Pillar Two: Global Minimum Taxation

Pillar Two applies where, even after the effect of Pillar One (if any), multinationals are regarded as undertaxed by reference to an agreed minimum level of taxation.

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Further reading & resources

KPMG report Pillar Two

KPMG report taxation of the digitalised economy

KPMG UK digitalised economy portal page

KPMG BEPS 2.0 Model

Levelling the playing field

- Pillar Two has **four new rules** granting jurisdictions **additional taxing rights** where other jurisdictions have not exercised their primary taxing rights or income is subject to low rates of tax.
- An **Income Inclusion Rule (IIR)** that would subject foreign income of branches and controlled entities to an agreed minimum tax in the parent jurisdiction.
- An **Undertaxed Payments Rule (UTPR)** that acts as a backstop to the IIR denying deductions or introducing source-based taxation under certain conditions.
- A **Subject to Tax Rule** which complements the UTPR in certain cases.
- A **Switch-over Rule** that applies where a PE is "undertaxed" switching off a treaty based exemption in the head office jurisdiction and replacing it with a credit based method of taxation.

Exclusions and simplifications

- The intention for most practical purposes is that these rules should only apply to MNE Groups with a total consolidated group revenue above **€750 million** or equivalent.
- The rules are designed to focus on "excess income", particularly **intangible-related income,** which is regarded as most susceptible to diversion.
- The proposals therefore include a "**carve-out**" and simple fixed return for **payroll** and certain **tangible asset** costs.
- A further in-principle exclusion may be to recognise tax already imposed under the **US GILTI** regime (still to be agreed).
- To **limit the compliance burden** on low-risk businesses, **simplification options** are proposed which may be based on some or all of CbyCR data, *de minimis* profits, or low local tax risk.

What businesses need to know

- Work on Pillar Two has **greatly advanced** towards consensus, the main areas which still need to be resolved are around simplification measures.
- Pillar Two could have a **significant impact on the effective tax rates** of MNE Groups by itself or in combination with Pillar One.
- Implementation of the rules will involve a combination of **changes to domestic tax laws and bilateral tax treaties** (expected to be via a Multilateral Instrument)
- A period of **open consultation** on the proposals will now follow until 14 December 2020. The OECD has published its global **impact analysis**; potentially affected businesses should consider what these changes could mean for their ETRs.