

## Briefing

## International review for May

## Speed read

After months of reporting on tax policy responses to emerging crises, this month's update sees something of a return to regularly scheduled programming in the international tax world. The OECD has released the Global Minimum Tax Implementation Toolkit, its first update since the 'Side-by-Side' agreement earlier this year. The CJEU has issued its judgment in *Stellantis Portugal* addressing the VAT treatment of year-end transfer pricing adjustments between affiliated entities, and Belgium is considering a proposal to introduce a Digital Services Tax. We do not escape geopolitics altogether, with the EC adopting the Middle East crisis Temporary State Aid Framework. Finally, Canada has released a second 2025 Budget Bill, including proposals to delay introduction of the Under-Taxed Profits Rule by one year.



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## New OECD Global Minimum Tax releases

On 30 April 2026, the OECD released the Global Minimum Tax (GMT) Implementation Toolkit ('the Toolkit') and the GMT Frequently Asked Questions (FAQs). It is the first OECD update since the publication of the 'Side-by-Side Package' in January 2026.

The Toolkit is a practical guide developed through the Amsterdam Dialogue involving the OECD-led Forum on Tax Administration (FTA) and other stakeholders, including business representatives. Whilst primarily aimed at tax administrations implementing GMT, the Toolkit may help businesses as they prepare for GMT filing and compliance by (a) illustrating the variation and divergence in local rule interpretation and application of the GMT, a key focus area ahead of the June 2026 GMT filing deadlines; and (b) calling for grace periods for return correction, penalty relief and return-filing extensions where merited – though it remains to be seen whether national tax administrations follow through with this.

The FAQ document is a refresh of an earlier FAQs document and includes 27 questions divided across five sections. Two sections deal with the basic GMT charging and calculation rules (and largely replicate the content from the earlier FAQs document), with the remaining three sections dealing with the Side-by-Side Package.

The Toolkit notes that the Amsterdam Dialogue will continue to develop a coordinated risk assessment framework and dispute prevention and resolution tools, though it does not specify when this may be published. Further OECD Administrative Guidance is expected in the coming months, including on the Substance Based Income Exclusion treatment of mobile assets, hyperinflation adjustments, or the treatment of real estate investment vehicles.

## EU: VAT treatment of transfer pricing adjustments – CJEU judgment

On 13 May 2026, the CJEU issued its judgment in *Stellantis Portugal, S.A.* (Case C-603/24) addressing the VAT treatment of year-end transfer pricing adjustments between affiliated entities.

The case involved a Portuguese taxpayer who was the national sales company for a car manufacturer, buying vehicles from the group's European original equipment manufacturers (OEMs) and reselling them to independent Portuguese dealers, who then sold these to final customers.

When vehicles required repairs, customers took them to the dealers, who carried out the repair and invoiced the taxpayer. The taxpayer treated these repair costs as part of its overall distribution costs and reported them to the OEMs along with their other operating costs (such as staff, electricity, and marketing). The Portuguese tax authority audited the taxpayer's 2006 accounts and concluded that the taxpayer had effectively provided taxable services to the OEMs within Portugal, based on sourcing rules applicable to the provision of services at the time. The tax authority found that the taxpayer initially paid the dealers for the repairs but then effectively passed those repair costs back to the OEMs through year-end transfer price adjustments, designed to ensure the taxpayer actually earned the profit margins it had pre-agreed with the OEMs. On that basis, the tax authority treated the taxpayer as providing taxable repair services in Portugal to the OEMs and assessed VAT and interest.

## The CJEU concluded that transfer pricing adjustments do not constitute consideration for a supply of services unless they are linked to reciprocal performance involving a clearly identifiable service

The question referred to the CJEU was: does a contractually agreed year-end price adjustment, intended to ensure a minimum profit margin and documented through accounting adjustments, fall within the concept of a 'supply of services for consideration' under the VAT Directive?

The CJEU concluded that such transfer pricing adjustments do not constitute consideration for a supply of services unless they are linked to reciprocal performance involving a clearly identifiable service.

Under EU VAT rules, a service is taxable only when a direct link exists between a specific service and the payment received, and when a legal relationship creates reciprocal obligations: the provider must commit to perform an identifiable service, and the recipient must pay in return for that service. In this case, the only legal relationship identified stemmed from the 2004 transfer pricing agreement, whose purpose was to set and adjust vehicle prices so that the taxpayer achieved a pre-determined profit margin on resale. The agreement did not state that the taxpayer had a contractual obligation to repair vehicles for the OEMs in return for remuneration, nor did the case file provide other evidence of such a service relationship.

The CJEU further rejected the argument that the taxpayer acted 'on behalf of' the OEMs in a way that would make it a participant in the dealers' repair services to the OEMs. The case record did not show that the taxpayer acted as an intermediary or as an agent for the OEMs in that context.

Finally, the CJEU observed that if the referring court decides that the transfer price adjustments do not represent payment for repair services from the taxpayer to the OEMs, but instead represent a later change to the purchase price of the vehicles, then the national tax authorities must evaluate how that price change affects the VAT taxable amount for the OEMs' sale of vehicles to the taxpayer.

While the decision confirms that year-end transfer pricing adjustments do not automatically give rise to a service subject to VAT, it also reinforces that outcomes will depend heavily on whether a direct link to identifiable services can be demonstrated. In this respect, the *Stellantis* decision should be distinguished from *Arcomet Towercranes* (Case C-726/23). Both apply the same basic VAT tests (legal relationship, reciprocal obligations, direct link between service and payment), but reach different outcomes because the facts and contracts differ.

Therefore, the VAT treatment of transfer pricing arrangements remains fact-driven as the CJEU has not followed the non-binding opinion of its Advocate General to take a bolder position on transfer pricing adjustments and clearly state that some adjustments are outside the scope of VAT.

## The Bill, if adopted, would introduce a 3% Digital Services Tax for MNE group entities providing digital services in Belgium, effective 1 January 2027

### Belgium: proposal to introduce DST

On 17 April 2026, the Chamber of Representatives (lower house) accepted for consideration Bill No. 56K1491001, which, if adopted, would introduce a 3% Digital Services Tax (DST) for MNE group entities providing digital services in Belgium, effective 1 January 2027.

The Bill targets only large international digital groups recording more than €750m in worldwide consolidated revenue for the previous financial year (ending 31 December) and more than €3m in taxable digital revenue in Belgium in that same year.

The Bill covers three categories of digital transactions that involve users located in Belgium:

- targeted online advertising, when a business earns revenue by displaying digital advertisements to users in Belgium, usually selected based on user behaviour, interests or profiles;
- digital intermediation services, when a platform, website or mobile app connects users with each other or with businesses – for example, online marketplaces, ride-hailing apps or booking platforms – and at least one of the participants in the interaction uses the service from Belgium; and
- monetisation of user data, when a business transfers, grants access to, or otherwise earns revenue from data that users in Belgium generate, such as user profiles, usage patterns, browsing history or other user-generated information.

To identify a Belgian user, the bill states that taxpayers must use the IP address or any other objective geolocation criteria. When a digital activity simultaneously involves users in multiple countries and generates a single stream of revenue, the government will

issue allocation rules that require businesses to split that revenue across countries using a reasonable method.

While this proposal was submitted by members of a minority party in the Belgian parliament, it shows that interest in DSTs and similar measures has not diminished. Indeed, the Belgian proposal follows a similar proposal recently introduced in Poland as well as the adoption of a significant economic presence standard in Cameroon and Côte d'Ivoire. Businesses involved in the digital economy may need to continue to monitor this space carefully so that they remain compliant with all foreign tax obligations.

### EU: temporary State Aid framework in response to Middle East crisis

In my last update (*Tax Journal*, 24 April 2026), I reported on the various responses from governments around the world seeking to shield households from high energy prices as a result of the closure of the Strait of Hormuz. We now see action taken by the European Commission (EC), which, on 29 April 2026, adopted the Middle East crisis Temporary State Aid Framework (METSAF), effective until 31 December 2026. METSAF is a targeted and temporary State Aid framework to enable Member States to address the effects of the Middle East crisis on some of the most exposed sectors of the EU economy: agriculture, fishery, transport and energy-intensive industries.

Measures under the METSAF will have to be notified to the EC, but the framework will allow for a fast approval process. Support can take various forms for companies active in these sectors, including aid based on actual consumption to cover part of the price increases for fuel or fertilisers, and a simplified approach for small amounts of aid. The METSAF also includes a temporary adjustment to the Clean Industrial Deal State Aid Framework (CISAF) allowing for further flexibility and higher aid intensities to address electricity price spikes.

### Canada moves to enact remaining Budget measures

Finally, Canada has now released a second Budget Bill containing the remaining tax measures proposed in the 2025 Federal Budget, amongst other measures. The proposed legislation introduces new changes to the immediate expensing rules and the dividend suspension rules. It also includes tax measures related to areas including clean economy incentives, the 21-year anti-avoidance rule for indirect transfers to trusts, global minimum tax, and the Canada Revenue Agency's expanded audit powers, amongst others.

Notably, the proposed legislation delays the introduction of the GMT Under-Taxed Profits Rule (UTPR) framework by one year to apply to qualifying MNEs' fiscal years that begin on or after 31 December 2025 (previously, the UTPR in the 12 August 2024 draft legislation was proposed to apply for years that begin on or after 31 December 2024). In addition, the proposed legislation introduces a new 'side-by-side' safe harbour that may be available for fiscal years beginning on or after 1 January 2026. ■

#### For related reading visit [taxjournal.com](https://www.taxjournal.com)

► The Pillar Two Side-by-Side package: how UK groups should approach compliance (J Gifford, 11.2.26)

► TP adjustments and VAT: lessons from *Stellantis Portugal* (R Woolich & R Jones, 28.5.26)