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E-News from KPMG's EU Tax Centre

Key Insights of E-News Issue 202

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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- *Austria:* Notification form published for appointing designated Pillar Two taxpayer
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European Commission

Proposal to incorporate the GloBE Information Return and related information exchange into EU law (DAC9)

On October 28, 2024, the European Commission adopted a proposal to extend the scope of the Directive on Administrative Cooperation (DAC) to establish a framework for the exchange of information under the EU Minimum Tax Directive (DAC9). Key takeaways include:

- *Reporting template*: The DAC9 proposal introduces a standard template for the Top-up tax information return, which closely follows the template developed by the OECD for the GloBE Information Return (GIR) – as published in July 2023. The proposal notes that future changes to the GIR would be reflected in the Top-up tax information return via Commission delegated acts.
- *One stop shop approach*: The DAC9 proposal provides the option of central filing of the Top-up tax information return in the EU, where the EU UPE or designated filing entity files on behalf of the group in an EU Member State. However, each constituent entity in the Member State, or a designated local entity on its behalf, is still required to notify its tax administration of the identity of the entity that is filing the Top-up tax information return, as well as the jurisdiction in which it is located.
- *Exchange of information*: The framework includes provisions for the exchange of Top-up tax information between Member States. For the exchange of information with third countries, Member States will have to sign appropriate international agreements with relevant jurisdictions.
- *Dissemination approach:* The proposal includes a dissemination approach for the exchange of information to ensure that Member States only receive the information they need based on their role in the MNE group. This follows the approach that was published by the OECD in July 2023.
- *Timing of information exchange:* The relevant sections of the Top-up tax information return should be exchanged with the appropriate Member States as soon as possible, and no later than three months after the reporting fiscal year's filing deadline. For the first reporting year, however, an extended deadline of six months from the filing date will apply.
- *Timing of local implementation:* Once adopted, EU Member States would be required to transpose the Directive into domestic legislation by December 31, 2025, with the first exchange of information taking place at the latest six months after the filing of the first Top-up tax information return. For calendar year taxpayers, the first exchange would take place after their first filing deadline on June 30, 2026, and exchanges would be made by December 31, 2026, at the

latest. Exceptions apply for EU countries that opted for the deferred application of the Income Inclusion Rule (IIR) and Undertaxed Profits Rule (UTPR).

For more information, please refer to Euro Tax Flash Issue 551.

Commissioner-designate for Climate responds to European Parliament's written questionnaire

On October 23, 2024, the European Parliament published written questions and answers in advance of the hearing with the Commissioner-designate for Climate, Net-Zero and Clean Growth, Wopke Hoekstra. Noted that the proposed allocation of responsibilities under the new European Commission places matters related to Taxation under the remit of the Commissioner for Climate.

According to his responses to the questions raised by the European Parliament's Committee on Economic and Monetary Affairs Committee (ECON), Mr. Hoekstra aims to work towards EU tax initiatives that play a crucial role in supporting Europe's competitiveness, prosperity, and social fairness, while continuing the fight against tax fraud, tax evasion and tax avoidance.

Key takeaways in respect of EU direct tax initiatives include:

- *Evaluation of existing direct tax Directives:* Mr. Hoekstra will evaluate the existing EU direct taxation rules, to identify inconsistencies, contradictions and rules that may be out of date, and to test the effectiveness, efficiency, relevance, coherence and added value of the existing direct tax Directives. In this context, the Commissioner-designate made reference to the Commission's launch of the evaluation of the Anti-Tax Avoidance Directive (ATAD) and of the Directive on Administrative Cooperation (DAC).
- *Pending initiatives:* Mr. Hoekstra acknowledges the challenge of achieving unanimity in the Council for pending direct tax proposals. With respect to the proposal for a debt-equity bias reduction allowance (DEBRA), Mr. Hoekstra aims to examine Member States' willingness to reconsider the file in light of the primary competitiveness agenda of the new mandate and the ambition to develop a Savings and Investment Union. As regards the BEFIT proposal, Mr. Hoekstra considers this as a long-term project, which has been a key objective for many years and will continue to be a priority under consideration of experiences with Pillar Two. Mr. Hoekstra also notes that the Commission will continue its wider efforts to address aggressive tax planning, for example through the Directive aimed at fighting the misuse of 'shell entities' for tax purposes (Unshell proposal).
- *Pillar Two:* According to Mr. Hoekstra, it is critical to encourage as many jurisdictions as possible to implement the Pillar Two framework. He noted that it is expected that around 90 percent of in-scope multinational enterprises will be subject to the new minimum tax by 2025, based on the jurisdictions that have implemented or have announced implementation. However, the Commissioner-designate does not consider this to be sufficient for preserving the integrity of the system. As such, Mr. Hoekstra is determined to ensure that as of 2025 the UTPR captures taxpayers in non-implementing jurisdictions. Moreover, he notes that it is critical that the rules are applied in a uniform and coordinated way and that Member States use their assessment and enforcement powers to guarantee that the rules are not circumvented (e.g., through inaccurate or fraudulent reporting).
- *Pillar One:* Mr. Hoekstra supports a multilateral approach to the taxation of the digital economy and remains committed to securing a coordinated solution under Pillar One. He noted that while the OECD Multilateral Convention is ready, agreement on Amount B is still pending (regarding the simplification of certain transfer pricing rules).
- *EU list of non-cooperative jurisdictions:* Mr. Hoekstra highlights the importance of the Code of Conduct Group (business taxation) in promoting international tax good governance standards, which resulted in the amendment or abolishment of 160 harmful tax regimes in more than 60 countries. Nevertheless, he recognized the need for the EU listing criteria to evolve in order to adapt to new challenges.

Wopke Hoekstra's hearing with the European Parliament is scheduled to take place on November 7, 2024.

For more information, please refer to E-News Issue 201.

Commissioner-designate for the Economy responds to European Parliament's written questionnaire

As was the case for the Commissioner-designate for Climate, the European Parliament also published a questionnaire in advance of the hearing of Valdis Dombrovskis, Commissioner-designate for Economy and Productivity, Implementation and Simplification. Mr. Dombrovskis also published written responses to questions from the European Parliament ahead of the upcoming parliamentary hearing, scheduled for November 7, 2024hearings.

Although responsibility for most tax initiatives now lies with the Commissioner for Climate, Mr. Dombrovskis' written responses nevertheless include comments that are relevant in relation to certain tax initiatives. Key highlights include:

- *Close collaboration with Commissioner for Climate, Net Zero and Clean Growth:* Mr. Dombrovski notes an intention to work closely with the Commissioner for Climate to develop tax policy recommendations that support growth, competitiveness, equitable income distribution, and promote the green transition.
- *Wealth taxation:* Mr. Dombrovskis would support global discussions on wealth taxation in international forums like the OECD, the G20, or the United Nations. The Commissioner-designate also plans on launching a study on wealth-related taxes in the EU to support an informed debate on these issues.
- *Pillar One/ Multilateral approach to digital taxation, and Pillar Two:* Mr. Dombrovski would support a multilateral approach to digital taxation, by taking an active role in international negotiations on the two-pillar solution. With regard to Pillar Two, the Commissioner-designate would help encourage as many jurisdictions as possible worldwide to implement the rules and to cooperate in effective exchange of information.
- *Business in Europe: Framework for Income Taxation" (BEFIT) and "Head Office Tax System for SMEs" (HOT):* Together with the Commissioner for Climate, Mr. Dombrovskis proposes to follow up on these two initiatives that were put forward by the Commission in 2023.

For more information, please refer to Euro Tax Flash Issue 549.

European Parliament

ECON Committee adopts draft report on the new rules for harmonized withholding tax procedures in the EU (the FASTER Directive)

On October 14, 2024, the Committee on Economic and Monetary Affairs of the European Parliament (ECON Committee) adopted a draft report on the Council Directive providing for "Faster and Safer Relief of Excess Withholding Taxes (FASTER). The report was adopted without any amendments.

The Council had already reached an agreement (general approach) on the proposal FASTER on May 14, 2024 (please refer to Euro Tax Flash Issue 541 for more details). The Council acts as a sole legislator for the proposal, with input from the European Parliament (EP). The EP had already issued its opinion on the proposal, but must be consulted again on the agreed text, which differs substantially from the version on which the original EP opinion was issued.

The draft report adopted by the ECON will serve as the basis for the EP's non-binding opinion on FASTER. The vote on the file is included on the EP's agenda for the plenary session on November 14, 2024. Once the European Parliament issues its opinion, the Council will be able to formally adopt the Directive. Once formally adopted, Member States will need to transpose the Directive by December 31, 2028. The rules will become applicable as of January 1, 2030.

OECD and other International Organisations

Key Insights

- OECD Secretary-General Tax Report to G20 Finance Ministers and Central Bank Governors
- Update on the BEPS MLI

OECD

OECD Secretary-General Tax Report to G20 Finance Ministers and Central Bank Governors

On October 24, 2024, the OECD published the Secretary-General Tax Report to the G20 Finance Ministers and Central Bank Governors providing updates on the latest developments in international tax reforms, including on the OECD's BEPS initiatives, tax transparency efforts and other G20 tax deliverables. Key updates include:

- *Pillar Two:* the report outlines that approximately 45 jurisdictions have issued final or draft legislation to implement the global minimum tax with effect from 2024 or 2025. Based on the countries already implementing the minimum tax, the OECD estimates that approximately 60 percent of MNEs in scope of the GloBE rules will be subject to the minimum tax regime in 2024 with the number going up to 90 percent in 2025. The report notes that the focus at the OECD/G20 Inclusive Framework on BEPS (Inclusive Framework) is now on ensuring consistency and certainty and to address concerns regarding compliance costs. Work therefore continues on establishing a full-fledged peer review process for confirming the qualified status of implementing jurisdiction's legislation, issuing additional Administrative Guidance , developing information collection and exchange mechanisms as well as dispute resolution mechanisms.
- *Pillar One:* the report notes that members of the Inclusive Framework have secured near full consensus on the Multilateral Convention to implement Amount A (MLC). The focus of the remaining work on Pillar One is reaching political consensus on Amount B beyond the elective approach, to simplify and streamline the pricing of baseline marketing and distribution activities. The report also makes reference to the Model Competent Authority Agreement (MCAA) to facilitate the implementation of Amount B, which was published on September 26, 2024.
- *BEPS Project implementation:* the report provides updates on the OECD's monitoring of the effective implementation of BEPS minimum standards under Action 5 on Harmful Tax Practices, Action 6 on Tax Treaty Abuse, Action 13 on County-by-Country Reporting and Action 14 on Mutual Agreement Procedures.
- *Global Forum on Transparency and Exchange of Information for Tax Purposes (Global Forum):* the report provides a progress update on several areas such as the crypto-asset reporting framework (CARF), the automatic exchange of information (AEOI), the exchange of information on request (EOI).
- *Taxation of high-net-worth individuals (HNWI)*: the report notes that the OECD has continued its work on the taxation of HNWI, as well as exploring the effects of population ageing on different types of tax revenues and its implications for policy makers. In this context, the report refers to the OECD taxation working papers on tax arbitrage through closely held businesses and on the taxation of capital gains.

For more information, please refer to the OECD release.

Update on the BEPS MLI

Over the past weeks, several announcements were made by the OECD on updates with respect to the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (MLI), including:

- On September 19, 2024, the Democratic Republic of the Congo signed the MLI, becoming the 104th jurisdiction to join the landmark agreement.
- On September 24, 2024, Azerbaijan deposited its instrument of ratification for the MLI. The MLI will enter into force for Azerbaijan on January 1, 2025.
- On September 30, Mongolia deposited its instrument of ratification of the MLI. The MLI will enter into force for Mongolia on January 1, 2025.
- On October 2, 2024, Germany confirmed the completion of its internal procedures for the entry into effect of the provisions of the MLI. The related press release also confirms that Croatia, Greece, Hungary, Malta, Slovakia, and Spain have made notifications to apply a shorter period for the entry into effect of the provisions of the MLI with respect to their treaty with Germany, bringing forward the benefits of the MLI.

The OECD also announced that as on October 2, 87 jurisdictions have either ratified, accepted, or approved the MLI, covering more than 1,500 treaties.

For more details, please refer to the OECD press release covering updates for Democratic Republic of the Congo and Azerbaijan, and the OECD press release covering updates related for Mongolia and Germany.

Local Law and Regulations

Key Insights

- Belgium launches consultation on draft DMTT return
- Italy publishes decree on Pillar Two Substance Based Income Exclusion, proposal to remove digital service tax revenue thresholds and further clarifications on DAC7 reporting obligations
- Latvia updates domestic list of low-tax or tax-free jurisdictions updated
- Updates on Pillar Two implementation in the Isle of Man, Malta, Norway and Portugal
- Updates on Pillar Two registration requirements in Austria, Germany and Hungary
- Updates on potential reforms of tax incentives in light of Pillar Two implementation in Malta, the Netherlands and Poland
- Consultation on draft bill to implement DAC8 launched in the Netherlands and Spain
- Other corporate tax amendments proposed in Denmark, Germany, Norway, Portugal

Austria

Notification form published for appointing designated Pillar Two taxpayer

In October 2024, the Austrian tax administration launched the electronic notification form in FinanzOnline to appoint the designated Austrian Pillar Two taxpayer.

Under Austrian Pillar Two legislation, only one Austrian-based Constituent Entity is regarded as the Pillar Two taxpayer for IIR, UTPR and DMTT purposes. The Pillar Two taxpayer is the only Constituent Entity that is required to submit a preliminary declaration and pay any top-up tax (note that different rules apply for filing the GIR).

If there are multiple Austrian Constituent Entities, the Austrian Constituent Entity that is automatically considered to be the Pillar Two taxpayer is the entity that holds interests in all other Constituent Entities located in Austria and in which no other Constituent Entity located in Austria holds an interest (referred to as the “top” Constituent Entity). If there is no "top" Constituent Entity in Austria, the economically most significant Constituent Entity located in Austria is considered to be the Pillar Two taxpayer.

Alternatively, the Ultimate Parent Entity (UPE) can appoint a Constituent Entity located in Austria to act as the Pillar Two taxpayer. Proof that such an appointment has been made must be provided to the responsible tax office before the end of the preliminary declaration period. For fiscal years that coincide with the calendar year, the deadline is December 31, 2024. For fiscal years that deviate from the calendar year the notification deadline is December 31, 2025.

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

Belgium

Consultation launched on Belgian draft DMTT information return

On October 18, 2024, the Belgian tax authorities launched a public consultation on a draft DMTT information return (in Dutch / French).

The outline of the DMTT information return broadly follows the structure of the GIR, which was published by the OECD in July 2023 (see E-News Issue 181). Key information to be provided in the return includes:

- *Group information:* The return would require the identification of certain group entities (including the designated filing entity, the UPE of the group as well as Belgian-based Constituent Entities, Joint Ventures and Excluded Entities).
- *Safe Harbours and elections:* The return would allow groups to prove the eligibility for Safe Harbour relief (including the temporary CbyC Reporting Safe Harbour) under the Belgian DMTT. In addition, the return would require groups to indicate how they want to make use of other GloBE elections.
- *Detailed DMTT calculation:* The return would require detailed disclosures of the Belgian DMTT liability and calculation of same (including disclosures of the effective tax rate calculation, top-up tax calculation, as well as how top-up tax is allocated between local Constituent Entities).

Under the Belgian Law on minimum taxation, the deadline for filing the DMTT information return is the last day of the 11th month following the end of the fiscal year (i.e., where the fiscal year coincides with the calendar year, the first filing deadline is November 30, 2025).

Note that Belgian minimum taxation rules further require the submission of the GIR by local Constituent Entities within 15 months after the end of the Reporting Fiscal Year (18 months for the transitional year). An exception applies where the GIR is filed by the UPE or a designated filing entity in a different qualifying jurisdiction.

The consultation deadline is November 8, 2024.

For additional information, please refer to a report prepared by KPMG in Belgium.

Denmark

Proposed corporate tax changes submitted to Parliament

On October 2, 2024, the Danish government submitted to the Parliament a number of proposals to amend Danish corporate tax rules. Key takeaways include:

- based on one legislative proposal, dividends would be exempt from taxation from January 1, 2025, where they relate to unlisted portfolio shares (i.e., generally, shareholdings of less than 10 percent). Under current rules, although capital gains from such shareholdings are tax exempt, dividends and certain capital gains re-classified as dividends under anti-avoidance rules are not. In addition, the proposed amendment provides for an increase of the possibility to fully deduct losses carried forward from DKK 9.8 million (approximately EUR 1.3 million) to DKK 20.8 million (approximately EUR 2.8 million) from 2025. The draft also proposes to increase the ceiling in relation to tax credits for research and development expenses from currently DKK 25 million (approximately EUR 3.35 million) to DKK 35 million (approximately EUR 4.7 million).
- based on another legislative proposal, the deduction for R&D costs would be gradually increased from 108 percent to 114 percent in 2026, 116 percent in 2025 and 120 percent in 2028. It is further proposed to cap the deduction at an amount of DKK 1 billion (approximately EUR 135 million) in 2024 and to further regulate such cap on a yearly basis. In addition, the access to immediately write off of costs for software, know-how and patents is proposed to be abolished from 2025. Instead, costs must be depreciated with 25 percent (software) or 1/7 (know-how and patents) annually.

For previous coverage, please refer to E-News Issue 197 and a report (in Danish) by KPMG in Denmark.

Germany

Notification forms published for registering minimum tax group leader (under Pillar Two)

On October 17, 2024, the German Ministry of Finance published the notification form for registering the minimum tax group leader with the German tax authorities for Pillar Two purposes.

Based on German Pillar Two rules, top-up tax payments and filing obligations are centralized at the level of a single German-based Constituent Entity (the so-called minimum tax group leader) – for previous coverage on German Pillar Two filing requirements, please refer to E-News Issue 196.

When determining the minimum tax group leader, the German tax authorities generally rely on the following order:

1) The Ultimate Parent Entity (UPE) of the group, if the group's UPE is tax resident in Germany.
2) The parent company located in Germany that is the common parent company of all Constituent Entities located in Germany, if the UPE is not tax resident in Germany.
3) The Constituent Entity designated as the German minimum tax group leader by the UPE, in all other cases.
4) The economically most significant German entity of the group if there is no entity designated as the German minimum tax group leader by the UPE.

The minimum tax group leader is required to electronically submit certain information to the German Federal Central Tax Office (BZSt) via their online filing portal, including:

- identification of the UPE and – if different from the UPE – the minimum tax group leader (e.g., name, address, e-mail address, tax number, contact person);
- characterization of the minimum tax group leader (UPE, domestic parent entity, designated entity, economically most significant entity);
- information on the filing representative / tax advisor authorized to submit the notification (if any).

Note that draft amendments to the German minimum taxation act further provide that a Constituent Entity would automatically be considered the minimum tax group leader and would therefore be required to file the respective notification, where it is the only German-based group member (see below).

The notification is due within two months after the end of the calendar year in which the group falls within the scope of the German Pillar Two rules. As such, for calendar year taxpayers, the notification is due by February 28, 2025. If the financial year is different from the calendar year, the notification deadline is February 28, 2026 (subject to exceptions in case of short financial years ending before January 1, 2025).

According to the German tax authorities, electronic filing will be possible starting on January 2, 2025.

Please also see a report prepared by KPMG in Germany.

Parliament adopts updated tax reform bill

On October 18, 2024, the German Parliament (Bundestag) passed the Annual Tax Act 2024. Key takeaways from an international direct tax perspective include:

- *Pillar Two:* The bill clarifies that a German-based Constituent Entity should be considered the minimum tax group leader if it is the only group member located in Germany (please see above for more information). The bill also incorporates clarifications from the July 2023 Administrative Guidance in relation to the treatment of mobile employees in the context of the Substance Based Income Exclusion. The changes to the Minimum Tax Act would be effective from December 28, 2023.

- *CFC taxation:* Passive income from foreign permanent establishments is also subject to German CFC taxation. In addition to corporation tax, CFC income is also subject to trade tax. The bill clarifies that all passive foreign permanent establishment income is deemed to have been generated in a domestic permanent establishment and therefore also such income for which Germany is already entitled to taxation under the agreement in the case of a Double Taxation Treaty. The bill further includes a measure to prevent double taxation in relation to certain profit distributions from a CFC made in 2022.
- *Withholding tax relief procedure:* the bill provides for an additional postponement of reporting requirements introduced as part of the Withholding Tax Relief Modernisation Act published in 2021. While the electronic WHT relief procedures have been in effect since 2023, the revised procedure for WHT payment and reporting (MiKaDiv) was originally scheduled to come into effect on January 1, 2025. By Decree of August 27, 2024, the German Ministry of Finance initially provided for a postponement of the effective date to 2026 (see E-News Issue 201). The Annual Tax Act 2024 now provides for a further postponement to 2027 (along with additional changes to the reporting standard to align with the EU FASTER Directive) – for more information, please refer to a report prepared by KPMG in Germany.

As a next step in the legislative process, the bill is subject to approval by the Federal Council (Bundesrat). As such, amendments may still occur in the course of the legislative procedure.

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

Hungary

Proposed amendments to Pillar Two law included in autumn tax package

On October 16, 2024, a consultation was launched on legislative proposals published as part of the autumn tax package, including proposed amendments to the Hungarian Pillar Two law.

With respect to local registration requirements for Pillar Two purposes, the proposed amendments clarify the type of information required to be submitted to the Hungarian tax authorities. Hungarian Constituent Entities (or a designed entity on their behalf) are required to submit to the tax authority a registration form within 12 months from the beginning of the tax year concerned (i.e., December 31, 2024 in case of calendar year taxpayers). According to the draft bill, this would include the identification of all members of the MNE group or large domestic group including their tax identification number, the jurisdiction in which they are located and their status under the Pillar Two rules (e.g., Ultimate Parent Entity (UPE), Partially-Owned Parent Entity (POPE), etc.). In addition, information would need to be provided on the overall corporate structure of the MNE group or large-scale domestic group, including the controlling interests held in other Constituent Entities.

For more information, please refer to a report (EN / HU) prepared by KPMG in Hungary.

Isle of Man

Update on Pillar Two implementation

On October 15, 2024, the government of the Isle of Man confirmed the intention to implement an IIR and DMTT with effect from January 1, 2025. Subsequently, draft legislation was made available to be considered by the Parliament (Tynwald) in November. Key takeaways include:

- *Qualified status*: the draft intends to design the IIR (Multinational Top-Up Tax or MTUT) and DMTT (Domestic Top Up Tax or DTUT) in a way for them to receive qualified status under the OECD peer review process.
- *UTPR*: The draft confirms that a UTPR would not be implemented in the Isle of Man at this stage.
- *Appointment of a Domestic Filing Entity*: Each MNE group with constituent entities, joint venture, or joint venture subsidiary in the Isle of Man must appoint one domestic filing entity that is responsible for the registration and filing requirements of the group.

- *Registration*: The draft legislation requires each in-scope group to register within 12 months from the start of the group's UPE first accounting period in scope of the Isle of Man's legislation. The registration must be done by the domestic filing entity.
- *Filing requirements*: Groups in scope would be subject to several filing requirements. This includes the filing of the GIR, a DTUT return on the amount of QDMTT due, and a MTUT return on the amount of IIR top-up tax due. All returns would need to be filed within 15 months after the end of the reporting fiscal year (with an exception for the first year where the deadline is 18 months after the end of the first reporting fiscal year.) As for the registration, the filings would be done by the domestic filing entity.

For more information, please refer to a report prepared by KPMG in the Isle of Man and to our previous coverage in E-News Issue 196.

Italy

Ministerial decree published to clarify application of SBIE under Italian Pillar Two rules

On October 23, 2024, a ministerial decree was published in the Official Gazette including clarifications on the application of Substance Based Income Exclusion (SBIE) provisions that form part of the Italian minimum taxation law published on December 28, 2023 (for previous coverage, please refer to E-News Issue 189).

The decree incorporates clarifications provided in the OECD Commentary and December 2023 Administrative Guidance, including:

- Any excess of SBIE amount over the net GloBE income for a Fiscal Year cannot be carried forward or backward to reduce the GloBE income of another Fiscal Year.
- Groups are permitted to annually elect out of the requirement to apply the exclusion on a jurisdiction-by-jurisdiction basis. Groups are also allowed to only partially claim the SBIE (i.e., no requirement to claim the maximum amount) with a view to reduce the administrative burden related to the calculation of the SBIE.
- For IIR and UTPR purposes, the SBIE amount is to be computed based on the payroll and tangible asset data as recorded for purposes of preparing the Consolidated Financial Statements at the level of the UPE. For DMTT purposes, reference is made to the Local Accounting Standard approach that Italy has opted for in accordance with the OECD QDMTT guidance.
- Adjustments to payroll expenses may be required, for example, where expenses are recognized as part of the tangible asset carve-out (i.e., expense capitalized into the carrying value of eligible tangible assets), where expenses are attributable to the income excluded from the GloBE Income (e.g., shipping income), or where expenses relate to mobile employees who work in different jurisdictions.
- Adjustments to the tangible asset carve-out may be required, for example, where the asset is located in multiple jurisdictions, where property is held for lease (depending on the type and term of the lease), where an asset is acquired or disposed of during the Fiscal Year, or where an asset is attributable to income excluded from the GloBE Income (e.g., shipping income).
- The payroll and tangible asset carve-out may also be adjusted in accordance with the special allocation rules for permanent establishments and tax transparent entities.

Previously, Italy had published a ministerial decree on the application of the CbyC Reporting Safe Harbour (see E-News Issue 196) and the application of the QDMTT (see E-News Issue 198).

Proposal to remove digital service tax revenue thresholds

On October 15, 2024, the draft Budget Law for 2025 was approved by the Italian Council of Ministers and submitted to the Parliament. The draft law includes several tax provisions, notably significant changes to the Italian Digital Services Tax (DST).

A key proposed amendment is the removal of the revenue thresholds that companies must exceed in order to become a taxable person for the purposes of the Italian DST. This would significantly broaden the number of persons falling within the scope of the DST. As a result, any business would become a taxable person for Italian DST purposes as soon as it makes any revenue from the provision of digital services.

If adopted, the new rules would become applicable as from January 1, 2025. The proposal will be discussed in Parliament during November 2024 and may still be subject to change.

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

Further clarifications on DAC7 reporting obligations issued

On October 3, 2024, a legislative decree was published to clarify the application of the Italian reporting rules implementing the Council Directive (EU) 2021/514 (DAC7). Key takeaways include:

- *clarifications regarding the term 'platform':* according to the Directive, 'platform' means any software, including a website or a part thereof, and applications, including mobile applications, accessible by users and allowing sellers to be connected to other users for the purpose of carrying out a Relevant Activity, directly or indirectly, to such users. The Italian decree clarifies that a direct contact between the sellers and other users is not required to meet this definition. A platform may also be present where the relevant activities are carried out by sellers indirectly (e.g., services are purchased by the platform and then offered to users in its own name).
- *clarifications regarding the term 'seller':* according to the Directive, 'seller' means a platform user, either an individual or an entity, that is registered at any moment during the reportable period on the platform and carries out a relevant activity. The Italian decree clarifies that this definition also includes users that are not registered on the platform (e.g., by way of having a profile or account), but that have entered into a contractual relationship with the respective platform operator.

The Decree further makes reference to the OECD's FAQs related to the Model Reporting Rules for Digital Platforms.

For previous coverage on DAC7 reporting in Italy, please refer to E-News Issue 187.

Latvia

Domestic list of low-tax or tax-free jurisdictions updated

On October 23, 2024, the Latvian Ministry of Finance published the updated domestic list of low-tax or tax-free jurisdictions, applicable as from November 1, 2024. Latvia has removed Antigua and Barbuda from its domestic list, which now includes American Samoa, Anguilla, Fiji, Guam, Palau, Panama, the Russian Federation, Samoa, Trinidad and Tobago, the US Virgin Islands and Vanuatu.

This update follows the review of the EU list of non-cooperative jurisdictions (Annex I) and the state of play with respect to commitments taken by cooperative jurisdictions to implement tax good governance principles (Annex II – so called "grey list"), adopted by the Council of the EU, on October 8, 2024.

For more information, please refer to E-News Issue 201.

Malta

Budget Speech provides updates on Pillar Two implementation and introduction of tax incentives

On October 28, 2024, the Maltese Minister of Finance delivered the 2025 Budget Speech to the Parliament. Key takeaways from a direct tax perspective include:

- *Pillar Two:* As announced during the 2024 Budget Speech, Malta elected for the deferred application of the IIR and UTPR and only transposed administrative requirements necessary for the functioning of the EU Minimum Tax Directive (for more information, please refer to E-News Issue 192). The 2025 Budget Speech confirmed that no IIR, UTPR or DMTT will be introduced in 2025.
- *Tax incentives:* The Minister announced that the Government is still in discussions with the European Commission regarding the introduction of grants or Qualified Refundable Tax Credits that are compatible with the EU (State aid) rules and the Pillar Two rules.

For additional information, please refer to a report prepared by KPMG in Malta.

Netherlands

Consultation on draft bill to implement DAC8

On October 24, 2024, the Dutch Ministry of Finance launched a consultation on a draft bill to implement the Council Directive (EU) 2023/2226 (DAC8) into domestic law. Key takeaways include:

- In accordance with DAC8, the bill would introduce rules on due diligence procedures and reporting requirements for crypto-asset service providers. In-scope crypto-asset service providers would be required to collect and verify information from EU clients, in line with specific due diligence procedures. Subsequently, certain information would be reported to the relevant competent authorities. This information would then be exchanged by the tax authorities of the recipient Member State with the tax authorities of the Member State where the reportable user is tax resident.
- In accordance with DAC8, the bill would expand the scope of the automatic exchange of advanced cross-border rulings issued to individuals (DAC3).
- In accordance with DAC8, the bill would require disclosures of cross-border arrangements (DAC6) to include a description of the relevant arrangements and any other information that could assist the competent authority in assessing a potential tax risk.
- The bill also includes penalties for failures to comply with the requirements of the legislation of up to EUR 1,030,000.

The consultation runs until November 11, 2024.

To comply with DAC8, the domestic legislation must be implemented by December 31, 2025, and the rules should be applied from January 1, 2026 (with some exceptions). For more information about DAC8, please refer to Euro Tax Flash Issue 532.

Letter submitted to Parliament on the Pillar Two impact on Dutch tax incentives

On October 25, 2024, the Dutch State Secretary of Tax Affairs submitted to the Parliament a letter outlining the possible impact of Pillar Two implementation on Dutch tax incentives. Key takeaways include:

- *Limited impact on existing incentive regimes:* the state secretary acknowledged that the minimum tax could potentially undermine the policy objectives of certain existing tax regimes, such as the innovation box regime and the tonnage tax scheme. However, the state secretary expects a limited impact from the minimum tax rules due to the EUR 750 million annual revenue threshold and due to the standard 25.8 percent corporate income tax rate in the Netherlands (based on which most companies' effective tax rates would remain above 15 percent even under consideration of certain tax incentives).
- *Qualified tax credits:* The state secretary looked into the question of whether a qualified tax credit should be introduced by the Netherlands, especially since other countries are considering or implementing such tax credits. According to the state secretary, the assessment of whether a tax credit would be required, requires a careful analysis of the benefit and necessity of such tax credit (taking into consideration the scope, design and objectives). Moreover, the state secretary notes that the feasibility, legal sustainability (including international and European frameworks,

and the EU State-aid rules) and budgetary consequences should be considered. As such, the state secretary concludes that further assessment would be required.

Norway

National Budget introduces a UTPR as from 2025

On October 7, 2024, as part of the National Budget 2025, the Norwegian government proposed to introduce the UTPR into the Norwegian Act of Global Minimum Tax, which is effective since 2024. The Norwegian Pillar Two rules currently provide for an IIR and DMTT, which apply for financial years starting on or after December 31, 2023.

The proposed amendments follow closely the provisions that were included in the public consultation in June 2024 (for previous coverage, please refer to E-News Issue 197):

- the UTPR would apply to financial years starting after December 31, 2024, and would be collected in the form of an additional top-up tax;
- the proposal provides for a mechanism to allocate the UTPR among local constituent entities, based on the number of employees and tangible fixed assets of those entities;
- a local group member can be designated to pay the top-up tax and file the local tax return on behalf of all minimum tax group members; and
- the proposal introduces the UTPR Safe Harbour (i.e., top-up tax deemed to be zero for fiscal years which run no longer than 12 months and begin on or before December 31, 2025, and end before December 31, 2026, if the UPE jurisdiction has a CIT rate of at least 20 percent).

For more information, please refer to an report (in Norwegian) prepared by KPMG in Norway.

Amendments to exit tax rules published as part of National Budget 2025

On October 7, 2024, the Norwegian government published as part of the 2025 National Budget proposed amendments to the exit tax rules that were initially published for consultation on March 20, 2024. Key takeaways include:

- exit tax must generally be paid no later than 12 years after emigration (regardless of whether the latent gains of shares and certain other assets have been realized), unless the taxpayer returns to Norway such that the taxpayer is considered again as a tax resident within such twelve year-period;
- exit tax would only be applicable to the amount of capital gains exceeding the threshold of NOK 3 million (approximately EUR 253,000). The March proposal had previously provided for a threshold of NOK 500,000 (approximately EUR 42,000);
- in cases where an emigrant dies, the tax may be waived, provided that the place of tax residency of the heirs is Norway, or if the heirs move back to Norway within the twelve year period;
- a taxpayer may use the shares as collateral for the exit tax claim;
- the exit tax has to be paid alongside any distribution of dividends with a view to prevent arrangement where taxpayers would distribute dividends whilst living outside Norway, and sell the shares at a lower value after having moved back to Norway.

In general, the measures will apply to exits and transfers as from March 20, 2024 (subject to exceptions regarding the taxation of heirs and dividend distributions).

For more information, please refer to a March 2024 and October 2024 report (in Norwegian) prepared by KPMG in Norway.

Poland

Plans to reform Polish tax incentives system

On October 4, 2024, the government announced an envisaged reform of the Polish tax incentives system in light of the global Pillar Two implementation.

According to statements made during a press conference, the government is considering the introduction of a cash grant regime as an alternative to the current Polish Investment Zone regime (exemption from Corporate Income Tax on qualifying investments) and R&D tax credit regime. Under consideration of Pillar Two rules, the government deems the current system less attractive for larger groups, which may face top-up tax exposure where the exemption or credit would reduce the amount of Covered Taxes and, thus, may drive down the GloBE ETR below 15 percent in Poland.

Based on the government's presentation, the new system would offer cash grants that would be provided to taxpayers on an annual basis over a period of 15 years. The amount of financial support would depend on the investment value, the location, quality criteria as well as annual revenue and gross profitability (i.e., no grants would be given in unprofitable years). In addition, the option to enable taxpayers to settle existing R&D tax relief as part of the current tax or on the basis of an application for a refund of the unused relief (within three years from the year in which the eligible costs regarding the relief were recognized) is also being considered.

According to the government, the new system would be designed with the aim to meet the requirements to be considered GloBE income for Pillar Two purposes.

For additional information, please refer to a report prepared by KPMG in Poland.

Portugal

Pillar Two bill passed by Parliament

On October 18, 2024 the Portuguese Parliament passed the bill transposing the EU Minimum Tax Directive into domestic legislation. As a final legislative step, the bill must be published in the Official Gazette. The bill is generally aligned with the EU Minimum Tax Directive and would introduce a DMTT and an IIR, which would apply for fiscal years beginning on or after January 1, 2024, as well as an UTPR which would apply for fiscal years beginning on or after January 1, 2025. A public consultation on the bill was held in July 2024 (for previous coverage, please refer to E-News Issue 198).

Portugal is one of the countries that has failed to transpose the EU Minimum Tax Directive into domestic legislation by December 31, 2023. Therefore, Portugal, together with Cyprus, Poland and Spain, were referred by the European Commission to the CJEU on October 3, 2024. For previous coverage, please refer to E-News Issue 201).

For information on the current status of implementation of the EU Minimum Tax Directive into the national law of Member States, please refer to the implementation tracker in KPMG's Digital Gateway.

Draft 2025 Budget Bill submitted to Parliament

On October 10, 2024, the Portuguese government submitted to the Parliament the draft 2025 Budget Bill. Key takeaways from a corporate income tax perspective include:

- *Corporate tax rates:* the bill proposes a reduction of the general corporate tax rate from 21 percent to 20 percent and a reduction of the reduced corporate tax rate for small and medium-sized enterprises (SMEs) from 17 percent to 16 percent for the first EUR 50,000 of taxable income.
- *Equity allowance:* the bill proposed an amendment to the Portuguese equity allowance, such that the annual deduction will be determined based on the net increase in equity multiplied by the average 12-month EURIBOR rate

plus a spread of 2 percent, regardless of the size of the company (currently 1.5 in certain cases). In addition, the deduction will be increased to 50 percent in 2025 (previously set to 30 percent – see E-News Issue 186).

- *Increased deduction for employment costs:* the tax incentive for salary/wage increases will apply where the average annual salary/wage is increased by at least 4.7 percent (currently 5 percent). The tax incentive provides for a deduction of 200 percent (currently 150 percent) of the costs for salary/wage increases, though this is capped at a maximum amount per worker per year of five times the national minimum monthly wage (currently four times).

The bill is subject to approval of the Parliament. If adopted, the measures would generally apply as from January 1, 2025.

Slovakia

Changes to corporate tax rates signed into law

On October 18, 2024, the President of Slovakia, signed into law a bill to amend certain acts improving public finances, which includes various tax measures. Key corporate income tax measures include:

- An increase of the corporate income tax rate from 21 percent to 24 percent (2 percent higher than the earlier proposal) for taxpayers with a taxable income that exceeds EUR 5 million;
- A reduction of the reduced corporate income tax rate from 15 percent to 10 percent for taxpayers whose taxable income does not exceed EUR 100,000 (currently EUR 60,000);
- A reduction of the dividend withholding tax rate from 10 percent to 7 percent on dividends paid to individuals.

In addition, the bill for the introduction of a financial transaction tax (FTT) was signed into law by the President. The applicable rates depend on the transaction type. The FTT rate will be 0.4 percent, with a maximum of EUR 40 per transaction, except for cash withdrawals in a bank or from an ATM, which will be subject to a tax rate of 0.8 percent, and the use of payment cards, which will be subject to an annual tax of EUR 2.

In general these rules will enter into force as from January 1, 2025. For more information, please refer to a report prepared by KPMG in Slovakia and our previous coverage in E-News Issue 201.

Spain

Consultation of draft bill to implement DAC8 rules

On September 17, 2024, the Spanish Council of Ministers launched a consultation on a draft bill to transpose Council Directive (EU) 2023/2226 (DAC8) into domestic law. Key takeaways include:

In accordance with DAC8, the bill would introduce rules on due diligence procedures and reporting requirements for crypto assets service providers. In-scope crypto-asset service providers would be required to collect and verify information from EU clients, in line with specific due diligence procedures. Subsequently, certain information would be reported to the relevant competent authorities. This information would then be exchanged by the tax authorities of the recipient Member State with the tax authorities of the Member State where the reportable user is tax resident. The amendments related to the Spanish DAC8 implementation are proposed to take effect on January 1, 2026.

The deadline for submitting feedback to the public consultation was October 9, 2024.

For more information on the Spanish rules, please refer to a report prepared by KPMG in Spain. For more information about DAC8, please refer to Euro Tax Flash Issue 532.

EU Financial Services Tax Perspectives Webcast – replay now available

On October 8, 2024, KPMG held the latest EU Financial Services Tax perspectives session as part of the Future of Tax & Legal webcast series.

With the influx of various tax initiatives in recent years from both the Organization for Economic Co-operation and Development (OECD) and European Union (EU), multinational financial services organizations continue to face a rapidly shifting regulatory landscape.

With that in mind, a panel of KPMG tax professionals shared their insights with respect to some of the latest proposals that are likely to impact asset managers, banks, and insurers, including a closer look at:

- State of play of key EU direct tax initiatives including the direction of EU tax policy following the recent European Parliament elections and the change in the Presidency of the Council.
- CRD VI – what does it mean for tax?
- EU case law update focused on withholding tax developments.

The replay of the webcast is available on the event page.

Where are we now in BEPS 2.0? – replay now available

On October 1, 2024, KPMG held its latest webcast focused on OECD's Pillar Two initiative. A panel of KPMG tax professionals provided:

- An update on where we are for all elements of the BEPS 2.0 project, including Amounts A and B, GloBE and the Paris meeting on the Subject to Tax Rule.
- What businesses are finding in implementing the GloBE rules including technology tools.
- Developments in the EU and looking forward in the US.

The replay of the webcast is available on the event page.

Talking tax series

With tax-related issues rising up board level agendas and developing at pace, it's more crucial than ever to stay informed of the developments and how they may impact your business.

With each new episode, KPMG Talking Tax delves into a specific topic of interest for tax leaders, breaking down complex concepts into insights you can use, all in under five minutes. Featuring Grant Wardell-Johnson, KPMG's Global Head of Tax Policy, the bi-weekly releases are designed to keep you ahead of the curve, empowering you with the knowledge you need to make informed decisions in the ever-changing tax landscape.

Please access the dedicated KPMG webpage to explore a wide range of subjects to help you navigate the ever-evolving world of tax.

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