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KPMG Insights

E-News from the EU Tax Centre

Issue 180 – July 12, 2023

KPMG's EU Tax Centre compiles a regular update of EU and international tax developments that can have both a domestic and a cross-border impact, with the aim of helping you keep track of and understand these developments and how they can impact your business.

Today's edition includes updates on:

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European Commission

Progress Report on Pillar One

On June 30, 2023, the European Commission (EC) published a report (the Report) outlining the progress achieved by the OECD/G20 Inclusive Framework on BEPS (Inclusive Framework) in respect of Pillar One. Key takeaways include:

Update on Amount A

- The Report notes that the OECD Secretariat is currently in the process of translating agreed Amount A Model Rules into substantive provisions for inclusion in the Multilateral Convention (MLC) implementing Amount A. In addition, the Report indicates that an Explanatory Statement is being drafted to provide for additional commentaries and interpretations of the MLC rules.
- The Report notes that the OECD Secretariat aims to finalize the technical work on Amount A and to reach agreement on pending elements, including the elimination of double taxation, the marketing and distribution safe harbor, the treatment of withholding taxes, the standstill and rollback of digital services taxes and other relevant similar unilateral measures. According to the Report, several meetings have been scheduled with a view to present the package of the MLC and the Explanatory Statement by July 10-12, 2023. The Report further notes that the signing ceremony of the MLC is expected to take place at the end of 2023.
- In this context, the Report confirms the EC's commitment to ensuring a timely and consistent implementation of Pillar One at EU level.

Update on Amount B

- According to the Report, the OECD Secretariat aims to reach a preliminary agreement in July on the main components of Amount B. In addition, the Report highlights a need for further technical work on the scope provisions until the end of the year to define the list of excluded activities and the appropriateness of the pricing methodology for digital goods. The Report also indicates plans for a validation phase on the pricing framework until the end of the year including the launch of a new public consultation on this matter.
- Finally, the Report notes that the implementation of the Amount B elements is foreseen via an update to the OECD Transfer Pricing Guidelines with effect from January 2024, with a review of Amount B to be conducted after 3 years of implementation.

Update on Pillar Two

- In addition, the Report notes that the OECD aims to finalize the technical work on certain pending Pillar Two components by July 2023, including guidance on a Qualified Domestic Minimum Top-up Tax (QDMTT) Safe Harbor, a transitional Undertaxed Profit Rule (UTPR) Safe Harbor and the GloBE Information Return.

2023 edition of Annual Report on Taxation published

On July 3, 2023, the EC published the 2023 edition of the Annual Report on Taxation providing an overview of the state of play of taxation and tax systems in the EU.

The Report aims to describe the most recent reforms in tax systems and the main indicators used by the EC to assess taxation policies in EU Member States and at EU level. Key takeaways from a direct tax perspective include:

- Corporate income taxation remains a significant source of tax revenue in the EU with revenues from corporate income tax accounting for 7.1 percent of total revenues in 2021 despite an overall decline in the rate of corporate income taxation over the past decade.
- The Report provides an overview of research and development tax incentives (e.g. patent box, tax credit, tax allowance, tax relief on payroll or social security contributions accelerated depreciation) as well as other incentives regimes (e.g. shipping income, notional interest deduction, special economic zones) in the EU. The Report also notes that direct support through grants and loans is also used together with tax incentives, although the level of this direct support varies from one Member State to another.
- According to the Report, EU instruments – including recent and ongoing proposals on Pillar One, Pillar Two, BEFIT, FASTER – can help reduce complexity and help establish a level playing fields with more tax certainty offered to businesses.
- The Report refers to recommendations by the Commission Services for enhancing the EU listing exercise in respect of non-cooperative jurisdictions, including:
    - expanding the geographical scope of the EU listing process, by selecting the most relevant jurisdictions based on financial, economic, governance and taxation criteria and indicators;
    - incorporation of an additional screening criterion – 1.4, on the exchange of beneficial ownership information;
    - development of a strengthened monitoring process to ensure the effective implementation of economic substance for legal entities in no or nominal tax jurisdictions;
    - evaluation of the possible impact of Pillar Two on the listing criteria;
    - strengthening tax defensive measures against non-cooperative jurisdictions by introducing a withholding tax on outbound payments of royalties, dividends, and interests to these jurisdictions.

European Commission to submit a report to the Council on emergency EU windfall levy by October 15

On June 9, 2023, the Commissioner for Economy, Mr. Paolo Gentiloni responded to a parliamentary question on whether the Commission will extend its proposal on the taxation of excess profits to credit institutions in light of increased interest rates that – in the view of Members of the European Parliament – have resulted in increased profits for European credit institutions.

In his response, Mr. Gentiloni noted that by October 15, 2023, the Commission will assess the application of the EU Council Regulation on an emergency intervention to address high energy prices (2022/1854) and will submit a report on its main findings to the Council. The Commissioner also advised that, as a matter of national competence, Member States can decide whether to adopt measures, including tax measures, to tackle surplus profits of companies in economic sectors other than those already targeted by the EU Council Regulation, provided they comply with EU law principles, including the fundamental freedoms.

For more details on the EU solidarity contribution, please refer to E-News Issue 163.

European Parliament

ECON exchange of views with Commissioner Gentiloni

On June 28, 2023, the European Parliament's Committee on Economic and Monetary Affairs (ECON) held a public exchange of views with the Commissioner for Economy, Mr. Paolo Gentiloni. Key takeaways from the discussion include:

- *SAFE proposal:* Commissioner Gentiloni confirmed that a proposal in relation to the EC's initiative on tackling the role of enablers involved in facilitating tax evasion and aggressive tax planning in the European Union (SAFE) should not be expected before an agreement is reached on the proposed Directive laying down rules to prevent the misuse of shell entities for tax purposes (the Unshell Directive proposal), which is still being discussed at Council level. The Commissioner stressed that Unshell should be non-controversial and noted that he failed to comprehend the reason behind the Council's delay.
- *Pillar One:* Commissioner Gentiloni stated that the OECD Inclusive Framework is expected to reach an agreement on the final deliverables of Pillar One by July 11 or July 12, 2023. The Commissioner stressed that despite the fact that there is an agreement for Member States to freeze plans for unilateral measures until the end of 2023, such an agreement cannot be prolonged forever in the absence of a global agreement on Pillar One.
- *Unanimity in tax matters:* Commissioner Gentiloni also referred to Article 116 of the Treaty on the Functioning of the EU (TFEU), which allows for Directives to be adopted through the ordinary legislative procedure (which entails qualified majority voting) in case of market distortions caused by disparities between national laws or practices where those distortions cannot be eliminated through consultation with the Member States. According to the Commissioner, Article 116 is not an appropriate tool to circumvent unanimity in tax matters and should only be used to address severe distortions to the Single Market.

FISC sub-committee hearing on achieving EU policy goals through tax incentives

On June 27, 2023, the European Parliament's Subcommittee on Tax Matters (FISC) held a public hearing on ''*The role of tax incentives in achieving EU policy goals*''. The aim of the discussion was to gather insights and opinions from experts on the potential impact of tax incentives on EU policy goals, in particular in promoting a greener Europe and in supporting economic objectives.

The discussion focused on a holistic approach on the impact of incentives on society. The exchange stressed the fact that business investments are influenced by various factors beyond tax rates alone. These factors include the availability of essential skills and infrastructure. The speakers underlined the importance of tax incentives that aim to promote equality, both between countries as well as within countries. Additionally, these incentives should also support the green transition.

As regards the impact of the Pillar Two GloBE rules on different types of tax incentives, key takeaways from the discussion included:

- According to Dr. Ana Cinta González Cabral from the OECD's Centre for Tax Policy and Administration, the introduction of the global minimum top-up tax does not imply that tax incentives cannot be used at all, but it does imply that there are now some multilaterally agreed limits to the extent to which governments may use tax incentives to reduce the tax liability of MNEs.
- According to the OECD official, tax incentives are likely less affected by the minimum top-up tax (i.e. less

likely to reduce the GloBE ETR and to therefore trigger GloBE top-up tax) where:

  - tax incentives are targeted at entities that are out of the scope of Pillar Two, such as start-ups, small and medium-sized enterprises that are not part of a multinational (MNE) group or small MNEs,
  - tax incentives alter the timing of taxes paid but do not otherwise reduce tax liabilities;
  - tax incentives are tightly linked to the amount of investment or employment in a jurisdiction.
- By contrast, the OECD representative noted that incentives such as tax holidays that are very generous and broadly targeted will be heavily affected by the GloBE rules.

For more information, please refer to the Parliament's press release.

Draft report on the role of tax policy in times of crisis

On June 28, 2023, the ECON Committee launched discussions on a new draft resolution report on the role of tax policy in times of crisis. Key takeaways include:

- The Report supports the initiative to start international-level negotiations to establish a progressive wealth tax, in the same vein as the OECD/G20 global tax deal for corporations.
  - The Report calls on the Commission to consider a permanent excess profit tax on all sectors. The Committee believes that ''such taxes would curb the oligopolistic power of certain companies and boost competitiveness, while fighting inflation and raising revenue''.
  - The Report highlights that the shipping industry is undertaxed and excluded from the OECD/G20 Pillar Two agreement. As such, the Report calls for a multilateral initiative to tax international shipping activities from a profit and carbon perspective.
- The Report calls for a multilateral initiative at the UN or G20 to introduce minimum carbon tax standards, including a minimum rate on carbon emissions.

The Committee vote is scheduled for October 24, 2023.

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EU Tax Observatory

Revenue estimates in respect of the proposed new own resource based on company profits

On July 4, 2023, the EU Tax Observatory published a note providing country-by-country revenue estimates in relation to the European Commission proposal for a temporary new own resource based on company profits (for more details, please refer to Euro Tax Flash Issue 518).

Based on 2021 data, the note projects a revenue range from EUR 3.5 billion to EUR 17.7 billion depending on the rate used. According to the note, Member States with the largest economies will be the biggest contributors in absolute terms while, in relative terms, Member States with a larger share of corporate profits out of their total tax revenues will be the biggest contributors.

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Bulgaria

Plans to implement the Pillar Two GloBE rules and domestic minimum top-up tax

On June 27, 2023, the Bulgarian Ministry of Finance published the draft 2023 Budget Act.

As part of the accompanying mid-term budget estimate for the years 2023 to 2025, the government announced its commitment to introduce the Pillar Two GloBE rules, including a domestic minimum top-up tax in accordance with the EU Minimum Tax Directive (2022/2523) from January 1, 2024. The Bulgarian government expects to generate additional revenues of in total BGN 220 million (approximately EUR 112 million) in the first year of application (2024).

France

Updated clarifications on the scope of the French digital services tax

On June 21, 2023, the French tax authorities published updated clarifications on the scope of the French digital services tax (DST). The amendments are prompted by a decision of the French Supreme Court (Conseil d'État) of March 31, 2022, and include:

- Services providing a digital platform for which the interactions between users are of an ancillary nature are excluded from the scope of the French DST regime.
- The exclusion of certain digital content supply services does not automatically apply to the digital content itself (e.g. the exclusion of a software supply service does not impact the application of the DST to each software supplied).
- Intra-group digital services are excluded only where they are exclusively rendered to other group entities.

For more information on the application of DSTs in EU and non-EU countries, please refer to KPMG's summary of taxation of the digital economy developments.

Germany

Ministerial draft bill to implement minimum taxation published (Pillar Two)

On July 10, 2023, the German Federal Ministry of Finance published the ministerial draft bill to implement the OECD's Pillar Two Model Rules as set out under the EU Minimum Tax Directive (2022/2523).

The draft bill generally remains closely aligned with the text of the EU Directive (for more details, please refer to Euro Tax Flash [Issue 500](#)) and the elements that were subsequently released by the OECD Inclusive Framework. Key amendments compared to the initial discussion draft include:

- *Incorporation of OECD guidance:* The draft bill incorporates certain elements of the OECD's Administrative Guidance that adapt the OECD Model Rules / EU Directive rules, including

    - election to exclude income attributable to debt releases under certain conditions;
    - election to include portfolio shareholding income;
    - application of an Excess Negative Tax Expense carry forward;
    - special methodology to allocate taxes arising under blended CFC tax regimes (e.g. GILTI);
    - broadened definition of the term "transfer of assets".

- *Top-up tax compensation requirements:* Members of the German minimum tax group would be required to compensate the tax group leader for settling the company's top-up tax or QDMTT liability. Similarly, the tax group leader would be required to pass on any top-up tax refund to the respective group members.
- *Prior year adjustments in relation to loss carry backs:* Where a tax loss is carried back to a prior fiscal year, the ETR and top-up tax for that prior fiscal year would need to be recalculated in accordance with the general prior year adjustment rules. In addition, a deemed deferred tax liability would need to be recognized in the current fiscal year where the entity suffers the loss (reducing the amount of covered taxes) and would need to be reversed in the prior year (increasing the amount of covered taxes).
- *Penalties:* If the GIR is not submitted (intentionally or negligently), not in a timely manner or incompletely, this would constitute an administrative offence, which can be sanctioned with a fine of up to EUR 30,000. Penalties may be mitigated where the taxpayer is able to prove in accordance with the OECD's transitional penalty relief rules that reasonable measures were taken for the correct application of the GloBE Rules. In addition, the draft bill proposes to not apply a surcharge for late filing of the local self-assessment return.

In addition, the ministerial draft bill proposes a number of additional tax law changes that would come into effect from 2024, including the alignment of the minimum tax threshold for purposes of the German CFC regime with the GloBE minimum tax rate (i.e. reduction of the current minimum CFC tax rate from 25 percent to 15 percent), no application of German trade tax on CFC income (i.e. CFC income would only be subject to the German corporate income tax rate of 15 percent) and the removal of the German royalty deduction limitation rules.

Comments on the ministerial draft bill are requested from associations by July 21, 2023. The publication of the ministerial draft bill is the first step in the legislative procedure. This will be followed by the publication of the draft government bill, which will then be subject to approval by the Parliament and Federal Council. As such, amendments may still occur in the course of the legislative procedure.

For more information on the German draft bill, please refer to our previous coverage in E-News Issue 173.

For a state of play of the implementation of Pillar Two, please refer to KPMG's dedicated implementation tracker.

Updated transfer pricing guidelines

On June 6, 2023, the German Federal Ministry of Finance published updated transfer pricing administrative guidelines regarding the application of the arm's length principle.

The updated guidelines include general explanations on the principles of income correction as well as the terms "related person", and "business relationship". In addition, the guidelines include new explanations on the recently revised ordinance on business function relocation and make explicit reference to the OECD Transfer Pricing Guidelines 2022, which are attached to the guidance. Furthermore, the guidelines incorporate recent case law from the German Federal Tax Court on the determination of arm's length interest on group loans.

The updated guidelines generally apply (retroactively) to all open cases. The clarifications on the relocation of business functions apply with effect from January 1, 2022 to relocations of business functions that are realized after December 31, 2021.

For more information, please refer to a report prepared by KPMG in Germany.

Gibraltar

Policy measures to address impact of Pillar Two under consideration

On July 11, 2023, the government of Gibraltar issued the 2023 Budget Speech. Key takeaways from a direct tax perspective include:

- the government plans to implement new incentives as well as a distinct new regime for companies within the scope of Pillar Two;
- the government further commits to introducing a domestic minimum top-up tax;
- the implementation will take effect no earlier than for accounting periods beginning on or after December 31, 2024 to allow for additional time to monitor international developments and to adapt to best practices and evolving requirements;
- the governments intends to launch a consultation process to ensure that consideration is given to recommendations and views from key stakeholders, taxpayers and interested parties in respect of the implementation of the above measures.

For more information, please refer to the government's press release.

Italy

Implementation decree for a one-time substitute tax published

On June 26, 2023, the Italian Ministry of Economy and Finance published a Decree outlining the implementation of the one-time substitute tax (introduced by Law No. 197 of December 29, 2022). This will apply to undistributed profits and retained earnings reserves of subsidiaries benefiting from a privileged tax regime (i.e. profits that would not qualify for participation exemption). Key features include:

- the substitute tax may be claimed in the tax return for 2022;
- the tax based on qualifying undistributed earnings at a rate of nine percent (for companies); and

- parent companies will receive three percent point discount (rate of six percent) provided that (i) earnings are repatriated in advance of the payment deadline for the balance of income taxes due for the tax period that follows the one that was in progress on December 31, 2022 and (ii) the repatriated profits are set aside for a minimum of two years in a designated equity reserve.

Ireland

Revised guidance on exemptions from tax on interest and royalty payments

On June 20, 2023, the Irish Revenue Commissioners published eBrief No. 143/23, which updates the Tax and Duty Manual (TDM) Part 08-03-06 relating to the payment and receipt of interest and royalties without deduction of income tax. Key features include:

- income tax is to be withheld (deducted) from interest and royalty payments in general, while there are several exceptions that are covered in TDM Part 08-03-06;
- the International Bank for Reconstruction and Development (IBRD), which is free from direct taxes in Ireland, is included in the update regarding interest payments to a few statutorily tax-exempt organizations; and
- companies may pay interest gross to the IBRD and other designated statutorily tax-free entities without obtaining Revenue's approval, even though the Irish tax legislation does not specifically exclude payments to the IBRD and other listed authorities.

Bill to introduce solidarity contribution on windfall gains of companies in the fossil fuel sector

On June 23, 2023, the Government of Ireland published a proposed Bill for the introduction of a solidarity contribution on windfall gains made in 2022 and 2023 by the fossil fuel production and refining sector as a result of the invasion of Ukraine. Key features include:

- the proposed solidarity contribution is based on the European Council Regulation (EU) 2022/1854;
- the bill proposes the introduction of a 75 percent solidarity contribution on the taxable earnings of companies operating in the fossil fuel production and refining industry; and
- the solidarity contribution is to be calculated on a portion of a company's taxable profits which are more than 20 percent higher than a baseline (i.e. the average taxable profits for the company for the period 2018 to 2021).

For further information, please see the Irish government's press release and E-News Issue 166 (for previous coverage).

Latvia

Updated list of non-cooperative jurisdictions published

On June 29, 2023, the Latvian government published amendments to its domestic list of non-cooperative jurisdictions in the Official Gazette.

In line with the conclusion adopted by the Council of the EU on February 14, 2023 (please see E-News Issue 171), the updated list includes the following sixteen jurisdictions: American Samoa, Anguilla, the Bahamas, British Virgin Islands, Costa Rica, Fiji, Guam, Marshall Islands, Palau, Panama, Russian Federation, Samoa, Trinidad and Tobago, Turks and Caicos Islands, US Virgin Islands, Vanuatu. The updated list is effective from July 1, 2023.

For more details on the EU listing exercise, please refer to KPMG's summary of defensive measures applied by EU Member States against non-cooperative jurisdictions.

Liechtenstein

Proposal for the implementation of Public Country-by-Country Reporting

On July 4, 2023, the Liechtenstein government launched a consultation on a draft bill to implement measures aligned with the EU Directive regarding the disclosure of income tax information by certain undertakings and branches (2021/2101 – the EU Public CbyC Directive). Key takeaways include:

- The provisions of the draft bill are largely aligned with the EU disclosure requirements and would require multinational groups to publish income tax information where:
    - the ultimate parent entity (UPE) is located in Liechtenstein and the total consolidated revenue of the group exceeds CHF 815 million (approximately EUR 842 million), and
    - the UPE of a group with consolidated revenues exceeding EUR 750 million is located outside of the European Economic Area (EEA)[1] but operates in Liechtenstein through subsidiaries or branches of a certain size.
- Country-by-country disclosure would be required for all EEA states and countries on the EU list of non-cooperative jurisdictions, provided certain conditions are met.
- Liechtenstein would not require the information to be reported on the basis of the reporting instructions referred to in Section III, Parts B and C, of Annex III to Council Directive 2011/16/EU.
- Adoption of the "safeguard clause", i.e. to allow in scope groups to temporarily omit for a maximum of five years information that would cause a significant disadvantage to the companies concerned, provided they can justify the reason for the omission.
- The reporting rules would apply to financial years starting on or after the date on which the decision of the EEA Joint Committee regarding the adoption of the EU Directive entered into force.

The consultation period ends on August 29, 2023.

Lithuania

Implementation of the EU Public Country-by-Country Reporting Directive

On June 22, 2023, Lithuania published legislation to transpose the EU Public CbyC Reporting Directive (the Directive) into domestic law. Key takeaways include:

- The reporting obligation in the Lithuanian law on reporting of companies in connection with the detailed rules as approved by the Minister of Finance are closely aligned with the text of the Directive.

[1] The EEA includes EU Member States, plus Iceland, Liechtenstein, and Norway.

- Adoption of the “safeguard clause”, i.e. to allow in scope groups to temporarily omit for a maximum of five years information that would cause a significant disadvantage to the companies concerned, provided they can justify the reason for the omission.

Public disclosure rules apply with respect to financial years starting on or after June 22, 2024.

For a state of play of the implementation of the Country-by-Country Reporting Directive, please refer to KPMG’s dedicated implementation tracker.

Guidance on temporary solidarity contribution on the banking sector published

On June 2, 2023, the Lithuanian tax authorities published guidance regarding the application of the temporary solidarity contribution for the banking sector (enacted on May 16, 2023). Key features include:

- clarification regarding the definition of terminology such as credit agreements, residence, and income received;
- clarifications regarding the method of calculation of interest income and the different credit agreements within the scope of the contribution; and
- details regarding reporting requirements associate with the contribution, including clarification that the temporary solidarity contribution needs to be reported both quarterly and annually, along with the associated deadlines for same.

For more information, please refer to KPMG’s previous Tax News Flash as well as our previous coverage in E-News Issue 177.

Luxembourg

Updated DAC6 clarifications published

On June 3, 2023, the Luxembourg tax authorities published updated “frequently asked questions” (FAQ) on the Luxembourg mandatory disclosure rules in relation to cross-border arrangements (DAC6). Key features include:

- *LPP notification obligations:* The FAQ notes that the notification obligations for intermediaries protected by legal professional privilege are generally applicable, subject to the CJEU decision in case C-694/20 (see Euro Tax Flash Issue 497).
- *Hallmark C.1a (Deductible payment to recipient with no tax residence):* The guidance clarifies that this hallmark is based on the concept of residence found in Article 4 of the OECD Model Tax Convention. According to the FAQ, a person should still be considered as a tax resident where it is liable to tax in theory, but not in practice (for example, entities which are subject to tax, but tax-exempt if some conditions are met, such as charities).
- *Hallmark C.1d (Deductible payment to preferential regime):* The guidance clarifies that this hallmark should target domestic income or gains that are not taxed, based on a double tax convention or a domestic preferential regime.
- *Hallmark E.3 (Cross-border transfer of significant functions, assets and/or risks):* The FAQ adopts a legal approach (and not a tax approach) to assess whether there is a transfer of assets. In addition, intra-EU mergers should not fall in the scope of this hallmark where all assets and liabilities of the

absorbed entity remain in a permanent establishment of the absorbing entity located in the country of the absorbed entity. According to the FAQ, the same applies to a transfer of the statutory seat of a company with continuity of legal personality. The FAQ further note that interest income and expenses, as well as tax income and expenses, should not be taken into account to compute the EBIT of the transferor.

For more details, please refer to a report prepared by KPMG in Luxembourg.

Malta

Guidance on DAC7 published

On June 23, 2023, the Maltese Commissioner for Revenue issued clarifications on the Maltese reporting framework for platform operators (DAC7). The guidance provides clarifications on the scope provisions, key terms (e.g. "platform", "platform operator", "(reportable) seller", "relevant activity") and due diligence procedures.

In addition, the guidance provides clarifications on registration and reporting requirements, including:

- *Registration requirements:* A Qualifying Platform Operator with a nexus in Malta is generally required to register within two weeks of the commencement of activities as a Platform Operator. Where Platform Operators already perform their activities, they must register with the Competent Authority in Malta by August 31, 2023. An Excluded Platform Operator must also register and provide proof of such classification by August 31, 2023. Platform Operators, which commence their activities after August 31, 2023, must register with the Competent Authority in Malta by December 31, 2023.
- *Reporting exemption:* Where there is more than one Reporting Platform Operator (RPO), a reporting exemption applies if the RPO can prove that the same information has already been reported by another RPO. This proof needs to include a dated declaration on the letterhead of the RPO and signed by the Director including details of the other RPO which has submitted the report and the Member State where the report was submitted. In addition, official proof of successful submission in the other Member State is required (including date of submission and reporting period to which such information relates).
- *Information retention:* The RPO in Malta must maintain and retain all the documentation and information it collects for the purposes of DAC7, for a minimum period of five years, starting from the end of year to which the information relates.

Poland

Public consultation launched regarding shifted profit tax

On June 20, 2023, the Polish Ministry of Finance launched a public consultation on draft guidance regarding the profit shifting tax. Key features include:

- the profits shifting tax will be introduced with effect from January 1, 2022, and subsequently amended with effect from January 1, 2023;
- clarifications are provided regarding taxable base and method of showing particular tax-deductible costs, such as depreciation write-downs and debt financing costs;

- clarifications regarding conditions for applying the shifted profit tax to foreign entities; and
- clarifications regarding the documenting by taxable persons where there is a failure to satisfy conditions to be covered by the shifted profit tax by foreign related entities.

Comments from stakeholders were requested by July 10, 2023. For further information, please see a report prepared by KPMG in Poland.

Public consultation launched regarding amendments to the Polish Tax Code

On June 20, 2023, the Polish Ministry of Finance launched a public consultation on draft amendments to the Polish tax law. Key features of same include:

- differentiating fees for issuing tax rulings and adjusting them to the type and size of the applicant;
- proposing the application of simplified proceedings in specified cases and at the taxable person's request;
- introduction of binding tax information, allowing taxpayers access to information on the classification of goods, services, products, fixed assets under the Combined Nomenclature or regulations based on public statistics.

Comments from stakeholders are requested by August 31, 2023. For more information, please refer to report prepared by KPMG in Poland.

Switzerland

Consultation on a longer loss carry forward period launched by the Federal Council

On June 27, 2023, the Swiss Federal Council launched a consultation on a new legislative proposal to extend the loss carryforward period from seven years to 10 years.

According to the release, the measure would apply to losses incurred in or after 2020 to support the recovery of businesses impacted by the Covid-19 crisis. While the extended loss carryforward period would be available to all businesses, the release notes that, in particular, start-ups may benefit from this measure where they require a longer time period to become profitable.

The comment period is open until October 19, 2023.

Turkey

Proposed increase in corporate income tax rate

On July 5, 2023, the Turkish government submitted draft legislation regarding an increase in corporate tax rates. Key features include:

- the basic corporate tax rate would increase to 25 percent (previously 20 percent);
- the corporate tax rates imposed on banks, insurers, pension firms and other financial institutions

would increase to 30 percent (previously 25 percent);

- a five-point reduction on the corporate tax rate for export income (previously a one-point reduction); and
- the draft legislation will repeal specified corporate tax exemptions (including the capital gains tax exemption on immovable property held for at least two years).

It is proposed that the new corporation tax rates will be effective for tax returns that must be submitted on or after October 1, 2023. As a next step, the bill is to be discussed in Parliament and published after the approval of the Turkish President.

KPMG Insights

EU tax perspectives session

European Union (EU) Member States and institutions continue to have full agendas that include the implementation of international initiatives and the advancement of upcoming EU-specific proposals.

Against this backdrop, we are delighted to invite you to the June 28, 2023 session of the “EU tax perspectives” webcast series, during which a panel of KPMG specialists will share their insights on some of the latest developments from across the EU affecting multinational groups operating in Europe.

The session will focus on:

- BEPS 2.0 in the EU: State of play on the implementation of the EU Minimum Tax Directive (Pillar Two).
- European Withholding Tax Framework (FASTER): What to expect and the impact on cross-border dividend payments.
- Navigating the EU Green Deal: The revised EU Emissions Trading System (EU ETS) and the new Carbon Border Adjustment Mechanism (CBAM).
- Looking ahead: State of play and updates on other EU direct tax initiatives, including the Unshell Directive proposal (ATAD 3), SAFE, BEFIT and DAC8.

Please access the event page to register.

Navigating BEPS 2.0 - Key considerations for Asset Managers and sovereign wealth funds as they get ready for Pillar Two.

The OECD’s Pillar Two global anti-base erosion ("GloBE") rules, which were agreed to by the OECD/G20 Inclusive Framework on BEPS in December 2021, are beginning to be enacted into law now. In December 2022, South Korea enacted legislation applying the GloBE rules from 2024, while the European Union ("EU") agreed a Directive committing EU member states to implement to a similar timeline. In the past couple of months we have seen similar announcements from other jurisdictions, including Hong Kong (SAR), China, Japan, Singapore, and the UK.

A common misconception is that asset managers and sovereign wealth funds ("SWFs") are automatically "excluded" from Pillar Two. Like everything Pillar Two related, the rules are not quite that simple.

For asset managers or SWFs that are potentially in-scope of Pillar Two, or where the application of the scope rules outlined below are uncertain, now is the time to think about next steps. The OECD is still seeking to issue clarificatory guidance and this could help to address areas where the Pillar Two rules have unintended consequences. Seeking an external review of how the rules apply could help groups identify these scenarios, and quantify their potential Pillar Two exposure, but also design and develop the processes they will likely need to introduce to manage their compliance and reporting obligations. For a three-year transition period, an external review may also help to protect against penalties.

For more details, please refer to the article prepared by KPMG in the US.

Quarterly update on EU law based WHT reclaims

KPMG in the UK recently published the 40th edition of KPMG's quarterly update on the status of the EU law based withholding tax reclaims relevant to Pension Funds, Investment Funds and Life Companies. Key insights include:

- State of play summary of EU law based claims seeking recovery of WHT levied by EU Member States (also known as 'Fokus Bank claims').
- State of play summary of EU law based claims seeking recovery of UK WHT suffered on Manufactured Overseas Dividend (MOD) income arising from stock lending (also known as 'MOD claims').
- State of play summary of action taken by the European Commission/EFTA Surveillance Authority against EEA/EU Member States where KPMG in the UK claimants are not pursuing claims.

The report has been compiled from the feedback received by KPMG in the UK from local KPMG teams. Please note that this is a high-level summary update and as such it does not comment on the status of individual KPMG clients claims.

The next KPMG quarterly update will be issued in September 2023.

July shipping and offshore tax update

On July 7, 2023, KPMG in the Netherlands published new updates on various worldwide developments from a tax perspective within the shipping and offshore industry. Key insights include:

- Nigerian freight tax.
- Tax treaty between Belgium and the Netherlands.
- Malaysian guidelines for tax treatment of lease expenses for special assets under the Petroleum (Income Tax) Act.
- Expansion of the Danish Exclusive Economic Zone.
- KPMG submission on the GloBE International Shipping Exclusion Draft Discussion Note.
- Discussions on the introduction of a global tax on shipping at the level of the International Maritime Organisation.

For more details, please refer to the report.

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Key links

- Visit our website for earlier editions