

Briefing

International review for July

Speed read

Varying degrees of progress are being made on international tax policy initiatives. Discussions on a global wealth tax continue to gather momentum with the release of a Blueprint exploring the proposal in more detail. Canada has responded to lack of progress on Amount A of Pillar One by enacting its own domestic digital services tax. The US has finalised the administrative and procedural guidance on its 1% excise tax on share buybacks; however, uncertainties remain around the substantive rules for foreign parent companies. An ECOFIN report takes stock of progress (or lack thereof) on key EU direct tax initiatives, and the OECD has released a consultation on the Pillar Two GloBE information return filing standard. Finally, Norway and Canada have taken steps to progress domestic implementation of Pillar Two.



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Global taxation of UHNWIs

Regular readers of this update will be aware that I have been closely following developments on proposals for a global tax on billionaires that is being discussed at the G20.

On 25 June 2024 economist Gabriel Zucman released his report commissioned by the Brazilian G20 presidency, *A blueprint for a coordinated minimum effective taxation standard for ultra-high-net-worth-individuals* ('the blueprint'), that explores such a tax in more detail. The blueprint asserts that contemporary tax systems fail to tax ultra high-net-worth individuals (UHNWIs) effectively, clarifies the case for international coordination to address this issue, analyses implementation challenges, and provides revenue estimations.

Zucman proposes that a minimum tax on billionaires equal to 2% of their wealth could raise \$200–250bn per year globally from about 3,000 taxpayers. The blueprint states that someone who pays more than 2% of their wealth in income tax would have no extra tax liability: only UHNWIs with particularly low tax payments would be effected.

The blueprint takes the view that such a tax would not require a multilateral treaty and could be flexibly implemented by participating countries through a variety of domestic instruments, including a presumptive income tax, an income tax on a broad notion of income, or a wealth tax.

Zucman acknowledges and attempts to address some of the potential challenges associated with the proposal (for example, how to value 'wealth' and how to maximise compliance by taxpayers), but it says the goal of the report is ultimately 'to offer a basis for political discussions – to start a conversation, not to end it'.

The blueprint is already having the desired effect. On 10 July, 19 members of the Club de Madrid (the largest forum of democratic former Presidents and Prime Ministers) signed an open letter to the G20 asking them to back the proposals saying: 'Now is the time to foster cooperation for a shared

standard so every billionaire on earth is paying a minimum level of their income in tax.' The blueprint will now be discussed at the next G20 Finance Minister meeting later in July 2024.

Canada enacts digital service tax

Following the announcement in its April 2024 Budget statement, Canada's 3% digital services tax (DST) received royal assent on 20 June 2024, with a coming-into-force date of 28 June 2024. As expected this will apply retrospectively, with large businesses subject to the new DST on certain online revenues earned from 1 January 2022.

The DST will apply to MNEs which in the previous calendar year had group revenue of €750m or more and more than \$20m of in-scope revenue related to Canadian users. Businesses that meet the group revenue test but have more than \$10m of in-scope revenue for a particular calendar year may also be required to register under the DST rules.

Affected businesses are required to file annual DST returns and remit any DST payable by June 30 of the calendar year following the calendar year for which a return is filed. As a result, affected taxpayers with in-scope revenue above \$20m for 2022, 2023 and/or 2024 are now required to file a DST return and pay the related tax on those years, by 30 June 2025.

This marks an important milestone for Amount A of Pillar One. The OECD's self-imposed deadline of 30 June 2024 for release of the Amount A Multilateral Convention (MLC) for signature has passed. It has been reported that negotiations on the text are continuing, but a revised timeline has not yet been communicated by the OECD. Canada might be one of the first countries to respond with unilateral measures in response to the lack of progress on Amount A; but if the OECD fails to get the MLC across the line soon, it is unlikely to be the last.

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US 1% excise tax on repurchases of corporate stock

As reported previously, in April 2024 the US Treasury released two sets of proposed regulations on the new US non-deductible 1% excise tax on repurchases of corporate stock (the excise tax). One set of proposed regulations covered the application of the excise tax to US subsidiaries of publicly traded foreign parents (REG-115710-22). The other covered administrative and procedural guidance on the reporting and payment requirements of the new tax (REG-118499-23).

On 28 June 2024, the US government finalised the latter set of regulations, providing clarity on when taxpayers need to report and submit payments in respect of the Excise Tax.

The final regulations require that the excise tax be reported on Form 720, *Quarterly federal excise tax return*, with the Form 7208, *Excise tax on repurchase of corporate stock* (used to quantify the amount of excise tax owed) attached. In general, both forms are required to be filed by the end of the first full calendar quarter after the end of the taxpayer's tax year. Thus for calendar year taxpayers, the filing for their 2024 tax year generally will be due on 30 April 2025. However, for tax years

ending on or before 28 June 2024 that due date becomes 31 October 2024. Payment of tax for a particular year is due as of the date form 7208 for that year is due.

Whilst businesses will welcome the clarity provided by the finalisation of REG-118499-23, a bigger concern is the proposed substantive regulations in REG-115710-22. These have not yet been finalised, and thus are not in effect as of today. The timeline for finalisation is uncertain. As these draft regulations are proposed to have retroactive applicability, taxpayers now find themselves in the unenviable position of having to file, and make payment, on a tax which could be subject to retroactive changes, resulting in additional amended filings and payments or refunds.

ECOFIN report on status of EU Direct tax initiatives

On 21 June 2024 the final scheduled meeting of the Economic and Financial Affairs Council of the EU (ECOFIN) under the Belgian Presidency of the Council took place. The meeting approved a report to the European Council ('the report') providing an overview of the progress achieved in the Council on a range of EU direct tax initiatives, in advance of Hungary taking over the Presidency for the second half of 2024. Highlights from the report are summarised below.

Council reaches agreement on FASTER: The report notes that a compromise text in relation to the Faster and Safer Relief of Excess Withholding Taxes (FASTER) Directive, which aims to make withholding tax procedures in the EU more efficient and secure, was agreed at ECOFIN level on 14 May 2024. The Directive will be adopted following re-consultation with the European Parliament and legal-linguistic revision.

Lack of consensus on proposal to prevent the misuse of shell entities (Unshell): The report notes that the text of the Unshell proposal (aimed at tackling the misuse of shell entities for tax purposes) has been subject to discussions in Council working groups since late 2021, however Member States have not yet been able to reach consensus on the initiative. The report explains that most delegations supported the objectives of the proposal in principle, but were of the view that further important technical work was necessary before an agreement could be reached. It can be inferred from the report that the final text will very likely differ from the initial proposal, possibly substantially.

According to the report, the Belgian Presidency presented a possible way forward at the High Level Working Party on 11 June 2024, which will be subject to further discussions to find compromise solutions on outstanding issues. However, the Unshell file is not specifically classed as a priority of the incoming Hungarian Presidency and is not expected to be discussed until the second half of its term.

Member States reject transfer pricing proposal in its current form: The draft Transfer Pricing (TP) Directive, was released by the EC in September 2023, with the aim of implementing common TP rules into EU law. The report explains that while Member States generally support the objectives of the Directive, some raised general concerns about the inclusion of TP rules in an EU Directive and that the Directive proposal will not be supported by Member States in its current form.

However, there is interest in establishing a new EU TP platform that could (to a certain extent) be comparable with the Joint Transfer Pricing Forum (JTPF). The JTPF was established in 2002 and operated until 2019. Working within the framework of the OECD TP Guidelines, it proposed pragmatic, non-legislative solutions to practical problems posed by TP practices in the EU.

According to the report, further work would be required on such a 'soft law' approach, including decisions on the membership, mandate and governance of such a platform. The draft agendas for the Council meetings during the second half of this year include possible deliberations on the TP Directive for the ECOFIN meeting on 5 November 2024.

Council highlights the need for political and technical discussions on BEFIT: In September 2023, the EC issued a proposal for a Council Directive on Business in Europe: Framework for Income Taxation (BEFIT proposal), which provides common rules for determining the corporate tax base for EU-based entities that are part of a group with global consolidated revenues above a certain threshold.

The report states that while the overall objectives of simplifying corporate tax rules and reducing the administrative burden in the EU were supported by Member States, multiple concerns were expressed on whether the proposed Directive would successfully achieve these goals. The report acknowledges that further reflection and technical work will be required to determine the next steps in these negotiations during the second half of 2024.

Whilst the Hungarian Presidency has not explicitly mentioned the BEFIT initiative in its work program (see below), the draft agendas for Council meetings during the second semester of 2024 include possible deliberations on the file for the ECOFIN meeting on 5 November 2024.

Hungary has now taken over presidency of the EU effective from 1 July 2024. According to its work programme, its objective is to effectively advance the discussions on the taxation files and international issues currently on the agenda, in order to achieve progress which responds to the needs posed by new business models, international cooperation and fiscal revenues. The high-priority areas outlined by the Hungarian Presidency are fighting tax evasion, ensuring legal certainty for taxpayers, and supporting the international engagement of the EU.

OECD: consultation on GloBE information return filing standard

In order to ensure a consistent, standardised approach to capturing the global anti-base erosion (GloBE) information return (GIR) information, on 12 July 2024 the OECD released a draft of a GIR schema in extensible mark-up language (XML) and a corresponding user guide for public consultation. Businesses have until 19 August 2024 to digest the 145 page consultation document and submit their responses.

Pillar Two national implementation update

It has been a quiet month for Pillar Two national implementation. On 19 June 2024, Norway – following its implementation of the GloBE rules in January 2024 – initiated a consultation on the introduction of a UTPR applying to financial years starting after 31 December 2024. The consultation closes on 2 September 2024. On 21 June 2024, following draft legislation published in August 2023, Canada enacted its legislation for the Global Minimum Tax Act. ■

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- ▶ News: New report proposes billionaire tax (8.11.23)
- ▶ FASTER: a European Withholding Tax Directive (P Radcliffe & R Devisscher, 12.6.24)
- ▶ Multinational top-up tax: an overview (M Mortimer & T Ruiz, 20.9.23)