



TaxNewsFlash

Canada

OECD Issues Additional Tax Guidance on Pillar One & Two

June 19, 2024

No. 2024-25

Large multinational enterprises (MNEs) should review the Organization for Economic Cooperation and Development's (OECD) latest publications related to its two-pillar approach to address tax challenges from the digitalization of the economy. In its latest guidance, the OECD advises that it has completed the design of "Amount B" under Pillar One. In addition, the OECD has released guidance that clarifies and simplifies the application of the global minimum tax, as well as an overview of the streamlined process for recognising qualified status for the legislation of jurisdictions implementing Pillar Two's "global anti-base erosion" (GloBE) rules.

Background

The OECD/G20 Inclusive Framework is working on the global implementation of tax proposals under two specific "pillars", as part of its base erosion and profit shifting (BEPS) project. The OECD rules must be implemented by domestic legislation.

Pillar One focuses on the allocation of taxing rights, including nexus issues. MNEs with global revenue above €20 billion and profit before tax above 10% of revenue will be covered by the new rules under this Pillar, with 25% of profit above the 10% threshold (i.e., Amount A) to be reallocated to market jurisdictions. Pillar One also outlines a proposed approach to mandatory binding dispute prevention and resolution for Amount A. Pillar One also contemplates simplifying the application of the arm's length principle to in-country baseline marketing and distribution activities (Amount B), which would have a broader scope and would not be subject to the revenue and profitability thresholds applicable to Amount A. The OECD previously launched several consultations asking for

public feedback on various aspects of Pillar One, including Amount B (see [TaxNewsNow](#), “[OECD Pillar One Work Continues with New Amount B Consultation](#)”).

Pillar Two focuses on ensuring large MNEs pay a minimum rate of tax. As part of this pillar, the OECD/G20 Inclusive Framework released model global minimum tax rules in December 2021. The release of the model rules followed the agreement of over 135 countries, including Canada, on several key aspects of the two-pillar framework, in a statement on October 8, 2021. Under these rules, MNEs with revenue above €750 million will be subject to a minimum 15% tax rate under Pillar Two. Since the release of the GloBE model rules, the OECD has also released additional guidance and launched several public consultations on various aspects of the implementation of the rules.

For further details on Canada’s proposed implementation of Pillar Two, see [TaxNewsFlash-Canada 2023-31](#), “[Multinationals — Act Now to Meet Pillar Two Obligations](#)”, and [TaxNewsFlash-Canada 2023-28](#) “[OECD Provides Pillar One and Pillar Two Update](#)”.

Amount B of Pillar One

In its latest guidance, the OECD guidance clarifies definitions of “qualifying jurisdictions” and “covered jurisdictions” for the purposes of determining Amount B of Pillar One. The OECD also advises that, now that the OECD/G20 Inclusive Framework on BEPS has completed design aspects of Amount B of Pillar One, jurisdictions can begin implementation.

Qualifying jurisdictions

The OECD clarifies the definitions of “qualifying jurisdictions” within the meaning of section 5.2 and 5.3 of the Amount B guidance that will facilitate adjustments to the return calculated under the simplified and streamlined approach for tested parties located in those qualifying jurisdictions.

Covered jurisdictions

The OECD also provides guidance on the definition of “covered jurisdictions” within scope of the political commitment on Amount B. Under this commitment, members of the Inclusive Framework agree to respect the outcome determined under the simplified and streamlined approach to in-scope transactions, subject to their domestic legislation and administrative practices, where this approach is applied by a covered jurisdiction, and to take all reasonable steps to relieve potential double taxation that may arise where a covered jurisdiction applies the simplified and streamlined approach where there is a bilateral tax treaty in effect between the relevant jurisdictions.

The OECD notes that the list of covered jurisdictions was developed to facilitate tax certainty for jurisdictions most interested in implementing Amount B from January 1, 2025. The OECD notes that this list includes Argentina, Brazil, Costa Rica, Mexico and South

Africa, which have all expressed an interest to the Inclusive Framework in adopting Amount B.

Pillar Two

Administrative guidance

The OECD's release provides administrative guidance on Pillar Two that:

- Provides simplified procedures that allow MNE groups to aggregate various categories of deferred tax liabilities to determine if they have reversed within five years and thus do not need to be recaptured
- Clarifies the methodology for determining deferred tax assets and liabilities for GloBE purposes
- Offers further guidance on the allocation of cross-border current and deferred taxes
- Clarifies how rules regarding the allocation of profits and taxes on certain flow-through tax structures should operate
- Addresses the treatment of securitization vehicles under a jurisdiction's domestic minimum top-up tax to prevent volatile outcomes under the GloBE rules.

CbCR safe harbor guidance

The OECD also clarifies the Transitional Country-by-country reporting (CbCR) Safe Harbour, which is based on financial information used for purposes of CbCR. The new guidance is intended to ensure the consistent treatment of intragroup payments across jurisdictions to avoid the need for further adjustments under the global minimum tax.

“Qualified” status

In addition, the OECD has published (in a Q&A format) a summary of the main features of a “transitional qualification” mechanism under Pillar Two. This mechanism is related to an agreed rule order in the GloBE Rules, which is intended to prevent a jurisdiction from levying top-up tax on an MNE's low tax profits where those profits have already been subject to top-up tax under “qualified” rules in another jurisdiction. The transitional qualification provides certainty that a jurisdiction's Pillar 2 rules will be recognized as qualified by other implementing jurisdictions for a transitional period during a legislative review and will provide MNEs with certainty as to which jurisdictions rules it must comply with in line with the agreed rule-order. In the new Q&A, the OECD clarifies that the loss of a jurisdiction's “qualified” status will not apply retrospectively, providing additional certainty to MNE groups.

For further details, see reports by KPMG Global “[OECD unveils further details on Amount B simplified approach](#)” and KPMG’s member firm in the U.S., “[OECD: Further guidance on Pillar One Amount B and Pillar Two global minimum tax](#)”.

We can help

Your KPMG adviser can help you assess the effect of the OECD’s proposals on your business and provide guidance on how this might impact you going forward.

For more information, contact your KPMG adviser, or one of the following tax professionals:

Shawn Brade
National Leader International Corporate Tax
T: 403-691-7951
E: sbrade@kpmg.ca

Demet Tepe
National Leader Transfer Pricing
T: 514-840-5767
E: dtepe@kpmg.ca

Walter Sisti
National Leader Indirect Tax Services
T: 416-777-3920
E: wsisti@kpmg.ca

Brian Ernewein
National Tax
T: 416-228-6575
E: bernewein@kpmg.ca

Sharon Szeto
GTA International Corporate Tax
T: 416-777-3231
E: sszeto@kpmg.ca

David Francescucci
National Leader Transformative Tax
Advisory and Value Chain Management
T: 514-840-2395
E: dfrancescucci@kpmg.ca

kpmg.ca



[Contact Us](#) | [KPMG in Canada Privacy Policy](#) | [KPMG On-Line Privacy Policy](#) | [Legal](#)

Information is current to June 18, 2024. The information contained in this *TaxNewsFlash-Canada* is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavour to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act upon such information without appropriate professional advice after a thorough examination of the particular situation.

© 2024 KPMG LLP, an Ontario limited liability partnership and a member firm of the KPMG global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee. All rights reserved. The KPMG name and logo are trademarks used under license by the independent member firms of the KPMG global organization.