On 2 October 2014, the Austrian Ministry of Finance issued the draft of the 2nd Tax Amendment Act 2014. Cooperation in fiscal criminal matters among EU member countries shall be strengthened. Since 1 March 2014, interest and royalty payments to low taxed related companies (effective tax rate below 10%) have been no longer tax deductible. The legislator plans to clarify that a later refund of CIT to the shareholder may also lead to an effective tax rate below 10% and therefore to the non-tax deductibility of interest and royalty payments.

Taxation of interest earned by non-residents shall be limited to interest that is not in the scope of the Austrian EU Withholding Tax Act and the EU Savings Agreements with Switzerland and Liechtenstein and that is earned by individuals. Taxation of interest earned by non-residents shall especially not apply to interest that is not earned by individuals.

For applications for refund of Austrian WHT the 2nd Tax Amendment Act 2014 draft bill proposes that it shall no longer be possible to file applications for refund of WHT before the end of the calendar year in which WHT was withheld.

The enactment of the new law remains to be seen.
Commercial Code Amendment Act 2014
Draft Bill

On 23 September 2014, a draft bill to amend the accounting and reporting provisions in the Austrian Commercial Code (UGB) was published. The draft bill aims at implementing the EU Directive 2013/34/EU and shall lead to a further harmonization between statutory accounting and tax.

The most important changes are as follows:

Size criteria: Increase of the balance sheet total to EUR 5m and net turnover to EUR 10m for medium-sized companies and EUR 20m balance sheet total and EUR 40m net turnover for large-sized companies. Moreover the draft bill introduces the new category of micro-sized companies (balance sheet total up to EUR 350,000, net turnover up to EUR 700,000 and number of employees up to 10). Parent companies that control one or more subsidiaries have to determine the size criteria on a consolidated/aggregated basis.

Goodwill amortization: Amortization on a straight line basis over 10 years if the useful life cannot be reliably estimated.

Loan discount: Mandatory capitalization of the difference between the issuing amount and the amount repayable with annual depreciation in subsequent years.

Deferred taxes: Deferred taxes shall be calculated under the temporary concept (accounting-oriented approach) instead of the current timing concept (profit and loss-oriented approach). Therefore differences between financial statements prepared according to commercial law and tax law have to be considered, if these differences are expected to be offset in the future. Medium-sized and large-sized companies have to recognize deferred tax assets after netting them with deferred tax liabilities. It shall be possible to consider tax loss carry forwards.

Furthermore the draft bill proposes a mandatory revaluation of impaired assets, except for goodwill. Under the current legislation a mandatory revaluation only applies for impaired participations but not for other assets (e.g. real estate, machinery); a revaluation is possible on a voluntary basis. This new provision shall also apply to assets which were impaired before the new bill was enacted for fiscal years beginning after 31 December 2015. The revaluation of assets that were impaired before the new bill was enacted is tax neutral in a first step. The tax will fall due, when the asset is sold. The revaluation of assets that were impaired after the new bill was enacted will have an immediate tax effect.

The planned amendments shall apply for fiscal years beginning after 31 December 2015. The enactment of the new law remains to be seen.
Increase of reporting threshold for Intrastat reports from 2015 onwards

Austrian businesses effecting intra-community supplies or intra-community acquisitions of goods must file statistical reports, known as Intrastat, if the value of their intra-community supplies or acquisitions exceeds a certain threshold.

As of January 2015, the threshold for filing statistical reports will increase from EUR 550,000.00 to EUR 750,000.00 per year. In case the intra-community supplies or the intra-community acquisitions exceed this threshold for the first time during the calendar year, the reporting obligation enters into force in the month in which the threshold is exceeded.

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Canada
► Canada’s Department of Finance amends TLRE rules for commercial investment funds  Read more
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► Planning a divestment: evaluate, examine, execute
► Whether a settlement amount received is taxable
► Indirect audit methods in motion
► A $15.8m government payment was a non-taxable capital receipt  Read more

Chile
► Chile enacts tax reform  Read more

China
► China announces accelerated depreciation methods  Read more
► China issues internal notification on tax examination of dividends paid to nonresidents  Read more

Colombia
► Colombia’s Constitutional Court rules thin capitalization rule constitutional  Read more
► Colombian Government proposes tax reform  Read more
► Colombia issues new list of tax havens  Read more
► Panama is removed from Colombia’s recently issued list of tax havens  Read more

Costa Rica
► Costa Rican tax authorities require large taxpayers to update relevant tax information through a new web-based platform  Read more
► Costa Rica’s Constitutional Chamber of the Supreme Court suspends issuance of letters of determination  Read more
► Costa Rica to enact changes to withholding tax rules on interest payments abroad  Read more

Ecuador
► Ecuador enacts Monetary Act  Read more
► Ecuador’s Monetary Act imposes new tax on certain credit transactions  Read more

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► El Salvador tax authorities publish a revised list of tax havens for 2015  Read more

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► French Government releases draft Finance Bill for 2015  Read more
Country Updates

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► German State of Hessen proposes initiative to support economic investment and limit certain tax measures  Read more

Hong Kong
► Hong Kong and South Africa sign income tax treaty  Read more

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► UAE – Hungary income tax treaty enters into force  Read more

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► Bombay High Court rules on applicability of transfer pricing provisions to issue of shares to associated enterprises  Read more

Ireland
► Ireland announces improvements to IP regime and phasing out “double Irish”  Read more
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► Kenya reintroduces capital gains tax  Read more

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► Luxembourg presents 2015 Budget and Package for the future to rebalance public finances and overhaul the tax system  Read more

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► Malaysia announces 2015 Budget Proposal  Read more

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► Mexico issues Fifth amendment to miscellaneous Tax Resolution  Read more
► Mexican tax authorities publish new regulations regarding the deductibility of pro rata expense allocations made by nonresidents to Mexican taxpayers  Read more
Country Updates

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► Mozambique introduces new tax regime and incentives for the Mining Industry
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► Nigerian tax authorities set interest on unpaid taxes at 15%

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► Panama’s General Revenue Department replaces National Revenue Authority
► Panama is removed from Colombia’s recently issued list of tax havens

Peru
► Double tax treaty between Peru and Mexico is effective 1 January 2015

Poland
► Effective date of Poland’s CFC rules is postponed for foreign companies with calendar tax year

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► Russia amends ‘On Mass Media’ law regarding foreign participation
► Draft Tax Monitoring Law adopted by the State Duma in the Second Reading
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► EY Tax news 7/2014

Spain
► European Commission orders Spain to recover “financial goodwill” deductions on indirect acquisitions

United Arab Emirates
► UAE – Hungary income tax treaty enters into force

United States
► A detailed look at recently announced regulations intended to prevent certain pre-inversion tailoring transactions and limit the US tax benefits of postinversion planning
Country Updates

► IRS releases CCM that disallows deemed paid credit for foreign income taxes paid as a result of a foreign tax redetermination
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► Senators Schumer and Durbin introduce inversions bill on earnings stripping
► Congressman Levin releases discussion draft of legislative proposal to tighten earnings stripping rules, expand investments of earnings in United States property rules
► Treasury regulations announced to modify the application of Section 7874 to inversion transactions and limit the US tax benefits of postinversion planning
► IRS issues PLR on treatment of certain foreign stock under Section 7874
► IRS updates procedures for withholding foreign partnerships and withholding foreign trusts; coordinates rules with FATCA
► Treasury and IRS 2014-2015 Priority Guidance Plan contains ongoing and new international tax projects
► IRS CCA addresses when late received documentation can support portfolio interest exemption
► IRS releases instructions to Form 1042-S, Foreign Person’s US source Income Subject to Withholding
► OECD releases highly anticipated 2014 output of BEPS Action Plan
► Congress returned from the August recess to debate corporate inversions, Treasury took action
► US Senators Schumer and Durbin introduce inversions bill on earnings stripping
► IRS announces regulations to modify application of Section 7874 to inversion transactions and limit US tax benefits of postinversion planning
► IRS CCA concludes accrued but unpaid interest constitutes an obligation of a US person for Section 956 purposes
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► IRS 2014-2015 Priority Guidance Plan contains ongoing, new international tax projects
► OECD releases highly anticipated 2014 output of BEPS Action Plan

Uruguay
► Uruguay’s legislature approves restriction on Corporate Income Tax investment exemption
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