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Tax Updates

January '22

Tax *updates*

2022 January Edition

United Arab Emirates

UAE Issues Rules on Installment and Waiver of Administrative Penalties

UAE Cabinet Decree No. 105 of 2021 was issued on 28 December 2021, providing new rules for the installment and waiver of administrative penalties.

- Requests for the payment of administrative penalties in installments may be approved if the following conditions are met:
    - the installment request concerns unsettled penalties only;
    - the penalty amount is at least AED 50,000;
    - the penalties are not disputed in front of the Tax Disputes Resolution Committee or the Federal Courts (excluding the reconsideration process); and
    - the tax due for the tax period subject to the installment request has been settled;
- Requests for the waiver of administrative penalties may be accepted in relation to certain cases as long as they do not involve tax evasion, including the following if directly causing the tax compliance failure:
    - death or illness of the taxpayer if the taxpayer is a natural person or owner of an establishment;
    - death, illness, or resignation of a key employee of the tax registrant;
    - the existence of restrictions and precautionary or preventive measures imposed by the UAE government;
    - the failure of FTA systems, payment systems, or communication systems;
    - the taxes have been paid through the tax account of another registered taxpayer;
    - the taxpayer is under insolvency or bankruptcy, subject to certain conditions; and
    - other cases that may be accepted.

Regarding the process, it is provided that requests for both installments and waivers of administrative penalties must be submitted to the FTA, which has 40 business days to review the request for compliance with all requirements.

If the request complies, it will then be referred to a committee established by the Chairman of the FTA, which has 60 business days to decide on the request and 10 days to notify the applicant. If no decision is given, the request is considered rejected. It is also provided that the committee may allow for a penalty waiver in respect of penalties paid in the previous 5 years, which if approved would result in a credit to the taxpayer's account or a refund in case the taxpayer is no longer registered.

Federal Tax Authority grants extension of timeline for Re-determining the penalties

Federal Tax Authority, during January 2022 has issued a public clarification that amends the timelines provided to benefit from the concessionary measures provided in the form of redetermination of administrative penalties. To benefit from the redetermination, all of the following conditions have to be met:

- Administrative penalties should be imposed on the person before 28 June 2021.
- The person has not settled all the administrative penalties imposed in full before 28 June 2021.
- Has paid at-least 30% of total unsettled administrative penalties that was imposed before 28 June 2021, before 31 December 2022.

Dubai Customs issues notice concerning procedures for Cross Border e-commerce

The Notice No. (15/2021) issued by Dubai Customs on procedures for Cross Border e-commerce with the purpose of simplifying and facilitating customs procedures and regulating the movement of goods through cross-border e-commerce channels, came into effect from 01 January 2022. This notice repeals Customs Notices No. (9/2021), (13/2021) and (14/2021).

The major highlights of this notice are as follows:

- Companies wishing to conduct e-commerce activity must register or add activity in Dubai Customs registration system, without the need to add the activity in the Trade License
- Customs declaration will be processed automatically based on e-commerce orders and return orders through the Platform for personal customer
- Goods, except tobacco and derivative, electronic smoking devices and tools, nicotine liquids, beverages and foods containing alcohol, with value less than AED 300 are exempt from Customs duty
- Returned goods via companies for B2C shall be exempted from Customs Duty if returned within 60 days from date of exit
- Amendment or cancellation of goods declared in Declaration is permitted through the platform within 60 days of registration of the Declaration
- Customs Deposit Refund and claims settlement are automated for Declarations passed through Platform

Companies wishing to benefit from the provision of the notice need to align and regularize their status for implementation no later than 30 June 2022.

UAE to Sign Tax Treaties with Dominica, Guyana, and Jamaica and Protocols to Tax Treaties with Algeria and Finland.

As reported by Bloombertax, on 14 January 2022, the United Arab Emirates Cabinet approved the signing of income tax treaties with Dominica, Guyana, and Jamaica, as well as amending protocols to the 2001 tax treaty with Algeria and the 1996 tax treaty with Finland.

The treaties will be the first of their kind between the UAE and the respective countries and the protocols will be the first to amend the respective treaties. The treaties and protocols must be signed and ratified before entering into force.

Tax Treaty between UAE and Israel has Entered into Force.

The income tax treaty between United Arab Emirates and Israel hasentered into force on 29 December 2021. The treaty, signed 31 May 2021, is the first of its kind between the two countries.

Taxes Covered

The treaty covers Israeli income tax and company tax (including tax on capital gains) and tax imposed on gains from the alienation of property.

It is understood that withholding tax rates shall apply as under:

Interest: Withholding tax of 0%-10%, rate depends on the identity of recipient of interest payment. A 5% rate will be applicable on interest paid to an individual or a corporate shareholder that holds at least 50% of the payer;

Dividends: Withholding tax of 0% - 15%, rate depends on identity of recipient of dividend payment. A 5% rate for dividends paid will be applicable to a corporate shareholder that holds at least 10% of payer during the last 365 days;

Royalties: Withholding tax of 12%;

Avoiding Double Taxation: A foreign tax credit will apply.

Zero (0%) tax rate is applicable to government entities and pension funds on dividends and interest income.

UAE has launched its first Space Economic Zone in Masdar City

The UAE Space Agency and Masdar have announced they have agreed to establish the country's first Space Economic Zone in Masdar City to create an integrated business ecosystem to propel start-ups and SMEs.

It will be one of many space-tech hubs which the UAE Space Agency will launch to create a competitive private sector, build national capabilities and contribute to the UAE's economic growth for the next 50 years.

The Zone will offer world-class infrastructure and an environment which encourages the development of the national space industry. Businesses will be offered an integrated package of benefits including incubation, office space, mentorship, networking, investment opportunities, priority access to Government contracts and closer cooperation with leading global research centers.

The cooperation agreement was signed on the sidelines of the Abu Dhabi Sustainability Week 2022.

Under the agreement, the Masdar City Free Zone will offer tailor-made business licenses for space-related companies across the launch sector, satellite communication, logistics, data analysis, science, technology, engineering, among other things.

New UAE Cybercrimes Law to come into force in January 2022

The Federal Decree Law No. 34 of 2021, effective from January 2, 2022, covers new areas of the internet, bringing major amendments to the Federal Law 5 of 2012 on Combatting Cybercrimes.

The new law comes as part of the largest set of legislative reforms announced for next 50 years.

The new law criminalises publishing and sharing fake news, rumours and misleading or inaccurate information that cause panic on online platforms. Violators will face at least one year in prison and a minimum Dh100,000 fine. The penalty increases to two years in prison and a minimum Dh200,000 fine if the crime was committed during pandemics, emergencies and crises.

A provision to address specifically the instances of creating false electronic emails, website or accounts with the aim of impersonating an individual or a corporate entity, has also been introduced.

Corporate Tax Introduced in the UAE – Effective from 1 June 2023

The Finance Ministry in the UAE announced introduction of **Corporate Income Tax on 31 January 2022.**

With the introduction of Corporate Tax, UAE reaffirmed its commitment as a member of OECD Inclusive Framework on Base Erosion and Profit Shifting ("BEPS), for meeting international standards for tax transparency and preventing harmful tax practices.

The UAE Corporate Tax regime will become effective from financial years starting on or after 1 June 2023 and will be applicable to all UAE businesses / Commercial activities except for extraction of natural resources (who are already subject to Tax).

The new regime implies a standard statutory tax rate of 9% when taxable profits exceeds AED 375,000 . It gives complete relief of tax to business which taxable income less than AED 375,000 in order to support small businesses and startups. There is an indication that there will be **a different tax rate for large multinationals** that meet the criteria under 'Pillar Two' of the OECD Base Erosion and Profit Shifting project (i.e. that have consolidated global revenues above EUR 750m).

Individuals would be subject to Corporate Tax **only if** they have ongoing and regular business in UAE. Employment income, income from real estate, income from savings, investment returns and other **income earned by individuals in their personal capacity** that is not attributable to a UAE trade or business shall not be subject to corporate tax.

Kingdom of Bahrain

NBR releases revised VAT Return

The National Bureau for Revenue (NBR) in Bahrain has released the updated VAT Return after VAT Rate change.

In addition to 10% Sales and Purchase column, it contains a column for VAT deferred at customs. The NBR may allow the deferral of payment of VAT on import as per Article 51 of Bahrain VAT Law.

The NBR will also notify payers once it starts accepting requests for deferral of input VAT on imports.

Kingdom of Saudi Arabia

Kingdom of Saudi Arabia announced Details of Implementing Regulations to Privatisation Law

As reported by 'Arab News', The National Center for Privatization and PPP have approved a new set of rules which govern how such agreements are reached. The National Centre for Privatisation will be responsible for implementing privatisation initiatives and opportunities in 16 sectors.

The Regulations are aimed at organising the work of privatisation projects and clarifying the procedures and mechanism of the relevant workflows.

The regulations shall define the principles which should be observed when implementing projects. These are fairness, transparency, contract enforcement, planning and feasibility. There are also special controls for studying privatisation projects and preparing the project document in the relevant form to enable the Government to consider it.

ZATCA publishes VAT guidelines for Construction Sector

Saudi Arabia's Zakat Tax and Customs Authority (ZATCA) has published value-added tax (VAT) guidelines (in Arabic only) for the construction (contracting) sector.

Amongst other things, the guidelines clearly defines "construction services' and also clarifies the due date for VAT.

The guidelines also provide clarity on ZATCA's views on some of the contentious issues in the construction sector, especially regarding security deposits and liquidated damages.

Sultanate of Oman

Sultanate of Oman Provides Guidance on VAT for Oil and Gas Industry

The Oman Tax Authority (OTA) issued the VAT Guide on the Oil & Gas Sector. The Guide aims to explain the VAT treatment of transactions in this sector. Among others, the Guide clarifies the following:

- Scope of zero-rating of supply of crude oil, oil derivates, natural gas and related goods and services
- Scope of upstream, mid-stream, down-stream, and transportation and storage activities
- VAT treatment of upstream activities, mid-stream and down-stream activities
- VAT treatment of transactions related to the government
- VAT treatment of transactions between JV partners
- VAT treatment of transactions between operators
- VAT treatment of procurements by an operators (including transactions with affiliates)

Sultanate of Oman Ratifies Pending Tax Treaty with Qatar

On 19 January 2022, the Sultan of Oman issued the royal decree for the ratification of the pending income and capital tax treaty with Qatar.

The treaty, signed 22 November 2021, is the first of its kind between the two countries and will enter into force after the ratification instruments are exchanged.

Sultanate of Oman Provides Guidance on VAT Registration Procedures for Non-Residents

The Oman Tax Authority (OTA) has published a guide on VAT Registration procedures for non-resident applicants.

The guide explains the relevant provisions of the VAT Law and the VAT Regulations regarding the VAT obligations of non-resident persons.

This includes guidance on the requirements for persons without a place of residence in Oman is to register with the OTA when the conditions for registration are met and to appoint a responsible person or tax agent (representative) in Oman, as well as the specific procedures.

State of Qatar

State of Qatar Ratifies Pending Tax Treaty with Rwanda

Qatar Emir Sheikh Tamim bin Hamad Al Thani has reportedly approved the decree for the ratification of the pending income tax treaty with Rwanda.

The treaty, signed on 8 February 2021, is the first of its kind between the two countries. It will enter into force once the ratification instruments are exchanged and will apply from 1 January of the year following its entry into force.

Certain Other Jurisdictions

OECD

The OECD releases 2022 edition of OECD transfer pricing guidelines

On 20 January 2022, the OECD announced the release of the 2022 edition of the OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations. The transfer pricing guidelines provide guidance on the application of the arm's length principle and serve as a framework for the consideration of transfer prices between associated enterprises.

The previous edition of the transfer pricing guidelines was released in 2017. Changes to the guidelines that were necessary to produce the consolidated version were approved by the inclusive framework on 7 January 2022.

OECD Announces Forum Decisions on 9 Preferential Tax Regimes and Peer Review Reports on Dispute Resolution for 8 Jurisdictions

The OECD has announced decisions on nine preferential tax regimes by the Forum on Harmful Tax Practices (FHTP) as part of BEPS Action 5, as well as stage 2 peer review monitoring reports on dispute resolution for eight jurisdictions as part of BEPS Action 14.

At its November 2021 meeting, FHTP agreed new decisions on 9 preferential tax regimes as part of the implementation of the BEPS Action 5 minimum standard. The FHTP concluded on regimes as follows:

- **Hong Kong (China) and Lithuania** - Two newly introduced regimes were concluded as "not harmful"
- **Mauritius** - Two regimes (Trust and Foundations) are abolished.
- **Qatar** - In addition, amended its three preferential regimes (2 free zones and concessionary rate in QFC) to be in line with the standard and therefore, these regimes are "not harmful (amended)".
- **Costa Rica** made a commitment to amend recent legislative changes that were made to its Free trade zone regime and therefore, regime is now "in the process of being amended".
- **Armenia** - One new regime is now under review (Armenia).

The Stage 2 peer review monitoring reports of the BEPS Action 14 minimum standard evaluate the progress made by Brunei Darussalam, Curaçao, Guernsey, Isle of Man, Jersey, Monaco, San Marino and Serbia in implementing recommendations resulting from their Stage 1 peer review.

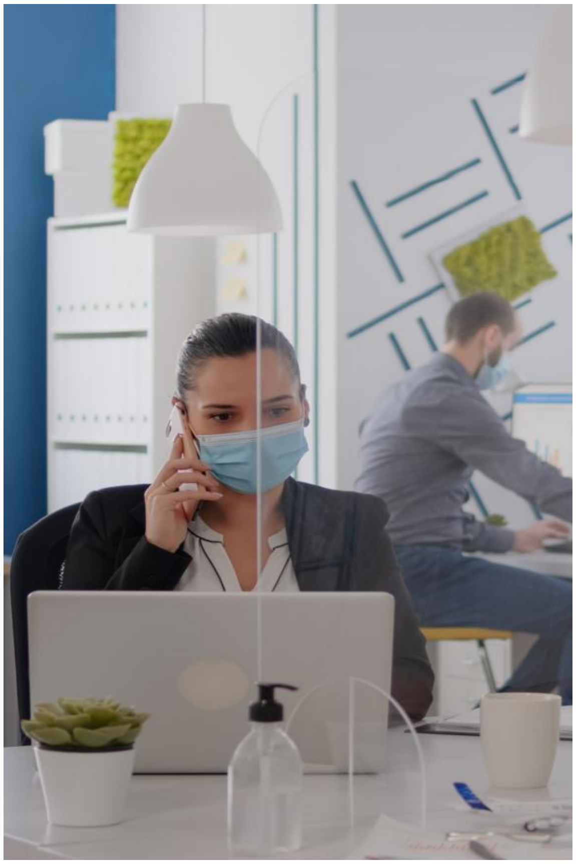
India

India Provides Due Date Extension for 2021-22 Income Tax Returns and Various Reports of Audit

On consideration of difficulties reported by the taxpayers and other stakeholders due to COVID and in electronic filing of various reports of audit under the provisions of the Income-tax Act, 1961 (the Act), India's Central Board of Direct taxes has, vide Circular No. 01/2022 of 11 January 2022, announced an extension of due dates for filing income tax returns and various reports of audit for the assessment year 2021-22.

According to the Circular the due dates are extended as under:

• furnishing of Report of Audit under any provision of the Act for the Previous Year 2020-21	**15 February 2022**
• furnishing of Report from an Accountant under section 92E of the Act for the Previous Year 2020-21	**15 February 2022**
• furnishing of Return of Income for the Assessment Year 2021-22	**15 March 2022**



Indian Supreme Court Extends Limitation Period for Filling Cases Due to COVID-19

On 10 January 2022, India's Supreme Court issued an order to extend the limitation period for the filing of cases under all general and special laws in India due to the latest surge in COVID-19 cases.

The Court restored an order dated 23 March 2020 and subsequent orders to provide that the period 15 March 2020 to 28 February 2022 is excluded in determining whether the limitation period for filing a case has expired.

Where the limitation would have expired during this period, all persons shall be granted a 90-day period from 1 March 2022, regardless of the actual period of limitation remaining in a particular case. Where the actual period remining exceeds 90 days, the longer period applies from that date.

Budget 2022

Budget 2022

The 2022 Union Budget of India was presented by the Minister of Finance on the 1st of February, 2022. The budget is the first ever digital union budget, presented orally due to ongoing COVID pandemic.

The budget which comes in the backdrop of unprecedented COVID-19 crisis reflects the firm commitment of the Government to boost economic growth by investing in infrastructure development.

The budget proposals rested on six broad pillars (i) Health and Wellbeing (ii) Physical and Financial Capital, and Infrastructure (iii) Inclusive Development for Aspirational India (iv) Reinvigorating Human Capital (v) Innovation and R&D (vi) Minimum Government and Maximum Governance.

Despite the limited fiscal headroom, the government proposed doubling healthcare spending and various infrastructure projects to boost spending and spur growth.

The major announcements made on the direct taxes front, are as under:

- withholding tax in case of foreign portfolio investors to be made at tax treaty rate
- dividend income of REIT and INVIT being exempt from TDS
- advance tax liability on earning dividend income has been aligned with the declaration or payment of dividend
- The government has extended the benefits of additional deduction of INR1.5 lakh for affordable housing in case of loans taken up to 31 March 2022 as well extension of the dates for availing the tax holiday in case of approval of housing projects till 31 March 2022.
- The timeframe for reopening the assessments has been reduced from the existing six to three years with an exception in case of serious tax evasion cases.
- The announcement of the faceless Dispute Resolution Committee to reduce

On the indirect tax front,

- changes in customs related procedures have been announced which include a definite timeline of two-years for completion of proceedings under customs
- The bill of entry would be required to be filed mandatorily one day prior to the arrival of the conveyance
- Similar to the common portal under GST, a common portal under Customs i.e. 'Common Customs Electronic Portal' to be constituted to facilitate registration, filing of bills of entry, shipping bills, any other document or form issuance of a notice, summons, order, etc.
- The government has proposed to review more than 400 old exemptions to customs duty, and from October 1 will put in place a revised customs duty structure free of any distortion
- Customs duty rates have been increased on certain goods with the aim to promote domestic manufacturing.

European Union

European Commission Extends Waiver of Customs Duties and VAT on the Import of Medical Equipment until June 2022 for 23 Member States

The European Commission extended the waiver of customs duties and VAT on the import of medical and protective equipment from non-EU (third) countries to 30 June 2022.

The waiver was first introduced in April 2020 in response to the COVID-19 pandemic and was previously extended to 31 December 2021.

However, the decision for the extension of the waiver to 30 June 2022 is limited to 23 of the 27 EU Member States, including: Austria, Belgium, Bulgaria, Croatia, the Czech Republic, Denmark, Estonia, Finland, Greece, Germany, Hungary, Ireland, Italy, Latvia, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Slovenia, Spain, and Sweden.

EU Member States for which the waiver no longer applies from 1 January 2022 include Cyprus, France, Lithuania, and the Slovak Republic.

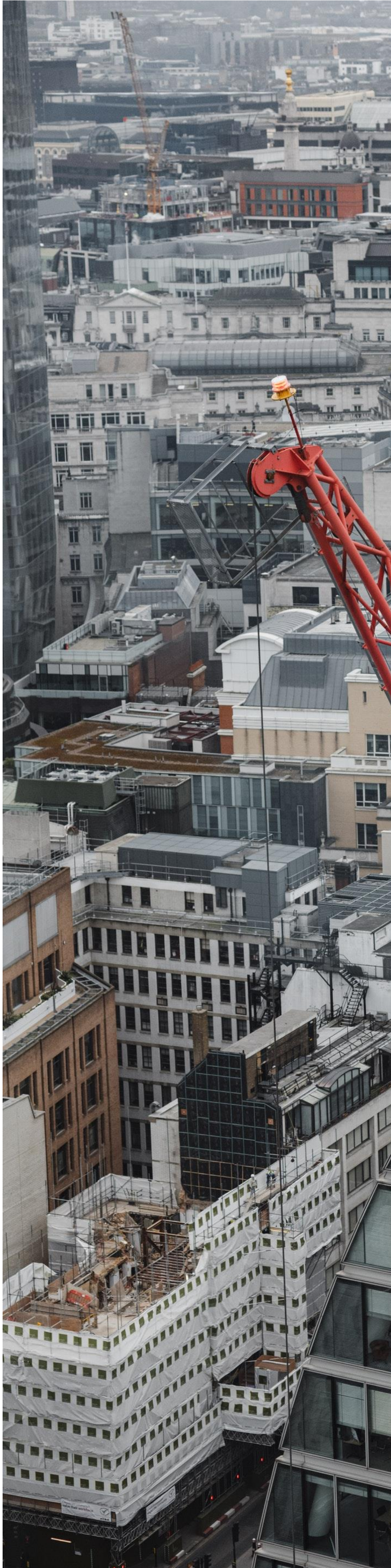
United Kingdom

UK Treasury Launches Consultation on Implementation of Global Minimum tax

UK HM Treasury has on 11 January 2022, launched a consultation on the implementation of the global minimum tax under Pillar 2 of the OECD's two-pillar package for global tax reform.

The consultation, that runs for 12 weeks, seeks views on the application of the global minimum corporation tax in the UK, as well as a series of wider implementation matters, including who the rules apply to, transition rules and how firms within scope should report and pay.

The Pillar 2 consultation document notes that the UK anticipates implementing the Income Inclusion Rule of Pillar 2 with effect from 1 April 2023 and the Undertaxed Profits Rule and the domestic minimum tax from 1 April 2024 at the earliest.



United Staes of America

U.S. Treasury Secretary Remarks on Global Minimum Tax

The U.S. Department of the Treasury published remarks given by Treasury Secretary at the 2022 'Virtual Davos Agenda' Hosted by the World Economic Forum.

In the remarks, Secretary Yellen primarily addresses the Biden Administration's strategy to sustain economic recovery and to address longstanding structural issues relating to income inequality, racial disparities, and climate change. Secretary Yellen also addressed the agreement for a global minimum tax saying that "This historic global tax deal will end this race to the bottom by ensuring that profitable corporations pay

resources to invest in their people and economies. At the same time, it will level the playing field so that all multinational companies will face a minimum tax on their foreign earnings, rather than just U.S. companies. This new system will improve productivity by incentivizing businesses to allocate capital to its most productive use, rather than to the use that produces that best tax result. ……"

IRS Kicks Off 2022 Tax Filing Season

The Internal Revenue Service kicked off the 2022 tax filing season with an urgent reminder to taxpayers that it has started accepting and processing tax returns for the tax year 2021 and advised to take extra precautions due to change in the tax law that took place during the year. It advised taxpayers to file an accurate tax return electronically to help speed refunds.

It intimated that the deadline for most of the individual tax return would be between 15 - 18 April 2022.

Switzerland

Switzerland will implement global minimum tax by constitutional amendment

During its meeting on 12 January 2022, the Swiss Federal Council decided to implement the 15% minimum tax rate for certain companies agreed by the OECD and G20 member states by means of a constitutional amendment. Based on that decision, a temporary ordinance should ensure that the minimum tax rate comes into force on 1 January 2024. The law will be enacted subsequently in the ordinary manner.

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