions only from the time of the publication of the decision onwards or even determine a point of time in the future as the effective date. Based on these findings, the constitutional law experts have made an official recommendation to the ECJ to limit the effect of future decisions on tax matters in accordance with the current constitutional law practice used by the EU Member States. In the experts' view, such an approach would better serve the needs of Member States in the area of nonharmonized taxation systems with respect to legal certainty, the protection of taxpayer confidence and the prevention of legal loopholes.

Ministers struggle to agree on reduced VAT rates

It had been hoped that the Economic and Financial Affairs Council (ECOFIN), meeting in Brussels on 10 March 2009, would agree to definitive proposals on the vexed issue of reduced VAT rates. In advance of the ECOFIN meeting, the Czech presidency had proposed a compromise aimed at enabling ministers to settle the issue, in response to a specific request from the European Council. The compromise was based on the optional use of reduced VAT rates in certain sectors, such as labor-intensive local services, including restaurant services. This was among the actions identified by heads of government under the European Economic Recovery Plan agreed in December 2008. Current rules on reduced rates are set by Directive 2006/112/EC and are due to expire at the end of 2010.

Discussion at the ECOFIN meeting was vigorous and in the end, ministers managed to agree a solution. They acknowledged that reduced VAT rates could have both positive and negative economic effects, so that Member States should always consider more efficient alternative measures before using the reduced-rate option.

They also reached a political agreement that all Member States should have the option to apply reduced VAT rates on a permanent basis to the minor repairing of bicycles, shoes and leather goods, clothing and household linen, plus window-cleaning, household cleaning, domestic care services, hairdressing, restaurant services, certain books and, with some restrictions, the renovation and repair of private dwellings.

Ministers also supported a two-year extension of the UK's derogation regarding the reverse charge mechanism, and minor concessions were approved for Portugal, Cyprus and Malta. Clearly, however, the policy debate over reduced VAT rates is far from over.

European Union Member States under pressure to maximize tax revenue

On 2 February 2009, the European Commission issued two draft directives regarding administrative cooperation between Member States in the assessment of taxes and the cross-border recovery of taxes. The two proposals are part of the EC's strategy to tackle tax evasion and tax fraud.

The proposed draft directives titled "Administrative cooperation in the field of taxation" and "Mutual assistance for the recovery of claims relating to taxes, duties and other measures" will replace current directives, respectively Council Directive 1977/799/EEC and 1967/308/EEC.

Administrative cooperation in the field of taxation

The scope of the improved administrative cooperation is widened to all taxes except those that are dealt with by separate EU legislation (for example, the VAT directive). To achieve this scope, the proposed directive provides clearer and more precise rules regarding mutual cooperation. Besides common rules of procedures, forms and information channels, the directives propose allowing the tax authorities of the Member State to make administrative enquiries in the territory of the other Member State. In addition to this far-reaching measure, another element of the proposed directive is more stringent restrictions on bank secrecy. According to the draft directive a Member State will no longer be able to refuse an information request regarding taxpayers solely on the basis that this information is kept by a bank (or any other financial institution). This element of the directive has already drawn significant criticism from some Member States.

Mutual assistance for the recovery of claims relating to taxes, duties and other measures

This draft directive mainly concerns the collection of due taxes. The directive aims to improve the ability of Member States to recover due taxes, as well as reinforce the overall message that due taxes must be paid. Furthermore, the levels of assistance possible between Member States in the collection of taxes will also be improved. The proposed measures intend to improve the current tax recovery ratio. At present this only totals 5% of all the matters in which assistance of the other Member State is required. The new directive will apply to all taxes and duties of Member States and will also include compulsory social security contributions. In addition to these taxes, Member States will be obligated to spontaneously provide information regarding the refund of taxes by national tax authorities to nonresidents if the tax amount exceeds €10,000.

The proposed directive also creates competence for tax authorities to participate in administrative enquiries on the territory of other Member States. In order to ensure recovery of taxes due, a Member State will be able to request the tax authorities of the other Member State to take precautionary measures. This might occur in the event the tax assessment has not yet been finalized. On this matter, the commission emphasizes the importance of a renewed and broadened directive for the fight against, amongst other things, VAT fraud.

France

Key changes reported

- Accelerated depreciation
- Company tax measures (other)
- Grants and incentives
- Tax credits – new or amended
- Tax policy reform
- Treatment of losses (carrybacks, etc.)

No reported activity

- Industry-specific measures
- Interest deductibility
- Other measures
- Profit repatriation regulations
- Rebates and refunds
- Tax measures affecting individuals
- Tax rate changes
  - Corporate income tax
  - Customs and duty
  - VAT (except for restaurant services)
- Tax treatment of debt

Overview of measures to reinvigorate the economy

In order to improve the cash position of companies, the 2008 Amended Finance Bill makes it possible for companies in 2009 to claim immediate reimbursement of tax credits resulting from loss carrybacks and excessive corporate income tax installments, as well as remaining research tax credit (RTC) for 2005, 2006 and 2007, and excessive RTC for 2008 income.

To stimulate investment, the bill also provides for a temporary increase in the accelerated depreciation rates that apply to newly acquired or created assets and a quasi-exemption from business tax for newly acquired or created investments.

This quasi-exemption from business tax addresses the anticipated reform of the French business tax that was announced by the President of France on 5 February 2009.

Finally, a decree dated 29 January 2009 provides for the possibility for French VAT-registered companies to apply for a VAT credit refund claim on a monthly basis instead of a quarterly basis.

Accelerated depreciation

A temporary increase in the accelerated depreciation rates may apply for assets acquired or created between 4 December 2008 and 31 December 2009.

Company tax measures (other)

Excessive corporate income installments: companies may be reimbursed for excessive corporate income installments on the first day following the closing of the fiscal year (i.e., before the determination of the corporation tax). This measure applies to fiscal years ending from 1 January 2009 to 30 September 2009.

VAT credit refunds: French VAT-registered companies may apply for a VAT credit refund claim on a monthly basis instead of a quarterly basis. This measure applies to a French VAT return that should be filed from February 2009 in connection with transactions performed during January 2009.

Reduced rate of VAT: as a result of changes announced at the ECOFIN meeting on 10 March 2009, the French government has decided to reduce the VAT rate from 10.6% to 5.5% for restaurant services with effect from 1 July 2009.

Grants and incentives

Quasi-exemption from business tax with respect to investments acquired or created between 23 October 2008 and 31 December 2009.

Tax credits — new or amended

Companies may apply for the following temporary measures regarding the research tax credit (RTC):

- RTC for 2005, 2006 and 2007 that have not been previously offset may be reimbursed immediately
- RTC for 2008 may be immediately offset against the tax on the 2008 results
- Companies that estimate that the amount of RTC for 2008 will exceed the amount of tax due for 2008 may claim reimbursement of the excess (if the estimate differs from the real figures by more than 20%, a 5% penalty increase and late-payment interest apply)

Tax policy reform

Reform of the French business tax was announced by the President of France on 5 February 2009.

Treatment of losses (carrybacks, etc.)

In 2009, companies may claim immediate reimbursement of the tax credit resulting from loss carrybacks on the first day after the close of the fiscal year (if the amount reimbursed exceeds the real figures by more than 20%, a 5% penalty increase and late-payment interest applies).

This measure applies to loss carrybacks on fiscal years ending on or before 30 September 2009.

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Germany

Key changes reported

- Accelerated depreciation
- Grants and incentives
- Interest deductibility
- Other measures
- Tax measures affecting individuals
- Tax policy reform
- Tax rate changes
  - Corporate income tax
- Treatment of losses (carrybacks, etc.)

No reported activity

- Company tax measures (other)
- Industry-specific measures
- Profit repatriation regulations
- Rebates and refunds
- Tax credits – new or amended
- Tax rate changes
  - Customs and duty
  - VAT
- Tax treatment of debt

Overview of measures to reinvigorate the economy

On 13 October 2008, the German federal government ratified a package of measures designed to stabilize financial markets. The law governs the creation of a financial market stabilization fund. This fund is intended to strengthen the equity of companies in the financial sector. It has a volume of €100 billion.

On 5 November 2008, the German government ratified its Economic Program I. Faced with a global economic downturn, the government introduced this program to safeguard growth and employment. The fiscal measures promote investment and business for companies totaling more than €25 billion. The Act passed the lower house of the German Parliament (Bundestag) on 4 December 2008 and the upper house of the German Parliament (Bundesrat) on 5 December 2008.

The Economic Program II is designed to relieve the strain on ordinary citizens while supporting the economy and safeguarding jobs. The package of measures has a total volume of €50 billion. The Economic Program II passed the German lower house on 13 February 2009 and the German upper house on 20 February 2009.

Accelerated depreciation

Declining-balance depreciation: reinstatement of declining-balance depreciation for assets acquired or produced after 31 December 2008 but before 1 January 2011. The declining-balance depreciation may not exceed 2.5 times the amount calculated using straight-line depreciation and a depreciation rate of 25%.

Small- and medium-size enterprises (SMEs): under certain conditions, SMEs can apply special depreciation to the acquisition or production of movable assets. For business years ending after 31 December 2008 and before 1 January 2011, special depreciation is permitted if the business property does not exceed €335,000 or the profits generated are not more than €200,000.

Grants and incentives

New motor vehicle tax incentive: if a new automobile is purchased and licensed for the first time between 5 November 2008 and 30 June 2009, a motor vehicle tax exemption of one year is granted. For new automobiles fulfilling the euro-5 or euro-6 emission rule, the exemption from motor vehicle tax can be extended by up to two years to 31 December 2010. Additionally, automobiles licensed for the first time before 5 November 2008 are exempt from motor vehicle tax for one year commencing 1 January 2009 if the automobile fulfils the criteria of the euro-5 emission rule.

Scrapping bonus: in order to promote demand for passenger cars, anyone scrapping a passenger car that is at least nine years old and purchasing a new one receives a €2,500 "scrapping bonus."

Interest deductibility

Lump sum allowance for deductible tax interest: on 20 March 2009, the Finance Committee of the Bundesrat proposed to provide limited, temporary relief by (i) increasing the interest deduction limitation for business taxpayers and (ii) mitigating the adverse effects of the strict change in ownership rules for loss corporations in the event of certain insolvency restructurings. The €1 million lump sum allowance for deductible net interest expense, if passed, would be increased to €3 million. The increase will only be granted for the tax years 2008-10 (that is, with retroactive effect also for 2008). To become law, the proposals must be approved by the Bundesrat and the Bundestag.

Other measures

Financial market stabilization fund: the financial market stabilization fund has €80 billion at its disposal for measures intended to strengthen the equity of companies in the financial sector (e.g., injection of equity by the state or buying up toxic assets). Guarantees for the liabilities of companies in the financial sector can also be taken on, to the value of up to €400 billion.

Credit and state guarantee program: a credit and state guarantee program is implemented in order to free up credit for companies in Germany that are in trouble because of the financial crisis.

German infrastructure investment: the federal government wants to invest an additional €4 billion in infrastructure. A further €10 billion will go to local government as part of an investment program.

Additional resources have been allocated to research and education.

Tax measures affecting individuals

Automobiles: see above under "Grants and incentives."

The basic rate of income tax will be reduced from 15% to 14%.

Basic income-tax-free allowance: the basic income-tax-free allowance will be increased by €170 to €7,834 as of 1 January 2009. As of 1 January 2010, the basic allowance will be raised by an additional €170 to €8,004.

Tax policy reform

The debate around adjusting tax policy reform has intensified as a result of the downturn. The following regulations are under review:

- Loss trafficking (change in ownership rule)
- Interest limitation rule
- Trade tax base (add-backs)
- Loss limitation rules (minimum taxation)

The Federal Ministry of Finance submitted a second draft of an Act for the Combating of Tax Fraud and Other Harmful Taxation, dated 5 March 2009. This Act addresses the current debate that many countries do not provide an open exchange of tax information according to OECD standards. Most of the countries affected have already responded by opening their information policies.

Tax rate changes

Corporate income tax

The progressive income tax rate is to be reduced from 2009 onwards. The entry-level bracket rate is 14 % (instead of 15%). The zero rate bracket will increase from €7,664 to €7,834, and the progression steps are to be raised by €400.

Treatment of losses (carrybacks, etc.)

Insolvency restructuring exception on loss carryforward: current German law dictates that any direct or indirect transfer of more than 25% of the shares in a loss corporation to a new owner results in an immediate and complete prorated forfeiture of the loss carryforward and any current accumulated losses. A 100% forfeiture of the loss carryforward occurs if more than 50% of the shares are transferred to a new owner within five years. Transfers to multiple new shareholders are aggregated, if those shareholders acted on the basis of a common plan. A new law, which was proposed on 20 March 2009 but has not yet been passed by the Bundesrat and the Bundestag, includes an insolvency restructuring exception. Under the restructuring exception, a change in ownership would not result in a forfeiture of a loss carryforward, if (i) the transfer of shares in a loss corporation is part of a plan to make the loss corporation solvent and (ii) in addition, the "structural integrity" of the loss corporation's business is preserved by the plan.

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Hong Kong

Key changes reported

- Company tax measures (other)
- Other measures
- Tax measures affecting individuals
- Tax rate changes
  - Customs and duty

No reported activity

- Accelerated depreciation
- Grants and incentives
- Industry-specific measures
- Interest deductibility
- Profit repatriation regulations
- Rebates and refunds
- Tax credits – new or amended
- Tax policy reform
- Tax rate changes
  - Corporate income tax
  - VAT
- Tax treatment of debt
- Treatment of losses (carrybacks, etc.)

Overview of measures to reinvigorate the economy

Perhaps because Hong Kong's current economic conditions and retail consumption are not that weak relative to other countries, stimulating short-term immediate consumption does not appear to have been an urgent task for the financial secretary in the current year's budget, which was released on 25 February 2009. Instead, the budget focused on sustaining the economy over the next few years so as to protect and create employment.

The few short-term measures announced do not appear to deliver an immediate boost to consumption. At the earliest, the 2008-09 salaries tax reduction will benefit taxpayers at the end of 2009 when their final 2008-09 assessment is issued. By comparison, the waiver of rates for the first two quarters of 2009-10 should provide some immediate relief.

The financial secretary appears instead to have concentrated his efforts on protecting employment and improving Hong Kong's long-term competitiveness. In this regard, perhaps the financial secretary believes that current consumption is holding up relatively well and that a conservative approach is prudent in case of a future decline in consumption.

Company tax measures (other)

Government rates are waived for the first two quarters of 2009-10, capped at HK$1,500 per quarter for each rateable tenement.

Other measures

Government property: a 20% rent reduction is introduced for a period of three months for most government properties and short-term tenancies of government land.

Tax legislative amendments are proposed to mitigate the tax costs associated with Islamic finance.

Local bond market: issuance of government bonds are considered to promote the development of the local bond market.

Exchange of information: legislative proposals liberalize the exchange of information clause included in international tax agreements.

Tax measures affecting individuals

A one-off tax rebate of 50% of salaries tax and tax under personal assessment for 2008-09, capped at HK$6,000.

An extension of the freeze on government fees and charges related to people's livelihoods through to 31 March 2010.

Tax rate changes

Customs and duty

To increase tobacco duty by 50% with immediate effect.

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Hungary

Key changes reported

- Other measures
- Tax credits – new or amended
- Tax measures affecting individuals
- Tax rate changes
  - Corporate income tax
  - VAT
- Profit repatriation regulations
- Grants and incentives
- Industry-specific measures

No reported activity

- Accelerated depreciation
- Company tax measures (other)
- Interest deductibility
- Rebates and refunds
- Tax policy reform
- Tax rate changes
  - Customs and duty
- Tax treatment of debt
- Treatment of losses (carrybacks, etc.)

Overview of measures to reinvigorate the economy

On 14 April 2009, the Hungarian parliament endorsed Gordon Bajnai to become the next prime minister. The new prime minister quickly announced his government's plans, including various tax law amendments. Parliament is expected to vote on the tax law amendments to be effective as of 1 July 2009 on its 11-13 May session, but the tax bill on tax law changes to be effective from 1 January 2010 have not yet been submitted to Parliament Some of the taxation proposals the new government announced are reduced corporate tax, personal income tax, and social security contribution rates. However, this would be offset by increases in VAT and excise tax rates, as well as by the elimination of some tax allowances. The shift in taxation from income to consumption - according to the expectations of the Hungarian government - will encourage new investments, increase employment and improve Hungary's competitiveness in the region, and is also in keeping with past OECD recommendations in this area. The proposed measures are expected to keep Hungary's budget deficit below 3% of GDP for 2009.

Other measures (proposed)

From 2010, any enterprise will be entitled to keep its books and prepare its financial statements in euros (without any restriction).

Tax credits – new or amended (proposed)

Certain corporate tax base decreasing items are proposed to be abolished from 2010, i.e., these items would not be deductible for Corporate income tax (CIT) purposes (e.g., gains from stock exchange transactions on deals made on "regulated markets," local business tax expenses, donations).

Tax measures affecting individuals (proposed)

According to proposed plans, from 1 July 2009 (effective retroactively to 1 January 2009), the yearly income limit, up to which the lower personal income tax rate (18%) applies, would increase from HUF1.7 million to HUF1.9 million. From 2010, the lower personal income tax rate would decrease from 18% to 15-17%. However, the lower tax rate would apply up to yearly income HUF4-5 million. Further, the upper personal income tax rate would decrease from 36% to 33-35% from 2010. The basis of the tax would be gross salary increased by social security contributions (super-grossing method). The solidarity surtax of individuals (currently, 4% applicable to yearly income exceeding HUF7,446,000) remains in effect.

In personal income taxation, certain tax allowances and tax exemptions would be cancelled.

A general, value-based real estate tax would be introduced in 2010.

Tax rate changes (proposed)

Corporate income tax

- In 2010, the corporate income tax rate would increase from 16% to 19%. However, the 4% solidarity surtax currently payable by companies would be abolished.

Payroll-related taxes (payable by the employer) (proposed)

- The social security contributions payable by employers would be reduced from 29% to 26% of the salary. From 1 July 2009, this reduction would be applicable only up to double of the minimum wage. However, from 2010, the entire salary would be subject to the lower rate.
- The employer's contribution to the unemployment fund would reduce from 3% to 1%. The reduction of the tax rate would apply up to double of the minimum wage from 1 July 2009, but the entire salary would be subject to the lower rate from 2010.
- The amount of the rehabilitation contribution would be increased to 300% of the current amount from 2010.
- Some currently tax-free benefits-in-kind would be subject to tax in the future, and the tax on benefits-in-kind (payable by the employer or disburser) would increase.

VAT and excise taxes (proposed)

- The general VAT rate would increase from 20% to 25% from 1 July 2009. On the other hand, a reduced 18% VAT rate would be introduced temporarily for dairy products, baked goods and district heating (the 5% VAT bracket is unchanged with only newspapers, books and pharmaceutical products).
- As of 1 July 2009, the excise tax rates applicable for fuel, tobacco, and alcohol is set to increase by an average 5%-6%, and a further increase of excise taxes would be introduced from 2010.

Profit repatriation regulations (proposed)

- The definition of a Controlled Foreign Company (CFC) would be amended. As a consequence, the tax payment obligation on income deriving from a CFC or allocated to a CFC would extend with respect to companies and individuals as well.
- Withholding taxes would be reintroduced on interests, royalties, capital gains (realized on the sale of shares in a domestic company), and other service fees (in practice, it would be applicable only if no double tax treaty is in place).

However, no further information is available on the details of these amendments for the time being.

Grants and incentives (proposed)

- Further grants would be available for job retention and for boosting investments.
- Applications for grants would be judged faster.

Industry-specific measures (proposed)

- The new government would treat the following industries as a priority:
  - Automobile industry
  - Logistics
  - Pharmaceutical industry and Biotechnology
  - Telecommunication technology
- New measurements would be introduced for:
  - Construction industry
  - Tourism
  - Agricultural industry

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India

Key changes reported

- Accelerated depreciation
- Company tax measures (other)
- Grants and incentives
- Industry-specific measures
- Other measures
- Tax rate changes
  - Indirect taxes

No reported activity

- Interest deductibility
- Profit repatriation regulations
- Rebates and refunds
- Tax credits – new or amended
- Tax measures affecting individuals
- Tax policy reform
- Tax rate changes
  - Corporate income tax
  - Customs and duty
  - VAT
- Tax treatment of debt
- Treatment of losses (carrybacks, etc.)

Overview of measures to reinvigorate the economy

On 16 February 2009, India's acting finance minister introduced the Interim Budget of 2009. Within the context of upcoming elections and the global economic downturn, Indian industry expected significant proposals to be announced. However, the budget did not propose any change to existing direct and indirect tax legislation and did not contain any new tax incentives, much to the disappointment of select sectors, such as textiles, gems and jewelry and real estate. Further, existing direct tax incentives for software units, which are set to expire shortly, have not been extended, and this decision will be left to the new government.

The finance minister cited constitutional constraints for the absence of any direct and indirect tax proposals in the budget. The government also stated that no new proposals were in the budget since it had announced fiscal stimulus packages in December 2008 and January 2009, providing tax relief to boost demand, as well as increase expenditure on public projects.

The finance minister stated that with a GDP growth rate of 7.1% in the current year, India was the second-fastest-growing economy in the world. However, the news on the fiscal deficit side is not heartening and, as in the case of several other countries, has been held back. The fiscal deficit is projected to go up from 2.5% of GDP to 6% of GDP.

The budget contained certain fiscal and economic policy pronouncements with a view to countering the negative fallout of the global slowdown for the Indian economy.

After the budget, a third stimulus package launched

As noted, contrary to industry and investor expectations, India's Interim Budget did not make any changes to the tax regime. However, just a few days later, the Indian government announced incentives in the form of tax cuts of approximately US$6 billion to provide a further stimulus to the Indian economy. These changes are detailed below after the Interim Budget changes.

Implications

A reduction in excise duty rates will result in a reduction in the cost of manufacturing goods in India, including common household goods, which in turn could boost domestic demand. Together with the service tax reduction, which will produce lower service costs, the clarification of export of services will provide relief to the service sector, in particular to those who provide services to foreign recipients. Clarification of foreign direct investment (FDI) policy and the proposed procedural change could promote additional investment into India.

While the Interim Budget does not put forth proposals for significant amendments to tax policies and does not extend any tax incentives to investors in India, presumably due to constitutional restraints, it does provide significant proposals for increased government spending on infrastructure development in India. This could open up business opportunities for various industries in India, such as infrastructure companies, design and engineering companies and construction. Similarly, higher allocations for the defense budget could also open up business opportunities for multinational companies operating in the defense sector.

Accelerated depreciation

The depreciation rate for new commercial vehicles acquired on or after 1 January 2009, and put to use for the purpose of a business or profession before 1 April 2009, has been increased from 40% to 50%.

Company tax measures (other)

Clarification of export of services from India: under Indian services tax legislation, services exported from India are not subject to service tax, if certain conditions are met. A circular was issued on 24 February 2009 that clarifies when services would be considered as "exported from India." Pursuant to the circular, irrespective of where the service is rendered, as long as the benefits from the service exist outside India, the service should be considered as "used outside India" and, therefore, should fall under the definition of a service being exported from India. As a result, service tax is not imposed. The following are examples of export services:

- Call centers engaged by foreign companies taking calls from across the world, including calls from India
- Indian agents undertaking marketing in India of goods of a foreign seller
- An Indian architect preparing a design in India for a property located outside India and handing it to the owner of the property whose business and residence is in India

Recent developments in FDI policy

- Indian foreign investment regulators have issued substantive policy changes to the current FDI environment. The changes are aimed at bringing clarity and consistency in methodology for computing FDI in various sectors, specifically in the case of indirect investments. Detailed guidelines explaining the above amendments to the policy were recently released. A separate tax alert on this matter will be issued shortly.
- Currently, the foreign investment regulations require any foreign-owned Indian company to obtain prior approval when establishing a subsidiary. It is expected that the requirement to obtain approval for such investments will be repealed and, therefore, help foreign investors increase the efficiency of doing business in India.

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India (cont'd.)

Grants and incentives

Proposal to continue providing interest grants in 2009-10 on short-term credit to farmers.

Extension of interest grants of 2% on pre- and post-shipment credit for certain employment-oriented sectors beyond 31 March 2009 to 30 September 2009, to counter the negative impact on exports due to the global financial crisis.

Proposal to amend tax holiday provisions to remove a current anomaly: Indian tax laws provide for a tax holiday on export profits earned from operations set up in special economic zones (SEZ). Under the present formula, an eligible tax holiday is based on a ratio of export sales of the SEZ unit over total sales of the taxpayer. As a consequence, the total tax holiday benefit is smaller than if the ratio is solely based on the operations of the SEZ unit. The government has acknowledged the present anomaly and has announced its intent to make suitable amendments to the tax law.

Industry-specific measures

Major subsidies to be provided for food, fertilizer and petroleum industries.

Other measures

- Budgetary support increased for rural development, road transport and highways, railways, power and information technology to meet the requirements of rural and infrastructure development.
- Allocation for government's flagship rural employment guarantee scheme of INR301 billion for the year 2009-10.
- Allocation of funds of INR131 billion for primary schools under a national program for achieving universal elementary education.
- Allocation for defense increased to INR1,417 billion with significant allocation for capital expenditure.
- Allocation of funds amounting to INR118 billion proposed for the year 2009-10 for urban development.
- Proposal to recapitalize the public sector banks over the next two years to ensure that credit growth continues to sustain economic growth.

The acting finance minister also stated that expenditures for 2009-10 may have to be increased substantially at the time of the presentation of the regular budget if the economy is to be given the stimulus needed to cope with the global recession that is likely to continue through the year. Further, the finance minister also stated that, in the current environment, a substantial increase in expenditure in infrastructure development is needed.

Tax rate changes

Indirect taxes

- **Customs duty**: decrease of effective tax rates from 26.849% to 24.421%. Customs duty is charged on import of goods into India.
- **Excise duty**: decrease of effective tax rates from 10.3% to 8.24%. Excise duty is a central charge on the act of manufacture or production of goods in India.
- **Service tax**: decrease of effective tax rates from 12.36% to 10.30%. Service tax is a tax charged on certain identified taxable services provided or to be provided in India by specified service providers.

Ireland

Key changes reported

- Accelerated depreciation
- Company tax measures (other)
- Grants and incentives
- Industry-specific measures
- Interest deductibility
- Other measures
- Rebates and refunds
- Tax credits – new or amended
- Tax measures affecting individuals
- Tax policy reform
- Tax rate changes
  - Corporate income tax
  - Customs and duty
  - VAT

No reported activity

- Profit repatriation regulations
- Tax treatment of debt
- Treatment of losses (carrybacks, etc.)

Recent tax-related stimulus elements: overview of measures to reinvigorate the economy

Strong corrective action is being taken by the Irish government to stabilize the public finances and put the Irish economy on the road to recovery. A series of very tough tax measures were announced by the Minister for Finance, Brian Lenihan, in a Supplementary Budget on 7 April 2009. While the budget is seen as the toughest in 60 years, a number of incentives have also been announced to stimulate the economy.

The Irish government brought forward the annual budget by two months from December 2008 to 14 October 2008 in an effort to respond to the worsening economic situation. These measures were brought into law in the Finance (No. 2) Act 2008. Notwithstanding the measures taken then, the scale of the downturn and the impact on tax receipts has been such that a Supplementary Budget was introduced to deal with the substantial deterioration in public finances.

Despite the introduction of a range of personal and indirect tax increases in both the Finance (No. 2) Act 2008 and the Supplementary Budget, the encouraging news for companies with operations in Ireland or those considering investing in Ireland is the strong reiteration by the minister of the government's commitment to maintaining the 12.5% rate of corporation tax.

A range of tax measures has been introduced in the Finance (No. 2) Act 2008 and the Supplementary Budget to stimulate the economy including:

- Significant improvements have been made to Ireland's research and development (R&D) tax credit scheme with a view to making Ireland a more attractive location for international R&D activities, as well as encouraging indigenous Irish businesses to put further resources into R&D
- A new relief for the cost of acquiring intangible assets
- A three-year tax holiday for start-up ventures
- Accelerated depreciation allowance for investment in energy-efficient equipment

Large companies will need to be aware of an acceleration of the payment dates for corporation tax, and all companies should be mindful of changes in the rates of VAT and capital gains tax.

Accelerated depreciation

Normally, tax depreciation (capital allowances) is available on capital expenditure incurred by a business on plant and equipment on a straight-line basis and written off over eight years. The Finance Act 2008 introduced a scheme for companies to accelerate tax depreciation on certain energy-efficient equipment so that the expenditure is written off in full in the year of acquisition. The Finance (No. 2) Act 2008 extends the qualifying categories of expenditure from three to seven categories. The seven qualifying categories are:

- Electric motors and variable-speed drives
- Lighting units and sensors
- Building energy management systems
- Information and communications technology
- Heating and electricity provision
- Process and heating, ventilation and air-conditioning (HVAC) systems
- Electric and alternative-fuel vehicles

Company tax measures (other)

- Large companies with a corporation tax liability of more than €200,000 in their previous accounting period are now obliged to pay their preliminary corporation tax in two installments on an accelerated basis. The first installment is payable in the sixth month of the accounting period (e.g., 21 June for a company with a 31 December year-end), and the amount payable is 50% of corporation tax liability in the preceding accounting period or 45% of corporation tax liability for the current accounting period. The second instalment is payable (as previously) in the eleventh month of the accounting period (e.g., 21 November for a company with a 31 December year-end), and the amount payable must bring the total preliminary tax paid to 90% of the corporation tax liability for the current accounting period. This applies to accounting periods commencing on or after 14 October 2008.
- New companies that commence trading in 2009 will be exempted from corporation tax and capital gains tax in each of the first three years to the extent that the liability in each year does not exceed €40,000. This particular proposal requires a ministerial order to bring it into effect.
- A number of preferential reliefs are available in domestic legislation for payments to and from countries with which Ireland has signed a double-tax agreement (DTA). There can be significant delays between the signing of a DTA and its ultimate ratification. Finance (No. 2) Act 2008 extends those preferential reliefs to situations where a DTA has been signed but not yet ratified. Treaty relief will continue to be subject to ratification of the treaty itself.
- The Finance (No. 2) Act 2008 changes the way tax relief is obtained for transfer pricing adjustments. A tax deduction will be denied for any additional payments that a company is contracted to make to an associated company as a result of a transfer pricing adjustment. Instead, companies in Ireland will have to seek the appropriate correlative relief either through the relevant DTA or through the European Union (EU) arbitration convention mechanism.
- A new incentive has been introduced for certain fund managers investing in research, development or innovation activities. The new relief offers reduced rates of tax on profits arising from certain investments at a rate of 12.5% for companies and 15% for partnerships.

Grants and incentives

- The government will set up an Enterprise Stabilization Fund worth €100 million over two years. In conjunction with the banking sector, this fund will provide direct financial support to eligible internationally trading enterprises.
- The government has also committed to providing €128 million in funds to provide 25,000 additional places in retraining and further education initiatives.

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Ireland (cont'd.)

Industry-specific measures

- The tax relief for investment in film production (known as Section 481 Relief) has been improved. The percentage of production costs that can qualify for relief has been increased from 80% to 100%. Individual investors can now obtain relief for investment up to €50,000, up from €31,750.

Interest deductibility

- Tax relief for interest on funds borrowed to acquire rented residential property has been reduced from 100% to 75%.
- Mortgage interest relief for homeowners will only be available for the first seven years of homeownership.

Other measures

- The introduction of tax relief in the upcoming Finance Bill for acquired intangible assets is very welcome. While the details of the regime are to be confirmed through the legislative process, such a relief should help position Ireland more favorably compared to its international competitors for this type of investment.

Rebates and refunds

- Excess R&D tax credits can be refunded, see below for more details.

Tax credits — new or amended

- For accounting periods commencing on or after 1 January 2009, the rate of tax credit for incremental expenditure undertaken by a company on qualifying R&D is increased from 20% to 25%. The credit is available for qualifying expenditure in excess of the amount spent in the base year of 2003, and means that effective tax relief of up to 37.5% can be obtained for qualifying expenditure. (The figure of 37.5% is a combination of a tax credit of 25% and a tax deduction at the standard corporate tax rate of 12.5% for the R&D spend.)

The Finance (No. 2) Act 2008 provides for enhancements to the tax credit as follows:

- The option to carryback excess R&D credits to the previous year, which could lead to cash refunds of tax paid.
- Any excess credits may be refunded over a three-year period.
- The base year of 2003 is fixed for all future accounting periods.
- The definition of a qualifying building is extended to include buildings used partly for R&D purposes (subject to EU approval from a State Aid perspective).

With effect from 1 January 2009, claims for R&D credits must be made within 12 months from the end of the period in which expenditure was incurred. Retrospective claims for prior years were required to have been lodged with Revenue by 31 December 2008.

Tax measures affecting individuals

- A new personal income levy was introduced with effect from 1 January 2009. The levy is charged on income from all sources (subject to exemptions for low-income categories and income from certain specified sources). With effect from 1 May 2009, the levy is charged as follows:

Income	Rate
Up to €75,036	2%
€75,037 – €174,980	4%
€174,981+	6%

For the period 1 January to 30 April 2009, the income levy is charged as follows:

Income	Rate
Up to €100,100	1%
€100,101 – €150,020	2%
€150,021 +	3%

Transitional measures will apply.

- With effect from 1 May 2009, the health levy has been increased to 4% on income up to €75,036 and 5% on all income in excess of this amount. Previously, the health levy was charged at the rate of 2% on income up to a ceiling of €100,100 and 2.5% on income above that level.
- With effect from 1 May 2009, the employee PRSI ceiling has been increased from €52,000 to €75,036, with no change to the rate applying (4%). There has been no change to the employer's rate of PRSI.
- Finance (No. 2) Act 2008 redefined the rules for determining the number of days spent in Ireland during the year. With effect from 1 January 2009, presence in the state at any time during a day will be counted as a day in determining tax residency.
- The Finance (No. 2) Act 2008 reintroduces a form of the remittance basis of taxation in respect of certain employments. The new tax relief, aimed at encouraging key employees from overseas companies to take up assignments in Ireland, will be given by way of a partial rebate of income tax. The relief is subject to a number of conditions. Relief only applies to an assignee seconded by a relevant employer, i.e., a company incorporated and resident in a country outside of the European Economic Area with which Ireland has a DTA. The employee must be employed and paid by a relevant employer and must have worked for that same relevant employer, or an associated company of the relevant employer, prior to being seconded to Ireland. The assignment must be for a minimum period of three years, and the assignee must be tax resident in Ireland in the year in respect of which the claim is made.

Ireland (cont'd.)

Tax policy reform

The Commission on Taxation was established by the Irish government on 14 February 2008 to review the structure, efficiency and appropriateness of the Irish taxation system. Its work will help establish the framework within which tax policy will be set for the next decade at least.

The work of the Commission is being conducted in the context of the commitments on economic competitiveness and on taxation contained in the Program for Government:

- To keep the overall tax burden low and implement further changes to enhance the rewards of work while increasing the fairness of the tax system
- To ensure that the regulatory framework remains flexible, proportionate and up-to-date
- To introduce measures to further lower carbon emissions and to phase in on a revenue-neutral basis appropriate fiscal measures including a carbon levy over the lifetime of the government
- A guarantee that the 12.5% corporation tax rate will remain

The Commission is expected to publish its report later this year and its recommendations are likely to strongly influence the framing of the 2010 Budget.

Tax rate changes

- The rate of **capital gains** tax is increased to 25% from 22% in respect of disposals made from midnight on 7 April 2009. The participation exemption rules are unchanged, and holding companies continue to qualify for full exemption from capital gains tax on the disposal of an interest in qualifying subsidiaries.
- The rate of **capital acquisitions** tax (CAT) is increased from 22% to 25% in respect of gifts or inheritances taken on or after midnight on 7 April 2009. In addition, the CAT tax free thresholds have been reduced by 20% "in light of declining asset values," also applying from midnight on 7 April 2009.
- The rate of **retention tax** that applies to deposit interest, together with the rates of tax that apply to (a) life assurance policies and (b) investment funds, are increased by two percentage points to 25% and 28%, respectively. The increased rates apply to payments, including deemed payments, made on or after 8 April 2009.
- The top rate of **stamp duty** applicable to commercial property was reduced from 9% to 6% in respect of instruments executed on or after 15 October 2008.
- With effect from 1 December 2008, the standard rate of **VAT** was increased from 21% to 21.5%.

- With effect from 1 January 2009, the special 20% rate of tax applied to the trading profits from dealing in or developing residential development land is being abolished. The income will be charged at the person's relevant marginal rates of income tax or the 25% rate of corporation tax. Existing losses will generally only be available on a value basis up to a maximum of 20%. This applies to profits made after 1 January 2009.

Italy

Key changes reported

- Company tax measures (other)
- Tax credits – new or amended

No reported activity

- Accelerated depreciation
- Grants and incentives
- Industry-specific measures
- Interest deductibility
- Other measures
- Profit repatriation regulations
- Rebates and refunds
- Tax measures affecting individuals
- Tax policy reform
- Tax rate changes
  - Corporate income tax
  - Customs and duty
  - VAT
- Tax treatment of debt
- Treatment of losses (carrybacks, etc.)

Overview of measures to reinvigorate the economy

On 29 November 2008, the Italian government approved Law Decree n. 185/2008 (the Decree) introducing certain provisions relevant to the taxation of Italian businesses. The Decree is effective immediately and was ratified by parliament on 28 January 2008 with Law n.2/2009. The new provisions are designed to support Italian businesses and address the significant financial and economical crisis.

Company tax measures (other)

Partial IRAP (an Italian regional tax) deduction from corporate taxable income: IRAP is generally levied on gross profits tax before interest and labor expenses. As enacted, IRAP is not deductible from corporate tax (IRES), and this further restriction has also been challenged before the constitutional court, where the case is still pending. The stimulus Decree addresses this issue and allows taxpayers to deduct 10% of IRAP for corporate tax purposes. The 10% deduction is effective immediately; furthermore, the provision is retroactive and a refund may be claimed for past years. Under the statute of limitations, refund claims may be filed for the past 48 months.

Step-up elections in the statutory accounts and/or in the tax base of certain assets: step-up elections have been amended or introduced in different forms several times over the last 10 years, yet the long-standing practice has been to raise cash by mitigating the effects of the ordinarily high tax rates in Italy. Ordinary rates have been reduced lately, but the corporate tax (IRES) rate is still 27.5%, with a 5.5% additional tax on industries, such as energy and oil and gas, as implemented in mid-2008. Also, IRAP ordinarily applies at a 3.9% rate, subject to a maximum 0.92% increase or decrease.

Step-up elections may prove tax-efficient because of the mismatch between the upfront tax cost, which is usually a discounted rate, and the ordinary depreciation achievable through the elections. The availability of different policies for step-up accounting may even accelerate depreciation thereby increasing the tax benefit. Case-by-case analysis and financial modeling of the net present value, as well as the accounting effect, are necessary in order to assess effectiveness.

Mergers and acquisitions

Intangibles step-up: the 2008 Budget Law introduced a step-up election for specific extraordinary transactions, namely, going-concern contributions in exchange for shares, mergers and demergers. The recognition of any accounting step-up for tax purposes under the 2008 rules is contingent on paying a substitute tax ranging from 12% to 16% in three brackets, regardless of whether the step-up is related to intangibles or other assets:

- 12% for any step-up up to €5 million
- 14% for any step-up between €5 million and €10 million
- 16% for any step-up over €10 million

Under the stimulus Decree, a specific step-up election is allowed for any intangibles, subject to the payment of a 16% step-up tax as a lump sum. The benefit of this additional election mainly relates to goodwill and trademarks and trade names. Such intangibles may be amortized over 18 years but, under the new rules, the amortization period is reduced to nine years if the new 16% substitute tax payment is made.

Working capital and financial asset step-up: entities applying the Italian accounting standard may step up working capital and financial (noncurrent) assets. In order to step up such assets, taxpayers have to pay a substitute tax equal to the ordinary applicable tax rates (i.e., 27.5% for IRES purposes, 3.9% for IRAP purposes and the relevant rate for personal tax — IRPEF — purposes). Whether the entities decide to step up the credits (either accounted as financial noncurrent assets or as working capital), the substitute tax is reduced at flat 20% tax.

In general, entities may get advantage by realigning the tax base of assets like interests without the participation exemption (i.e., PEX) requirements. Indeed, in such a case, any future disposal of the interests would not trigger any capital gain taxation.

Real estate accounting and tax step-up: Italian entities may step up the basis of their real estate property up to the current fair market value in the 2008 statutory accounts. All real estate may be stepped up, except property held for sale (therefore booked as inventory) and land qualifying as construction sites. This opportunity should improve certain ratios linked to assets of companies owning real estate.

The accounting reserve corresponding to the step-up may be allocated to shares capital or booked as an extraordinary reserve under the Decree, which for tax purposes will be subject to deferred taxation if distributed. Such deferred tax liability may be canceled by paying a further 10% substitute tax.

The accounting step-up is not recognized per se for tax purposes. However, the payment of a substitute tax may allow for its recognition for tax purposes. It will be levied at a 3% rate on depreciable property or at a 1.5% rate on nondepreciable property.

The tax benefit arising from the step-up election will be deferred. It will be effective from the fifth fiscal year following the one in which the election is made (ordinarily, from fiscal year 2014).

Tax credits — new or amended

Research and development (R&D) tax credit: the 2007 Budget Law introduced a tax credit for R&D expenses. Any entity performing R&D activities may benefit from the credit, regardless of industry. The annual R&D tax credit is equal to 10% of the allowed R&D expenses, up to a cap of €15 million; that is, the tax credit cannot exceed €1.5 million. However, for expenses incurred in R&D activities subcontracted to universities and public research organizations, the tax credit is increased to 15% for fiscal year 2007 and to 40% for fiscal years 2008 and 2009. The allowed expenses increase to €50 million for fiscal years 2008 and 2009.

Under the stimulus Decree, the tax credit will be extended to Italian entities and branches engaging in R&D as contractors and subcontractors of foreign principals if they are resident in any country that is white-listed. The provision will apply from fiscal year 2007. The Decree introduces procedural requirements and deadlines for the R&D tax credit. Taxpayers should submit the required files as soon as possible in order to receive the credit.

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Japan

Key changes reported

- Company tax measures (other)
- Grants and incentives
- Other measures
- Profit repatriation regulations
- Tax credits – new or amended
- Tax measures affecting individuals
- Tax rate changes
  - Corporate income tax
- Treatment of losses (carrybacks, etc.)

No reported activity

- Accelerated depreciation
- Industry-specific measures
- Interest deductibility
- Rebates and refunds
- Tax policy reform
- Tax rate changes
  - Customs and duty
  - VAT
- Tax treatment of debt

Recent tax-related stimulus elements: overview of measures to reinvigorate the economy

The Japanese government on 19 January 2009 submitted to the Diet a ¥88 trillion budget for fiscal 2009 – the biggest initial budget in history – to stimulate the sagging economy. A supplementary ¥ 56.8 trillion budget was proposed on 10 April 2009 and will be submitted to the Diet around 27 April 2009. With the major increase in government spending due to the rapidly declining economy, the fiscal 2009 budget is 6.6% higher than the initial budget for fiscal 2008. But due to falling tax revenues, ¥33.3 trillion in new government bonds must be issued plus an additional ¥16 trillion expected for the 27 April 2009 Supplementary Budget. While the prime minister stressed that the large budget was to prioritize economic measures, such as loan guarantees and equity participations, under the current situation some commentators were quick to note that the strategy will steer Japan away from fiscal reconstruction.

The FY 2009 tax reform of 1 April 2009 has taken appropriate measures regarding taxation of housing and land, taxation of corporations, taxation of small- and medium-sized enterprises (SMEs), inheritance taxation, taxation of financial and securities transactions and motor vehicle taxation, with a view to contributing to economic recovery. The 95% tax exemption of dividends received from overseas subsidiaries will allow a repatriation of ¥17 trillion retained overseas earnings and result in significant income recognition upon the reversal of deferred tax liabilities, accounting for the excess of 40.7% Japanese effective corporate tax over foreign tax incurred locally, which had been enacted by 31 March effective 1 April 2009.

Company tax measures (other)

Investment activities by foreign partners: in the case of a fund investment executed by LPs, if the requirements for a "qualified investor" are satisfied by a foreign partner, the investment activities of the foreign partner will not constitute a Permanent Establishment (PE) in Japan. Also, the disposition of shares through certain investment funds by foreign limited partners having no PE in Japan may be excluded from the 25%/5% aggregation rules, and the 25%/5% threshold is tested at the foreign partner level provided certain "tax-free requirements" are met.

Small- and medium-sized enterprises (SMEs): a deferral of inheritance tax assessment on unlisted shares will be introduced as part of a business succession tax system for SMEs. This is applicable to recipients of an inheritance after the enactment of the SME Business Succession Law on 1 October 2008. Deferral of gift tax assessment will also be available for unlisted shares received by a successor to a business before the death of the donor.

Additional company tax measures proposed on 10 April 2009

Gift tax: under the proposal, which has a two-year duration, an additional ¥5 million will be added to the current basic gift tax-exemption of ¥1.1 million per annum if a gift is made by parents to adult children for the purpose of acquiring or renovating houses.

IT tax credit for R&D expenditures: the current maximum creditable amount is presently limited to 30% of the corporate tax due per annum. Under the proposal, the maximum creditable amount will be raised up to 40% of the tax due. Also, for unused creditable amounts an increase of the carryforward period from one to three years is planned.

Entertainment expense: for SMEs, the maximum tax-deductible amount will be raised from 4 to 6 million ¥ per annum.

Grants and incentives

Employment subsidy: to qualify, enterprises must have incurred a 5% decline in sales (SMEs may qualify with lower declines), and must have introduced "work sharing," e.g., reduced work-hour programs. The subsidy amounts to up to 75% of wages, SMEs qualify for subsidies of up to 80%.

Subsidies are also to be granted to employees undergoing training.

Additional employment subsidies are contemplated in the April 2009 economic stimulus program.

Other measures

Renewable energy incentives: in order to encourage investment in energy conservation technology, including those to improve the energy efficiency of production facilities or to produce energy-efficient home appliances, certain investment tax relief measures, such as an immediate deduction for costs incurred, will made available for two years. The April 2009 stimulus plan provides for further benefits, including subsidies for the replacement of 13-year-old vehicles by qualified environment-friendly cars. Foreign cars are expected to rarely qualify for the planned subsidies.

Profit repatriation regulations

Foreign subsidiary dividend exclusion: dividends received by a Japanese domestic corporation from a "foreign subsidiary" will be excluded from the calculation of the domestic corporation's taxable income. Interest/royalties paid by a foreign subsidiary and profits attributable to a foreign branch will not be covered by this exemption system. 5% of the dividend received by a Japanese domestic corporation from its foreign subsidiary will be excluded from the tax-exempt dividend amount. The foreign subsidiary mentioned above is defined as a foreign corporation in which a Japanese domestic corporation holds 25% or more of the total issued shares for at least six months before the decision to distribute the dividends ("25% ownership test").

Tax credits – new or amended

See above on R&D tax credit changes planned as part of the April 2009 stimulus package.

Tax credit for housing loans: to boost housing investment, a larger tax credit for housing loans will be introduced. Also, to reduce the burden on low- to middle-income earners, a system will be created to allow excess housing loan tax credits to be used to reduce local inhabitants tax.

Tax measures affecting individuals

Reduced tax rate for individual taxpayers: for individual taxpayers, the current reduced tax rate of 10% (7% national income tax, 3% local income tax) on dividends and capital gains from listed shares shall be extended to 31 December 2011.

Tax rate changes

Corporate income tax

SMEs corporate tax rate: as a temporary relief, the corporate tax rate applicable to SMEs with annual taxable income of up to ¥8 million will be reduced from 22% to 18% for the fiscal years ending during 1 April 2009 to 31 March 2011.

Treatment of losses (carrybacks, etc.)

A tax loss carryback will be available to SMEs for tax losses incurred in fiscal years ending on or after 1 February 2009.

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Netherlands

Key changes reported

- Accelerated depreciation
- Interest deductibility
- Other measures
- Tax measures affecting individuals
- Tax rate changes
  - Corporate income tax
  - VAT
- Tax treatment of debt
- Treatment of losses (carrybacks, etc.)

No reported activity

- Company tax measures (other)
- Grants and incentives
- Industry-specific measures
- Profit repatriation regulations
- Rebates and refunds
- Tax credits – new or amended
- Tax policy reform
- Tax rate changes
  - Customs and duty

Overview of measures to reinvigorate the economy

On 21 November 2008, the Dutch cabinet sent a letter to the Dutch parliament outlining and analyzing the potential effect the financial crisis may have on the real economy in the Netherlands. In this letter, the Dutch cabinet announced various measures to reduce the adverse effects of the financial crisis. Some of the measures were tax related.

Meanwhile, a group of tax professors proposed new measures to battle the financial crisis.

On 25 March 2009, the Dutch cabinet published a new policy document with a broad indication of further actions to be taken to fight the adverse consequences of the financial crisis.

On 3 April 2009, the State Secretary of Finance submitted a legislative proposal with tax related measures that – according to the State Secretary – need to be taken on short notice. Some measures will have retroactive effect. In his proposal, the State Secretary also mentioned a few measures that do not need an amendment to the tax act.

Accelerated depreciation

Accelerated depreciation of assets under new facility: in order to encourage companies to invest in new assets, a facility has been reintroduced that allows for accelerated depreciation of such assets. The facility applies to investments made during the period 1 January 2009 to 31 December 2009. Accelerated depreciation is possible in 2009 and 2010, limited to a maximum of 50% per calendar year. The facility applies to all business assets with some exceptions. Assets such as real estate and intangible assets, for example, are excluded.

The accelerated depreciation offers potential opportunities for investments made in 2009. The accelerated depreciation does not apply to assets that are leased to third parties.

On 3 March 2009, three tax professors proposed the introduction of accelerated depreciation for real estate (used by the tax payer or intragroup). It is not yet clear whether the cabinet will adopt this proposal.

Interest deductibility

Dutch corporate income tax has multiple limitations on interest deduction: three tax professors have proposed to dispose of most of these limitations. According to this proposal, group interest will not be subject to taxation anymore, which will make the Netherlands more attractive for intragroup financing structures. These proposals are currently being considered.

Streamlining interest deduction: in the near future, the Dutch cabinet is expected to submit a legislative proposal streamlining interest deduction. It is likely that the cabinet will adopt the major elements of the proposal of the tax professors.

Other measures

On 3 March 2009, three tax professors published a list of tax measures they thought would help during the financial crisis.

- The taxation of a book profit made when selling a business asset can be postponed by allocating the profit to a capital replacement reserve. The book profit will nevertheless be taxed if the amount is not reinvested within three years. The tax professors proposed to extend this period by a further two years if the taxpayer can not reinvest because of financing problems.
- The tax professors also proposed to increase the additional tax deduction for employee training. They proposed an additional deduction amounting to 100% of training costs.
- They also proposed a postponement or even remission of tax payments for taxpayers with severe liquidity problems due to the financial crisis.

Neither of the above measures proposed by the tax professors have been adopted by the Dutch cabinet.

However, in a policy document dated 25 March 2009, the cabinet proposed other measures. Most of them have been worked out in the legislative proposal of 3 April 2009:

- More flexibility for carry back of 2008 tax losses. See under 'Treatment of losses (carrybacks, etc.)'.
- More flexibility for VAT payments. As per 1 July 2009, entrepreneurs are allowed to file the VAT tax return on a quarterly basis instead of a monthly basis. Because of this, entrepreneurs will be able to postpone VAT payments to the Tax Authorities. Entrepreneurs that receive a monthly repayment of VAT can still file the VAT tax return on a monthly basis.

- Temporarily increased wage tax reduction for R&D staff in 2009 and 2010. In short, this wage tax reduction is a percentage of the wage of the R&D staff.
- The State Secretary increased the 2009 and 2010 budget available for investment allowances for certain environmentally friendly investments. From 1 April 2009 until 1 January 2011, the investment allowance also applies for investments in provisionally rented houses if those investments make the houses more sustainable and environmentally friendly.
- The State Secretary has also proposed to reduce the air passenger duty to nil per 1 July 2009.

In the aforementioned policy document, the Dutch cabinet also mentioned a simplification of wage tax regulations to decrease administrative burden for employers.

On 1 April 2009, a part-time unemployment scheme was introduced. If certain conditions are met, employers are allowed to reduce working hours with a maximum of 50%. For the loss of salary, employees will receive an unemployment benefit. This part-time unemployment scheme is applicable for a maximum period of three months, but can be extended two times for another three months.

Tax measures affecting individuals

Reduction in unemployment insurance: unemployment insurance premiums payable by employees have been reduced to zero in 2009. In 2008 employees still paid 3.5% of their salary towards unemployment insurance premiums to the Netherlands government. This rate has been reduced to nil to improve the liquidity positions and maintain the spending power of Dutch employees.

Release of block savings: the Dutch cabinet also suggested to release blocked savings from salary savings schemes in order to speed up consumer expenditures. However, no measures have been taken yet.

Tax rate changes

Corporate income tax

Reduction of corporate income tax rate – at the end of 2008, the corporate income tax rate for 2008 has been reduced with retroactive effect to 1 January 2008. For calendar year 2008, 20% corporate income tax is due on taxable income not exceeding €275.000. A 25.5% rate applies for income exceeding €275,000.

Future of corporate income tax rate – the cabinet has proposed a reduced corporate income tax rate for 2009 and 2010 as well (although not to the same amount as 2008). For calendar year 2009 and 2010, 20% is due on taxable income not exceeding € 200.000. A 25.5% rate applies for income exceeding € 200,000. The 2009 and 2010 tax rate has not yet been affirmed by parliament.

VAT

The VAT rate will not be increased from 19% to 20%. On 25 November 2008, the Dutch parliament affirmed that the VAT rate would not be increased from 19% to 20% as of 1 January 2009, as initially proposed in the 2009 Budget.

Tax treatment of debt

See remarks under 'Interest deductibility'.

Treatment of losses (carrybacks, etc.)

Carry forward and back losses: for corporate income tax purposes, there is a one year carryback and nine years carryforward of losses.

The State Secretary will ease the carryback of 2008 losses. Basically, these losses can only be carried back when the 2008 tax return has been filed and the tax assessment has been imposed. However, the State Secretary now allows a carryback if a reasonable estimation of the 2008 tax losses is possible, for example, based on the preliminary annual accounts. In practice, this means that a company can carry back at least six months earlier.

On 3 March 2009, three tax professors proposed to extend the carry back to three years as a measure to tackle the financial crisis. At this moment, it doesn't look like this proposal will be adopted by the Dutch cabinet.

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Russia

Key changes reported

- Accelerated depreciation
- Company tax measures (other)
- Interest deductibility
- Other measures
- Tax measures affecting individuals
- Tax policy reform
- Tax rate changes
  - Corporate income tax
  - Customs and duty
  - VAT
- Tax treatment of debt

No reported activity

- Grants and incentives
- Industry-specific measures
- Profit repatriation regulations
- Rebates and refunds
- Tax credits – new or amended
- Tax rate changes
  - Customs and duty
- Treatment of losses (carrybacks, etc.)

Overview of measures to reinvigorate the economy

The Kremlin has responded to the financial crisis in Russia's by offering a bailout package and economic stimulus measures that are worth over US$200 billion when combined. Russia's sovereign debt was downgraded by Standard & Poor's for the first time in 10 years on 8 December 2008, stocks have lost about 70% of their value since May 2008 and the central bank has spent US$160.3 billion in a bid to support the rouble.[1]

Although economic growth has been enviable over the last several years, the signs are now clear that high world oil prices will not be enough to maintain that momentum. The economy remains overreliant on the energy sector to drive growth. Moreover, given the underdeveloped state of the financial sector, it also remains overly dependent on external financing for the banking and enterprise sector. Thus, the unfolding global economic slowdown and receding world-market commodity prices, together with a worldwide credit crunch, have created serious economic difficulties for Russia just months after a very robust economic performance had been registered.

The government and central bank, as in the West, have put together rescue packages and a stimulus plan, financed by drawing down the massive fiscal and foreign-currency reserves accumulated during the period of record-high world-market oil prices. These programs are aimed at the most important financial and industrial entities[2].

Accelerated depreciation

Maximum one-off deduction increased: the maximum one-off deduction for expenditure on the acquisition, extension, further equipping, reconstruction, modernization, retooling or partial dismantling of fixed assets has been increased from 10% to 30% for fixed assets belonging to depreciation groups 3 to 7 (fixed assets deemed to have useful lives of 3 to 20 years). The balance after this deduction is subject to depreciation. An additional condition for the application of the deduction has also been introduced whereby it is granted on condition that the fixed assets in question are used for the next five years. This rule applies to fixed assets commissioned on or after 1 January 2008. In the event that the fixed assets are sold before five years have elapsed from the date on which they are brought into use, the amount of the deduction will be clawed back.

Company tax measures (other)

Federal tax organization indebtedness: if an organization's indebtedness with respect to federal taxes exceeds 10 billion roubles, and settlement in a single payment would create a threat of adverse social and economic consequences, the organization has the right from 1 January 2009 to apply to the minister of finance for a deferral or an installment plan for a period not exceeding five years. Federal taxes are profits tax, VAT, excise duties, mineral extraction tax, unified social tax and other taxes listed in Article 13 "Federal Taxes and Levies" of the Tax Code.

A planned increase in the rate of unified social tax has been postponed until 2010.

Deductions for certain R&D expenses: a 50% uplift applies from 1 January 2009 in calculating deductions for certain R&D expenses. The amendment to the Tax Code was enacted in July 2008 but the list of qualifying expenditure was not concluded until 24 December 2008, so it is possible that the list was extended to provide broader relief than originally intended.

Miscellaneous expenses: expenses associated with the development of natural resources that were incurred under an agreement with a contractor may be included in miscellaneous expenses evenly upon the completion of each phase of work. Under the previous wording of the Tax Code, expenses associated with the development of natural resources could be taken into account for profits tax purposes only after all work had been completed, and not upon completion of a particular phase of work.

Previous quarter profit tax base: taxpayers who normally pay tax based on the previous quarter's actual profit were given the right to pay tax based on profit actually earned in the fourth quarter of 2008, instead of the third quarter's profit.

Interest deductibility

Cap on reductions for interest on debt: for the period from 1 September 2008 to 31 December 2009 the cap on deductions for interest on debt obligations has been significantly increased: to 150% of the

[1] Reuters, December 16 2008

[2] IHS Global Insight, 5 March 2009

central bank refinancing rate in the case of rouble liabilities, and to 22% for debt obligations in a foreign currency.

Other measures

Effective date of tax laws that improve position of taxpayers: with effect from 1 October 2008, tax laws that improve the position of taxpayers may enter into force from the date of their official publication. The Tax Code previously only allowed for such amendments to take effect one month from the date of their official publication.

Tax measures affecting individuals

Increase in maximum deduction associated with new housing construction or acquisition: the maximum deduction available to personal income taxpayers for qualifying expenditure associated with the new construction or acquisition of a house, apartment or room or shares therein has been increased from one to two million roubles. The deduction is now the lower of expenses actually incurred and two million roubles with the increased cap applying with retroactive effect from 1 January 2008.

Tax policy reform

Amendments to Russia's thin capitalization rules (Article 269 of the Tax Code): it has been put to the ministry of finance that this legislation has a discriminatory character in respect of companies with foreign shareholders, and in the context of the world financial crisis, this rule can be harmful for companies urgently requiring additional loan finance. The ministry of finance is preparing draft amendments to the rules based on recommendations of business associations.

New transfer pricing legislation remains under development.

Tax rate changes

Corporate income tax

The profits tax rate has been decreased to 20% (2% payable to the federal budget, 18% to the relevant regional budget). Taking into account possible regional rate reductions the minimum rate possible is now 15.5%.

VAT

The time limit for presenting documents supporting the right to a VAT reimbursement in relation to exports has been increased by 90 days, i.e., the time limit is now 270 days. The increase in the time period entered into force from July 2008 and will remain in effect until 31 December 2009.

A new procedure has been introduced for the treatment of VAT on advance payments for purchasers. Now a purchaser has the right to include tax paid to a supplier as part of an advance payment in deductible input VAT.

Instead of submitting actual customs declarations or copies of such declarations to the tax authorities, taxpayers now have the right to submit a register of customs declarations, certified by a customs authority.

The tax authorities have been given the right to issue two separate decisions regarding VAT reimbursements after checking a tax declaration: one regarding the amount that is not disputed, and one regarding the amount on which the taxpayer and the tax authority disagree. This will enable the taxpayer to receive prompt reimbursement for those amounts of tax that are not disputed.

Prior to 2009, a VAT exemption applied when manufacturing equipment and components and spare parts for such equipment were imported as a contribution to the charter capital of a Russian organization. In the future, this exemption is to apply to all imports of manufacturing equipment for which there are no equivalents made in Russia. However, the government must approve a list of such equipment and it has not yet done so. The new rules will begin to have effect no earlier than the first day of the next tax period for VAT (calendar quarter) following the tax period in which the relevant government decree enters into force. In the meantime such imports are subject to VAT unless covered by the previous exemption (which remains in force until the new rules apply). It remains to be seen whether the list will provide a broader exemption than previously or a narrower one.

Tax treatment of debt

None reported other than changes to interest deductibility (see above).

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Singapore

Key changes reported

- Accelerated depreciation
- Company tax measures (other)
- Grants and incentives
- Other measures
- Profit repatriation regulations
- Rebates and refunds
- Tax measures affecting individuals
- Tax rate changes
  - Corporate income tax
- Treatment of losses (carrybacks, etc.)

No reported activity

- Industry-specific measures
- Interest deductibility
- Tax credits – new or amended
- Tax policy reform
- Tax rate changes
  - Customs and duty
  - VAT
- Tax treatment of debt

Overview of measures to reinvigorate the economy

On 22 January 2009, the minister for finance announced in parliament the Singapore budget for the fiscal year 1 April 2009 to 31 March 2010. The speed and scale of the deterioration in the global economy in the last six months restricted Singapore's economic growth to 1.2% in 2008. Staring at a prolonged downturn, the Singapore government brought forward its budget from February to January 2009 and introduced a S$20.5 billion (US$13.7 billion) budget stimulus package to help businesses and save jobs.

The budget introduced, among other tax changes, a reduction in the corporate tax rate to 17%, a temporary expansion and relaxation of the foreign-sourced income exemption incentive and accelerated tax depreciation claim on capital expenditure, to encourage companies to invest, as well as repatriate, funds back to Singapore. There are also enhancements to the existing financial services sector incentives to maintain Singapore's status as one of Asia's major financial hubs.

Accelerated depreciation

Plant and machinery costs write-down: accelerated write-down of plant and machinery costs incurred in the basis periods for tax years 2009 and 2010

Special allowance write-down: accelerated write-down of special allowance on renovation and refurbishment (R&R) works in the basis periods for tax years 2009 and 2010

Company tax measures (other)

Extension of tax deduction: extension of the tax deduction for general provisions made by banks, merchant banks and finance companies for a further three years

Grants and incentives

A range of R&D grants and training schemes to develop new capabilities and spur innovation

Other measures

Jobs credit scheme: employers will receive a cash credit of 12% of the first S$2,500 of the wages of each employee who is on the Central Provident Fund (CPF) payroll for 2009. This is a temporary one-year scheme for 2009 and is equivalent to a nine-percentage-point CPF cut for employers

Profit repatriation regulations

Temporary expansion of foreign-sourced income exemption – waiving of conditions for remittance of all foreign-sourced income during the period from 22 January 2009 to 21 January 2010

Rebates and refunds

A 40% property tax rebate is given for commercial and industrial properties for 2009

Tax measures affecting individuals

Personal income tax rebate of 20% for tax resident individuals capped at S$2,000

A 40% property tax rebate is given for owner-occupied residential properties for 2009

Tax rate changes

Corporate income tax

Reduction in the corporate tax rate from 18% to 17%

Treatment of losses (carrybacks, etc.)

Enhancement of loss carryback relief: an increase of the loss carryback cap from S$100,000 (US$66,500) to S$200,000 (US$133,000) for tax years 2009 and 2010

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South Korea

Key changes reported

- Company tax measures (other)
- Profit repatriation regulations
- Tax credits – new or amended
- Tax measures affecting individuals
- Tax policy reform
- Tax rate changes
  - Corporate income tax
- Treatment of losses (carrybacks, etc.)

No reported activity

- Accelerated depreciation
- Grants and incentives
- Industry-specific measures
- Interest deductibility
- Other measures
- Rebates and refunds
- Tax rate changes
  - Customs and duty
  - VAT
- Tax treatment of debt

Overview of measures to reinvigorate the economy

On 1 September 2008, the Korean government issued a final version of its 2008 tax reform proposal after several months of debate among the government, the ruling Grand National Party and the taxation policy development review committee. The proposal includes 21.3 trillion won (US$19 billion[1]) in personal and corporate tax cuts over the fiscal years 2008 to 2012. The proposal was passed by the National Assembly on 26 December 2008 and has been effective from 1 January 2009.

The proposal was introduced primarily to increase jobs and to stimulate growth of the Korean economy through a set of changes to various types of taxes. Most notably, the corporate tax cut initiative is aimed at improving Korea's business environment and reversing the trend of weakening corporate investments.

Implications of changes stated below

The tax changes will provide a number of potential opportunities for companies currently operating or planning to expand their business in Korea. The corporate tax rate cut will offer companies significant tax savings in the future. It may be beneficial to review current transfer pricing documentation to determine if it is sufficient for the waiver in the event of adjustments. The change in deductibility of stock option costs could give a foreign parent company an opportunity to charge back stock option costs to its Korean subsidiary without any adverse tax implications.

[1]Exchange rate of US$1: KRW1,120 is used in this document

Company tax measures (other)

Corporate taxpayers will be allowed to file a consolidated tax return for the fiscal years beginning on or after 1 January 2010, but this filing position is only available for a common parent and its wholly owned subsidiaries.

The 10% penalty on additional tax arising from transfer pricing adjustments may be waived, provided the taxpayer maintains sufficient documentation to support their transfer pricing and demonstrates reasonableness with regard to the transfer pricing method. Such a waiver may be granted for assessments made on or after 1 January 2009.

The tax incentive application process will be simplified for foreign-owned companies that are set up in the free economic zone. It is expected to take a shorter time to obtain approval for tax exemption through an application to the free economic zone committee. The simplified process will grant a 100% exemption from income tax for the first three years and a 50% exemption for the subsequent two years.

With regard to the stock options granted by a foreign parent company to the employees of its Korean subsidiary, relevant costs arising from the local employees' exercise of the stock options are allowed as deductible expenses for the Korean subsidiary's corporate income tax purposes from 3 February 2009 if certain requirements are met.

Profit repatriation regulations

The withholding tax rate is reduced from 25% to 20% (exclusive of a 10% resident surtax). This lowered tax rate will be applied to interest, dividends, etc., to be paid to a nonresident or a foreign corporation on and after 1 January 2009.

Tax credits — new or amended

To encourage investments in research and development (R&D) activities, existing tax incentives for R&D expenditure will be expanded to include the following from 1 January 2009:

- A reserve for R&D investment is allowed as a deduction within 3% of the revenue limit. The amount set aside shall be added back to the taxable income over 36 months from the third business year after deduction of the reserve.
- In the case of small- and medium-sized enterprises (SMEs)[2], a tax credit for R&D expenditures[3] is allowed at the maximum of either 25% (previously, 15%) of the amount spent for the current fiscal year or 50% of the incremental amount compared to the average of the preceding four fiscal years.

The tax credit rate for investments in environment-friendly facilities will be raised from the prior rate of 7% to 8% (please note that a 10% tax credit rate will be applied to such investments made in the fiscal years whose closing date falls before 31 December 2009).

Tax measures affecting individuals

The existing individual income tax rates will be reduced by 2% for the purpose of boosting private spending by easing the tax burden on individual taxpayers. Tax rates on individual income will be progressively lowered to a range between 6% and 33% by 2010.

With a view to attracting talented foreign workers, if a foreign resident who has had an abode or domicile in Korea for a combined period of five years or less during the 10-year period before the closing date of the concerned tax year, only the foreign source income paid within or remitted to Korea will be subject to individual income tax in Korea from 1 January 2009.

Consistent with the reduction of the individual income tax rate, the flat individual income tax rate applicable to foreign workers will be reduced from the prior rate of 17% to 15% (exclusive of a 10% resident surtax) from 1 January 2009.

Tax policy reform

Please see above in section "Recent tax-related stimulus elements."

Tax rate changes

Corporate income tax

The two-tier standard corporate tax rates will be lowered. For taxable income exceeding 200 million won (US$179,000), the 25% corporate tax rate was retained for 2008 but the rate will be reduced to 22% for 2009 and 20% for 2010 and thereafter. For taxable income of 200 million won or less, the corporate tax rate will be 11% for 2008 and 2009 and 10% for 2010 and thereafter. The 10% resident surtax will still apply to the new rates.

Treatment of losses (carrybacks, etc.)

The corporate net operating loss carryforward period is extended from 5 years to 10 years.

[2] To qualify as a small- and medium-sized company, a company must meet two conditions: (1) the type of its business must be manufacturing, logistics, R&D, wholesale, retails, etc.; and (2) the size of the company must meet certain requirements, depending on the type of business. For example, a manufacturing company may qualify as a SME if it hires less than 300 employees or its stated capital is 8 billion won (US$ 7.1 million) or less

[3] Qualified R&D expenditures are those listed in the Presidential Decree of Tax Incentive Limitation Law, which include, but are not limited to, expenses for the registered R&D division, expenses for co-development projects with listed organizations, and certain types of employee training costs

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Switzerland

Key changes reported

- Other measures
- Tax measures affecting individuals
- Tax rate changes
  - VAT

No reported activity

- Accelerated depreciation
- Company tax measures (other)
- Grants and incentives
- Industry-specific measures
- Interest deductibility
- Profit repatriation regulations
- Rebates and refunds
- Tax credits – new or amended
- Tax policy reform
- Tax rate changes
  - Corporate income tax
  - Customs and duty
- Tax treatment of debt
- Treatment of losses (carrybacks, etc.)

Overview of measures to reinvigorate the economy

On 10 February 2009, the Swiss finance minister announced financial results for 2008. Despite a budgetary surplus of CHF6.2 billion (US$5.22 billion), 10% higher than in the previous year, a deficit resulted. This was due to the CHF890 million (US$768 million) aid package of November 2008 to strengthen the financial sector.

Following a prolonged downturn, the Swiss government brought forward the CHF890 million stabilizing package, which took effect at the beginning of 2009. A second package was proposed by the cabinet on 11 February 2009 and has an investment value of CHF700 million (US$604 million). The stabilizing packages introduced an abolishment of the credit block to enable various ventures of the Swiss federation. Projects that were not originally scheduled within budget 2009 can be bought forward and be carried out now. Investments were chosen where the most benefit to the economic situation can be gained, that can be carried out quickly and which have a broad effect.

A further extension of short-time work compensation (i.e., where companies offer employees shorter working hours as opposed to redundancies) from 12 to 18 months was proposed, offering government grants to those companies who shorten worker hours, as opposed to making those workers redundant.

Switzerland is a confederation of 26 cantons with about 3,000 municipalities. Taxes are levied not only by the federation but also at the cantonal and municipal level.

Aside from the federation, the cantons are also expected to take adequate measures.

Other measures

Increased government spending: other investments include infrastructure (road and rail), maintenance of federal buildings, export promotion, tourism marketing and encouragement to build housing space.

Specifically, the maintenance of federal buildings and encouragement of housing projects have been brought forward in order to increase the overall level of government spending on infrastructure projects.

Future tax deductions: tax deductions for Investments in privately owned homes are possible in many cantons. On the federal level this will likely come into effect in 2009, dependent on the implementation of newly created legislation. However, it is expected that the deductibility of such investments will be introduced at the federal level by no later than 2010. These deductions are applicable for value-increasing investments as well as for those promoting renewable energy.

Tax measures affecting individuals

Higher tax deduction: families with children will benefit from additional tax relief. A higher tax deduction for families with children is the main remedy to achieve that goal. Parents who pay for childcare while working will no longer be discriminated against with regard to tax tariffs. This measure will create an incentive for the compatibility of career and family. Due to this, an additional CHF600 million will stay with the consumers in order to increase spending capacity. The amendment of the statute is in consultation and is expected to become effective on 1 January 2010.

Short-term work compensation: the possibility for short-time work compensation was extended from 12 to 18 months until 31 March 2011. This measure is taken in order to avoid the dismissal of employees due to temporary lack of demand.

Tax rate changes

VAT

The planned revision of the VAT legislation was postponed from May 2009 to September 2009. The proposed new legislation foresees a universal VAT rate (uniform rate for products and services of all kinds) of 6.1% in place of the current 7.6% standard rate, 2.4% rate for goods of daily use and 3.6% rate for accommodation which are currently in force.

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Taiwan

Key changes reported

- Company tax measures (other)
- Grants and incentives
- Other measures
- Rebates and refunds
- Tax measures affecting individuals
- Tax policy reform
- Tax rate changes
  - Corporate income tax
- Treatment of losses (carrybacks, etc.)

No reported activity

- Accelerated depreciation
- Industry-specific measures
- Interest deductibility
- Profit repatriation regulations
- Tax credits – new or amended
- Tax rate changes
  - Customs and duty
  - VAT
- Tax treatment of debt

Overview of measures to reinvigorate the economy

The Taiwan cabinet recently passed a NTD150 billion (US$4.27 billion) plan designed to stimulate the economy and to expand public infrastructure.

The plan is expected to help boost GDP growth by almost 1% in 2009 and to create in the region of 190,000 to 200,000 jobs. The plan is expected to be approved by the end of 1Q 2009.

The Taiwan economy shrank at its fastest pace in history during the 4Q 2008, with heavy exposure to an decreasing demand for its exports from other countries around the world.

Recently released data showed that GDP in real terms contracted by an annualized 8.4% during 4Q 2008, representing the largest drop on record. This followed a revision of the 3Q 2008 GDP number to a contraction of 1.1% and resulted in the economy entering recession for the first time since 2001.

Company tax measures (other)

Tax rule invalidated: an interpretation issued by the justice of the constitutional court invalidated a rule which stipulated that, by lending its capital to shareholders or other persons, a company which does not otherwise charge interest or undercharge interest in the [loan] agreement shall nevertheless report interest income which is then subject to tax levy based upon the applicable prime lending rate of the Bank of Taiwan as of 1 January of that year. The rule summarily levied tax on interest income on company loans to its shareholders or other persons. The rule was invalidated because it lacked clear and specific authorization from the Income Tax Act, increased the tax obligation which did not legally exist for taxpayers, and contradicted the meaning and purpose of Article 19 of the Constitution.

Grants and incentives

Tax holiday incentive to new investments: Taiwan's legislative Yuan passed an amendment to the Statute for Upgrading Industries on 13 January 2009. The amendment extends a five-year tax holiday incentive to new investments (including original capital registration or additional capital increase) made during the period beginning 1 July 2008 to 31 December 2009 by manufacturing and related technical service companies. Before passage of the amendment, only investments made in the period from 1 January 2002 to 31 December 2003 by qualified companies may be eligible for the tax holiday provided under the article. To stimulate economic growth, the legislative Yuan extended the tax holiday by amending the article. However, the amendment includes certain limitations:

- The total amount of income that may be exempt from income tax during the tax holiday period should not exceed the total amount of investments, to which the tax holiday is granted, made by qualified companies in the qualifying period.
- Only one approval for the tax holiday may be granted in respect of investments made by qualified companies during the qualifying period.
- Companies eligible for other tax incentives as provided under Article 8 or Article 9 of the SUI may not apply for the tax holiday in accordance with the amendment.

The Ministry of Economic Affairs (MOEA) has drafted regulations governing the application of the tax holiday to stipulate procedural details such as eligibility criteria, scope of the article, application procedures and deadline, and other related matters. The MOEA will submit the draft regulations to executive Yuan for review and approval. Once approved, the government bureau-in-charge will begin to accept applications for the tax holiday from qualified companies. The applications may be filed to cover any new investments made on or after 1 July 2008, until 31 December 2009.

Other measures

Tax free zone: for the first time in Taiwan's history, a physical income tax free zone has been designated. The Statute for International Airport Park Development will allow companies in the airport park to carry on international distribution, including simple transformation of products, and enjoy exemption from Taiwan income tax, business tax (VAT) and customs duties.

There are no restrictions as to the type of products that can be processed in the new Airport Park. Companies in the semiconductor industry, for example, may

welcome this development as this may help to remove the current tax exposures associated with their distribution activities in Taiwan.

Sales to Taiwan from the Airport Park are limited to 10% of total sales turnover.

The extent to which transformation of products may be carried on in the Airport Park has yet to be clarified. Enforcement rules of the new statute and relevant guidelines will be released soon.

Rebates and refunds

Statute of limitation: : Article 28 of the Tax Collection Act stipulates that the statue of limitation is five years. Nevertheless, a subparagraph added to Article 28 states that if the mistake or negligence is attributable to the tax authority, the taxpayer can apply for a tax refund without a time limit.

Tax measures affecting individuals

Estate and gift tax law: the legislative Yuan amended the Estate and Gift Tax Law to replace the progressive tax brackets (with a top marginal rate of 50%) with a flat 10% tax rate for both estate tax and gift tax.

The 2008 individual income tax brackets have been changed.

The 2009 personal exemption and deduction have been changed.

Tax policy reform

Statute for Upgrading Industries: the prevailing Statute for Industries will cease to be effective from 1 January 2010 and a new legislation will be promulgated. The new legislation will preserve the following tax incentives: personnel training, R&D, enterprise operation headquarter and logistics center.

Individual income tax bracket rates: the cabinet is currently drafting new legislation, reducing the individual income tax bracket rates of 21%, 13%, 6% to 20%, 12%, 5%, respectively, and lowering the corporate income tax rate from 25% to 20%.

Customs importation regulations: the cabinet is proposing to amend the customs importation regulation to comply with the harmonized system of the World Customs Organization.

Tax rate changes

Corporate income tax

The cabinet is currently working on a proposal to reduce the corporate income tax rate from 25% to 20%, although this has not yet been approved.

Treatment of losses (carrybacks, etc.)

Taiwan loss carryforwards now extended to 10 years: in the current economic situation, the Taiwan government recognizes financial challenges that Taiwanese companies may be facing. In order to enhance their competitiveness in operating in Taiwan and to retain a balance between enterprises' sustainability and the ability to pay income tax liability, the government has passed an amendment to Article 39 of the Income Tax Act to extend the loss carryforward period from five to ten years. The amendment is applicable to losses incurred in future years, as well as in the tax year ended 31 December 2008 and unexpired losses carried forward from taxable years ended December 2003 to 2007. The following criteria of eligibility for the loss carryforward remain unchanged:

- Keeps a complete set of accounting books
- Files its tax return on time
- Files loss year tax returns with a special filing form, or has the losses duly certified by a certified public accountant in Taiwan.

The new legislation will enable US multinationals' (MNC) loss -making Taiwanese operations to reduce their future income tax liabilities. As the amendment may affect tax provision calculations, US MNCs may need to review their Taiwanese subsidiaries' financial accounts for the year ended 2008 and to determine the impact of the rules on the tax provisions.

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Turkey

Key changes reported

- Company tax measures (other)
- Profit repatriation regulations

No reported activity

- Accelerated depreciation
- Grants and incentives
- Industry-specific measures
- Interest deductibility
- Other measures
- Rebates and refunds
- Tax credits – new or amended
- Tax measures affecting individuals
- Tax policy reform
- Tax rate changes
  - Corporate income tax
  - Customs and duty
  - VAT
- Tax treatment of debt
- Treatment of losses (carrybacks, etc.)

Overview of measures to reinvigorate the economy

Although a specific fiscal stimulus package has not been passed in Turkey, a new law passed in November 2008 aims to facilitate the bringing in of certain unrecorded assets, either located in or outside of Turkey and owned by Turkish-resident real and legal persons, by introducing beneficial tax provisions for transferring these assets into Turkey or having these assets recorded in the formal sector. Law number 5811, titled *The Law on Bringing in Certain Assets to the Domestic Economy*, was published in the Official Gazette and came into force on 22 November 2008.

A second significant measure of the law also regulates the exemption of qualifying foreign-sourced income of Turkish residents, provided that conditions stated in the law are met.

The major intention of the government in the development of these measures is to make additional liquidity available to the economy during the economic downturn, as well as overcoming the duality between formal and informal sectors in the Turkish economy.

Company tax measures (other)

Provisions on bringing in certain assets to the Turkish domestic economy: as the basic principle, the law foresees the recording of some unrecorded assets in the legal books of companies by payment of taxes to be levied at certain rates on the value of these assets. In return for the declaration of such assets, the law protects taxpayers from possible tax inspections and tax reassessments related to the declared assets, for financial periods before the date of 1 January 2008. The law stipulates that:

- The unrecorded assets, located either in or outside of Turkey, which are owned by real or legal persons as of 1 October 2008, and which are in the form of cash, gold, foreign currency, securities, other capital market instruments and immovable property, were permitted to be registered and declared from their market values in Turkish lira until the date of 2 March 2009.
- Tax will be levied at the rate of 2% on the value of declared assets that are outside of Turkey and at 5% on the value of assets in Turkey. The amount of tax is to be paid by the end of the month following the month the tax is levied.
- Paid taxes will be considered as nondeductible and will not be allowed to be credited from other tax liabilities.
- Qualifying assets that are found outside of Turkey should be registered through a bank or a financial institution or may be declared to the tax offices. On the other hand, assets that are located in Turkey can only be declared to the tax offices.

- Companies are obliged to book the value of the declared assets in a special reserve account in their balance sheets. For the declared assets that are located in Turkey, it is mandatory to contribute the amount of the value of the assets to the share capital in six months.
- For the assets registered and declared according to the procedures explained above, no tax inspections or tax reassessments will be executed related to the periods before 1 January 2008. Values of assets declared in scope of this law's provisions will be permitted to be credited against the reassessed additions to tax bases of companies that are computed by tax inspectors in the tax inspections started after 22 November 2008 for reasons other than declaration of these assets.
- No restriction, procedure or documentation obligations have been stipulated in the law for the purpose of determining the market value of the assets. The law only states that market value is the sale price of the concerned assets on the date of declaration, and it is expected that this amount will reflect the real value of the assets.
- The only constraint that should be taken into account is the requirement to prove the existence of foreign unrecorded assets as of 1 October 2008. Although no documentation will be requested at the date of the declaration (except for immovable property), if existence of these assets cannot be documented as of this date in case of a future tax inspection, taxpayers will lose the benefit of protection from tax inspections and reassessments, which has been explained above.

Profit repatriation regulations

Provisions on exemption on the foreign-sourced income: qualifying foreign-sourced income of Turkish residents is exempted from corporate tax and income tax by this law, provided that the income is transferred into Turkey until certain dates. For the purposes of this exemption, the term "qualifying income" includes:

- Capital gains of Turkish residents arising from the sale of shares of foreign (nonresident) corporations
- Dividend income received by Turkish residents from nonresident corporations
- Business profits derived by Turkish residents through their permanent establishments or permanent representatives outside of Turkey

The exemption can be applied to the above-mentioned income derived from 22 November 2008 until 30 April 2009 and transferred into Turkey until 31 May 2009. Furthermore, liquidation proceeds derived by Turkish residents from a nonresident entity from 22 November 2008 until 31 October 2009 and transferred into Turkey until 31 October 2009 are also in the scope of this exemption.

For the mentioned income to be exempted in scope of this law, the only requirement is to transfer them into Turkey until the specified dates. No minimum holding thresholds of the share capital, minimum holding periods or minimum taxation rates for the nonresident corporations are requested.

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United Kingdom

Key changes reported

- Accelerated depreciation
- Company tax measures (other)
- Grants and incentives
- Interest deductibility
- Other measures
- Profit repatriation regulations
- Tax credits – new or amended
- Tax measures affecting individuals
- Tax rate changes
  - Corporate income tax
  - Customs and duty
  - VAT
- Treatment of losses (carrybacks, etc.)
- Industry-specific measures

No reported activity

- Rebates and refunds
- Tax policy reform
- Tax treatment of debt

Overview of measures to reinvigorate the economy

The United Kingdom has not deployed a medium term stimulus package in the same manner as some other countries. Instead, the UK has introduced limited short term measures to stimulate the economy (primarily in the period to March 2010), followed by considerable fiscal tightening over the medium and longer term. This, at least in part, reflects the unique and reactive manner in which the UK has been forced to respond to the downturn - in particular, to bolster the banking sector - requiring the Government to take on large levels of debt that will take a number of years (estimates suggest up to 2018) to return to pre-economic crisis levels.

In response to the recession, the government announced a range of measures in the November 2008 Pre-Budget Report (PBR) and April 2009 Budget to stimulate economic activity and boost aggregate demand. These measures aim to "...smooth the path of the economy in the short term while ensuring sound public finances over the medium term...[1]"

Two important items of the PBR package were a temporary reduction in the VAT rate and the bringing forward of planned government spending by two years, aimed at ensuring the benefits of associated increases in economic activity are felt in the years when the shocks are likely to be strongest. These measures, alongside changes to the personal tax system and certain indirect taxes, provide a stimulus to the economy of £16 billion in 2009-10, equivalent to about 1% of GDP, and are in addition to measures totaling more than £9 billion in 2008-09. The April 2009 Budget added a further £5 billion in stimulus for 2009-10, primarily for businesses including through deferred business rates payment and the extension of capital allowances to 40%. In total, the PBR and Budget packages provide a stimulus of around £30 billion over the two tax years from 2008 to 2010; followed by fiscal tightening of almost £20 billion over the two following years and rising eventually to almost £40 billion a year.

Taken in isolation, the one off approach to stimulus in the UK looks relatively minor in comparison to targeted stimulus packages announced elsewhere (ranging from about 1.5% in other European countries to about 3% in the US), but this should be seen in the context of considerable expenditure to shore up financial services in the UK, including:

- More than £200 billion made available to banks under the Special Liquidity Scheme
- A bank recapitalization scheme to address concerns about solvency of at least £50 billion
- A government-established credit guarantee scheme to address concerns about funding of loans and mortgages issued by banks and an asset purchase scheme
- Hands-on action, such as the public sector purchase of stakes in the Royal Bank of Scotland and Lloyds TSB.

Prospects for economic recovery in the UK, even allowing for the effects of the stimulus package are predicted to be modest, with growth slowing to less than 1% in 2008-09 and then a negative growth forecast in 2009-10. Many commentators are less positive about the forward picture than the Treasury's forecast but in any event, the Treasury estimates the impact of the credit crunch to be a contraction

[1] HM Treasury Budget Report 2009

of productive capacity in the economy of about 6 1/2 % of national income (or about £90 billion a year) in lost tax and increases in social security spending[2].

Accelerated Depreciation

First year capital allowances increased for one year from 20% to 40%, costing £1.7 billion in 2009-10.

Company tax measures (other)

Empty property relief: temporary increase in the threshold at which an empty property becomes liable for business rates.

Payment of backdated business rates bills: businesses to be able to pay their liability to backdated business rates for previous bills, in equal, interest-free installments over eight years, rather than immediately.

Grants and incentives

More than £250 billion support for the banking sector (see introductory section).

Interest deductibility

Restricting tax-deductibility: the government is introducing from 1 January 2010 a cap on interest deductability, set with reference to the group's consolidated gross external finance costs, thereby restricting tax-deductible interest to the amount of interest paid by the worldwide group.

Other measures

Housing package: bringing forward £865m of public spending from 2010-11 to 2008-09.

Green stimulus package: bringing forward £3 billion of spending from 2010-11 to 2008-09 to support low-carbon growth and jobs through energy efficiency, rail transport and adaptation measures.

Department for Work and Pensions (DWP) job center plus funding: more than £2 billion increase split over 2009-10 and 2010-11.

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[2] HM Treasury Budget Report 2009

United Kingdom (cont'd.)

Profit repatriation regulations

Large company foreign dividend exemptions: the government has announced a participation regime that would exempt foreign dividends received by large companies, subject to various anti-avoidance rules including on interest deductions (as described above). This will come into force from 1 July 2009.

Tax credits — new or amended

[See "Tax measures affecting individuals" below.]

Bringing forward increases in the child tax credit (£190 million in 2009 plus £140 million in 2010,) plus increases to the child benefit (£170 million in 2008).

Tax measures affecting individuals

Changes to the structure and levels of income tax, the personal allowance, and movements in the rates and thresholds for employee and self-employed National Insurance Contributions (NICs) provide the most tangible changes for individuals, and represent a fiscal loosening in themselves of approximately £7 billion in 2009-10, after which point the changes redistribute from higher up the income scale to lower down, as a new 50% income tax rate and removal of personal allowance for high earners begin to take effect). The measures which benefit individuals are, in detail:

- **Indexation of personal allowance and basic rate limit**: a £600 increase in personal allowance in 2008.
- **Increase in personal allowance in 2009-10 and 2010-11**: a further £130 a year to be added to the personal allowance in 2009-10 and 2010-11.
- **Aligning the NICs primary threshold with personal allowance in 2011-12**: the point at which individuals begin to pay NICs is aligned with the higher amount at which they begin to pay income tax.
- **Payments to individuals**: child benefit and child tax credit increases; increasing the pension credit above indexation; and an additional January "bonus" payment.

These measures are funded primarily from the withdrawal of personal allowance reliefs for those earning over £100,000 a year, a new 50% top rate of income tax for those earning £150,000 a year and the gradual restriction of tax relief for pension contributions to the basic rate of 20% relief for those earning over £150,000 a year. In combination, these measures raise about £7 billion a year from 2012-13.

Tax rate changes

Corporate tax rate

Small companies' corporation tax rate: the increase in the small companies' rate of corporation tax, from 21% to 22%, which was legislated for in the Finance Act of 2008, will be postponed from 1 April 2009 to 1 April 2010.

Customs and duty

Vehicle excise duty (VED) — cars and vans: deferral of increase in VED rate for cars and vans announced at budget 2008. Instead of a £15 increase this year, the increase will be only £5.

Fuel duty: delaying a pre-announced increase in fuel duty, of two pence per liter, from April to December 2008. Fuel duty escalator raises £3.5 billion over 2009-10 to 2011-12.

VAT

VAT rate reduction: the PBR confirmed a temporary reduction in the standard rate of VAT from 17.5% to 15%, providing a fiscal loosening of £12.4 billion across the period. The 15% rate will apply from 1 December 2008 to 31 December 2009, with the standard VAT rate reverting to 17.5% from 1 January 2010. There are no other changes to any of the reduced VAT rates, the zero VAT rates or VAT exemptions.

Treatment of losses (carrybacks, etc.)

Loss carry-back: losses can currently be carried forward indefinitely but can also be set against profits of the preceding year. For the two year period to 23 November 2010, the carryback will be extended from one year to three but with a £50,000 cap on the total amount that can be set against profits of the two earliest years.

Industry-specific measures

Automotive industry

Budget 2009 announced a £300 million boost to the car industry by introducing a vehicle scrappage scheme, offering a discount of £2,000 to consumers buying a new vehicle to replace another, more than ten year old vehicle (which they have owned for more than twelve months). The current announcement time-limits and caps the cost of the scheme, ending by the beginning of March 2010, or when the £300 million fund is exhausted, if earlier.

United States

Key changes reported

- Accelerated depreciation
- Company tax measures (other)
- Grants and incentives
- Industry-specific measures
- Other measures
- Profit repatriation regulations
- Rebates and refunds
- Tax credits – new or amended
- Tax measures affecting individuals
- Tax policy reform
- Tax rate changes
  - Corporate income tax
- Tax treatment of debt
- Treatment of losses (carrybacks, etc.)

No reported activity

- Interest deductibility
- Tax rate changes
  - Customs and duty
  - VAT

Overview of measures to reinvigorate the economy

On 17 February 2009, President Obama signed into law the American Recovery and Reinvestment Act of 2009 (the Act), which has significant tax implications for certain businesses and individuals. This document highlights key tax provisions and their implications across businesses and industries. The Act contains US$787 billion of spending and tax relief; most of which can be found in increased spending, designed to create and save jobs through government investment.

The fiscal stimulus is combined with major financial regulatory changes, including the US$700 billion Troubled Asset Relief Program (TARP), which has infused capital into a number of financial institutions; a new Term Asset-Backed Securities Loan Facility (TALF) with US$200 billion of lending on consumer loan securitizations; the government takeover of Fannie Mae and Freddie Mac, which is most of the residential mortgage market; plus extension of federal guarantees to money market funds. In addition, the fiscal policy stimulus follows aggressive monetary policy, which has reduced the federal funds rate to almost zero and includes significant purchases of Treasury bonds and mortgage-backed securities.

The tax provisions of the legislation are often cited as totaling over US$300 billion, but in fact, many of them involve cash payments, such as refundable earned income and child tax credits which are treated as government spending. Actual tax collections will only decline – US$213 billion from the stimulus over the next 10-year period.

United States fiscal year 2010 budget

The Obama Administration, on 26 February 2009, released an outline of its US$3.55 trillion fiscal year 2010 budget, which proposes to eliminate some major corporate tax provisions, make dramatic (but as yet unspecified) changes to the international tax regime, and raise tax rates and limit deductions for those in the top income tax brackets beginning in 2011. In addition, it provides for a permanent R&D credit, now through 2010 of "tax extenders" and a continuation of the 2001 and 2003 tax rates for low- and middle-income taxpayers. Details on the tax proposals are limited; more detailed information is expected in late April or May.

While from an overall standpoint, the 2010 budget is not of a stimulative nature, it does propose expanding the temporary five-year net operating loss carryback period (at a cost of $63.5 billion in 2009 and 2010) to businesses with revenues exceeding US$15 million.

Emergency Economic Stabilization Act of 2008

On 3 October 2008, the Emergency Economic Stabilization Act of 2008 (the Act) was signed into law. The Act is designed to promote the stability of the US financial system. A short guide from Ernst & Young provides an overview of the provisions and is available at ey.com/EESA.

Economic Stimulus Act – February 2008

The United States also passed the Economic Stimulus Act in February 2008. The Act was signed into law on 13 February 2008 by President Bush and provided for tax rebates to low- and middle-income US taxpayers, tax incentives to stimulate business investment, and an increase in the limits imposed on mortgages eligible for purchase by government-sponsored enterprises. The total cost of this bill was projected at US$152 billion for 2008. The Act contained around US$116 billion of targeted individual tax relief plus one year of bonus depreciation. That stimulus provided some increase in consumption, but a recent study by academics at the University of Michigan and the National Bureau of Economic Research (NBER) found that only 20% reported mostly spending the rebate, 32%

reported mostly saving the rebate, and 48% reported mostly paying off debt with the rebate.

The American Recovery and Reinvestment Act (the Act) delivered tax-specific measures across a broad range of taxes. Below is an overview of the key measures affecting corporations and industries. Full coverage of the Act is available in a detailed guide available from Ernst & Young at ey.com/ARRA.

Accelerated depreciation

Extension of First-Year Bonus Depreciation: prior law generally allowed additional (bonus) first-year depreciation of 50% of the adjusted basis of qualifying property purchased and placed in service in 2008 (2008 and 2009 for certain transportation property). The Act extends the availability of 50% bonus depreciation to property placed in service during 2009 (2010 for certain transportation and longer-lived property). To qualify, the taxpayer must be the original user of: tangible property with a recovery period of 20 years or less; water utility property; certain computer software; or qualified leasehold improvement property, as defined under Section 168(k)(3).

The extension is welcome news to owners of office and other commercial real property who generally incur significant costs for qualified leasehold improvement property. The power and utility industry will likewise welcome the extension, as sizable capital investments are typical for that industry. Because the accelerated depreciation deduction must be normalized for rate-making purposes, regulated entities will need to provide for the appropriate deferred income tax and related rate base reduction. To the extent bonus depreciation creates a net operating loss, taxpayers may be able to carry that loss back to prior tax years and recoup taxes previously paid. The benefit of bonus depreciation is limited for companies in a loss position, if they are only able to carryback two years. Combined with a five-year carryback for smaller companies ($15 million of receipts or less), it could provide needed cash benefits. The budget proposal to expand the five-year carryback to a wider range of companies would in turn enhance the benefit of bonus depreciation for many other companies.

For further information on accelerated depreciation measures, please see ey.com/ARRA.

Company tax measures (other)

Bonds

- RICs allowed to pass-through tax credit bond credits
- Repeal of AMT limitations on tax-exempt bonds issued in 2009 and 2010
- Temporarily expand industrial development bonds to include creation of intangible property
- De minimis safe-harbor exception for tax-exempt interest expense of financial institutions
- Build America Bonds
- Expand new clean renewable energy bonds
- Expand qualified energy conservation bonds
- Other bond provisions

One-year delay of 3% withholding on government contracts

The Act delays, to 31 December 2011, implementation of the requirement that federal, state and local governments withhold 3% of certain payments to contractors providing goods or services, which was scheduled to go into effect on 1 January 2011. The one-year delay gives Treasury time to study the effects of the requirement, which was designed to help close the tax gap, but has been challenged as excessive by some government entities and small businesses.

For further information on this range of measures, please see ey.com/ARRA.

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United States (cont'd.)

Small business

Greater exclusion for gain from qualified small business stock (QSBS)

Temporary reduction of S corporation built-in gain recognition period

Temporary increase in Section 179 expense limits Section 179 allows taxpayers to elect to fully expense the cost of qualifying depreciable property placed in service during the year in lieu of taking depreciation. The Act extends the deduction limit of $250,000 to include tax years beginning in 2009. Otherwise, the limit would have dropped to US$125,000 in 2009. That limit is still reduced dollar-for-dollar by any property placed in service above US$800,000.

For further information on this range of measures, please see ey.com/ARRA.

Grants and incentives

Department of Treasury grant program, as alternative to renewable energy tax credits.

For further information on these grants and incentives, please see ey.com/ARRA.

Industry-specific measures

See various entries throughout this document.

Other measures

Unemployment compensation modernization

COBRA premium subsidies

Other provisions

For further information on these other measures, please see ey.com/ARRA.

Profit repatriation regulations

No profit repatriation measures were included in the Act; however, on 3 October 2008, the Internal Revenue Service (IRS) released Notice 2008-91, which is intended to help taxpayers deal with near-term liquidity issues. Notice 2008-91 is a two-year elective provision that allows controlled foreign corporations (CFCs) to exclude from the definition of "obligation" — and thus not include as an investment in US property under Section 956(c) — an obligation held by a CFC that is collected within 60 days from the time it is incurred, provided that all such obligations are held for less than 180 days in the aggregate during the year. A further refinement of this guidance was released by the IRS on 2 February 2009 as Notice 2009-10.

Rebates and refunds

See entries under "Tax measures affecting individuals"

Tax credits — new or amended

Election to accelerate recognition of historic alternative minimum tax (AMT)/research credits

Work Opportunity Tax Credit

Housing Credit Exchange Program

Extension of the renewable electricity credit

Election of investment credit in lieu of production tax credits

Modification of Section 48 energy credit

New credit for advanced energy property investment

Other tax credits

For further information on this range of new or amended tax credits, please see ey.com/ARRA.

Tax measures affecting individuals

Making Work Pay Credit: for 2009 and 2010, the Act creates a refundable tax credit of $400 for working individuals and $800 for working families. The credit is calculated at a rate of 6.2% on earned income for 2009 and 2010 and phases out for taxpayers with adjusted gross income

over US$75,000 (US$150,000 for married couples filing jointly). Employers will deliver the credit to their employees by reducing their federal income tax withholding by the amount of the credit as computed for the periodic wage payment. Any portion of the credit that is not delivered by the employer through payroll checks as of 31 December, would be claimed by eligible taxpayers on Form 1040.

Increased individual AMT exemption amounts: The Act increases the 2009 AMT exemption amounts from:

- US$45,000 (US$69,950 in 2008) to US$70,950 for married couples filing jointly and surviving spouses
- US$33,750 (US$46,200 in 2008) to US$46,700 for other unmarried individuals
- US$22,500 (US$34,975 in 2008) to US$35,475 for married individuals filing separately

The increase is effective for only one year. The AMT exemptions fully phase out at US$433,800 of alternative minimum taxable income (AMTI) for married couples filing jointly and surviving spouses; US$299,300 for other unmarried individuals; and US$216,900 for married individuals filing separately. The higher AMTI phase-out amounts increase the income range in which AMT taxpayers would be subject to a marginal tax rate of as high as 22% on capital gains and qualified dividends (i.e., 15% plus (0.25 x 28%)).

American Opportunity Tax Credit

Motor vehicle purchase incentives

Expansion of first-time homebuyer credit

Other provisions

For further information on this range of tax measures affecting individuals, please see ey.com/ARRA.

Tax policy reform

The 2010 budget proposals provide a clear indication that the new president will seek to dramatically change tax policy in the US, increasing taxes on high-income individuals and corporations to pay for tax reductions for low and middle-income taxpayers. Modest business tax relief is included in the proposals, with a focus on renewable energy and R&D.

Tax rate changes

The 2010 budget proposes a significant tax reduction in the form of lower tax rates for low and middle-income taxpayers, with higher tax rates for high-income individuals, taking effect in 2011. The budget proposes a significant broadening of the corporate income tax base in 2011, without any reduction in the corporate tax rate.

Tax treatment of debt

Deferral of discharge of indebtedness income: generally, taxpayers must include in gross income, cancellation of indebtedness (COD) income. COD income can be excluded in certain situations, such as insolvency or bankruptcy of the taxpayer and for "qualifying real property business indebtedness."

The Act allows taxpayers to elect to defer COD income from business debt discharged in 2009 or 2010 and include such COD income in income ratably, 20% each year, from 2014 through 2018. A repurchase of debt for cash, for another debt instrument, for corporate stock or partnership interests, or through a contribution of the debt to capital, as well as a complete forgiveness of the debt by the holder, all qualify for the deferral election. However, the deduction of original issue discount (OID) in debt, or deemed debt, exchanges generally is not allowed before 2014, unless it exceeds the amount of the COD income deferral.

United States (cont'd.)

For partnerships, the election must be made at the partnership (or other pass-through entity) level. Deferred COD income must be allocated to partners immediately before the COD event, as if such income had been allocated at that time. The deemed reduction in outside partnership basis under Section 752, resulting from a COD event, is deferred, to the extent it would trigger gain under Section 731, until the COD income is taken into income.

For more information on the range of measures related to the tax treatment of debt, please see ey.com/ARRA.

Treatment of losses (carrybacks, etc.)

Prospective repeal of Section 382 relief: Section 382 limits a loss corporation's ability to use prechange losses following an ownership change. Prechange losses include both loss carryforwards and built-in losses in the corporation's assets. On 30 September 2008, Treasury and the IRS announced in Notice 2008-83 that postchange deductions for losses on loans or bad debts that are properly allowed to a loss corporation that is a bank, immediately after an ownership change, will not be treated as built-in losses or deductions. Thus, Section 382 would not limit the ability to utilize such losses or deductions.

The Act repeals Notice 2008-83 on a prospective basis for most ownership changes occurring after 16 January 2009. However, it generally allows institutions to apply the notice to ownership changes occurring after 16 January, if the ownership change was pursuant to a written binding contract entered into on or before that date, or a written agreement entered into on or before that date and described on or before that date in a public announcement or in a filing with the SEC. Because the change is prospective in nature, it does not require companies that may have applied Notice 2008-83 to ownership changes occurring before the notice's issuance date to reevaluate those transactions. Repeal of the notice, however, will likely inhibit the take-over of certain financial institutions, as a significant tax-savings opportunity has been removed.

Extended carryback period for small business net operating losses

The Act permits eligible small businesses to elect to extend from two years up to three, four, or five years the carryback period for an NOL for any tax year ending in 2008. Eligible small businesses may also elect to apply such extended a carryback period to an NOL for its tax year beginning, rather than ending, in 2008. Once made, this election is irrevocable and applies only for that one tax year. (Note: when applying these elections to a consolidated group, the common parent makes the election for the group and the election binds all group members.)

The Act defines an eligible small business similarly to a Section 172(b)(1)(F)(iii) "small business," but increases the average annual gross receipts test under Section 448(c) from $5 million to $15 million. For this purpose, a business generally qualifies as having $15 million or less in average annual gross receipts if the average of its annual gross receipts for the last three tax years does not exceed $15 million. Because the gross receipts test treats controlled group members or entities under common control (including corporations,

partnerships, and sole proprietorships) as one person, a business that is part of a controlled group of corporations or under common control may need to look beyond its own revenues to determine whether it has averaged $15 million or less in annual gross receipts over the last three tax years.

The president's FY2010 budget proposes expanding the temporary five-year NOL carryback to other companies, which could provide needed cash-flow benefits in combination with bonus depreciation.

For further information on the extended carryback period for small business net operating losses, please see ey.com/ARRA.

Common implications among provisions

Tax accounting effects: the effects of a change in tax laws on taxes currently payable or refundable for the current year should be reflected in the computation of the annual effective tax rate beginning as of the first interim period that includes the enactment date of the new legislation. The effect of a change in tax laws on deferred tax assets or liabilities as of the beginning of the fiscal year should be recognized as a discrete event as of the enactment date and should not be allocated to subsequent interim periods by an adjustment of the estimated annual effective tax rate. Similarly, the effects of a change in tax laws on taxes currently payable or refundable for a prior year should be recognized as of the enactment date.

State and local tax implications: passage of the Act will affect state governments in several ways. The clearest revenue effect will come in the form of direct aid to the states. The infusion of over $200 billion in federal assistance to state and local governments will enable them to reduce spending cutbacks or tax increases during the recession.

The other significant budgetary effect will come as a result of the states' conformity to federal income as a starting point for calculating state taxable income. In general, states may approach this federal conformity in one of several ways. Some states adopt a "rolling" conformity date and, as such, automatically conform to the latest version of the IRC, while other states use a fixed or static IRC conformity date, with still other states taking a selective approach by adopting only certain provisions. Some of the provisions of the Act that will be the most significant to the states include the extension of the bonus depreciation provisions and increased expense limitations, the increased NOL carryback period for small businesses, the deferral of COD income, and the prospective repeal of Notice 2008-83. Additionally, the enactment of several energy-related tax incentives may result in increased attention to state energy incentives, while some states may decide to adopt new tax credits that are tied to the Act.

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