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24 May 2024



HIGHLIGHTS

- **GloBE rules**
 - Developments in Belgium, Ireland, UK, and several other European jurisdictions
- **4 international tax cases**
 - From France, UK, Canada, and Kenya
- **US government does not support global minimum tax on billionaires**
 - What happens next?

HAPPY FRIDAY!

Nikki Haley does a 180; Sunak talks in the rain; and AI's voice clone is lost in translation!

Meanwhile, in the tax world ...

Speedy 1 is not Kwik enough; Belgium wins the registration race; Beijing will rule in future; Yellen favours billionaires; DAC investment continues through GAAR; and Socobelec is deemed to lose!

But at the end of the week, the most important question is this: "Has AI cloned your voice?"

Have a great weekend!

Steve

THIS WEEK'S PODCAST

(For ITB video subscribers, please log in to access the video and documents/reports)

1. GloBE news
2. Other global developments
3. Asia Pacific
 - China
4. Europe
 - Belgium, EU, France, Iceland, Netherlands, Norway, Russia, UK
5. Africa
 - Ghana, Kenya
6. Middle East & Central Asia
 - Bahrain, UAE
7. Americas
 - Canada
8. Treaty news

ITB series on Pillar One

- **Report on Amount B in Pillar One** (ITB, 23 February 2024)
- **Consultation document on Amount B in Pillar One** (ITB, 28 July 2023)
- **Draft MLC provisions for commitments on DSTs and other relevant similar measures** (ITB, 6 January 2023)
- **Consultation document on Amount B in Pillar One** (ITB, 16 December 2022)
- **Progress Report on Amount A in Pillar One** (ITB, 22 July 2022)
- **Draft model rules for Amount A in Pillar One:**
 - Tax certainty (ITB, 10 June 2022)
 - Regulated Financial Services exclusion from scope (ITB, 13 May 2022)
 - Extractives exclusion from scope (ITB, 22 April 2022)
 - Scope (ITB, 8 April 2022)
 - Tax base determinations (ITB, 25 February 2022)
 - Nexus and revenue sourcing (ITB, 11 February 2022)
- **Inclusive Framework's final agreement on Pillars One & Two** (ITB, 15 October 2021)

ITB series on Pillar Two

- **GloBE Implementation Framework:**
 - GloBE Information Return (ITB, 28 July 2023)
 - Tax Certainty for the GloBE rules (ITB, 13 January 2023)
 - GloBE Information Return (ITB, 13 January 2023)
 - Guidance on Safe Harbours and Penalty Relief (ITB, 6 January 2023)
- **GloBE model rules:**
 - December 2023 Administrative Guidance on GloBE rules: Transitional filing deadlines, and Simplified Calculation Safe Harbour (ITB, 26 April 2024)
 - December 2023 Administrative Guidance on GloBE rules: Allocation of blended CPC taxes (Part 1 & 2) (ITB, 5 & 12 April 2024)
 - December 2023 Administrative Guidance on GloBE rules: Additional guidance on application of GloBE rules (ITB, 22 March 2024)
 - December 2023 Administrative Guidance on GloBE rules: Transitional CbCR Safe Harbour (Parts 1 to 4) (ITB, 19 January; 16 February; 1 & 8 March 2024)
 - GloBE rules commence operation in 2024 (ITB, 12 January 2024)
 - December 2023 Administrative Guidance on GloBE rules: overview (ITB, 22 December 2023)
 - July 2023 Administrative Guidance on GloBE rules: Transitional UTPR Safe Harbour & Summary of Safe Harbours (ITB, 8 December 2023)
 - July 2023 Administrative Guidance on GloBE rules: QDMTT Safe Harbour (Parts 1 & 2) (ITB, 10 & 17 November 2023)
 - July 2023 Administrative Guidance on GloBE rules: QDMTTs (Parts 1 to 6) (ITB, 15, 22 & 29 September; 8 & 27 October; 3 November 2023)
 - July 2023 Administrative Guidance on GloBE rules: Substance-based Income Exclusion (Parts 1 & 2) (ITB, 18 & 25 August 2023)
 - July 2023 Administrative Guidance on GloBE rules: Tax credits (Parts 1 to 3) (ITB, 4, 11 & 18 August 2023)
 - July 2023 Administrative Guidance on GloBE rules: overview (ITB, 28 July 2023)
 - Administrative Guidance on GloBE rules: Transition (Parts 1 to 3) (ITB, 16 & 23 June; 14 July 2023)
 - Administrative Guidance on GloBE rules: Income & taxes (Parts 1 to 8) (ITB, 31 March; 14, 21 & 28 April; 5, 12 May; 2 & 9 June 2023)
 - Administrative Guidance on GloBE rules: Scope (Parts 1 to 3) (ITB, 10, 17 & 24 March 2023)
 - Administrative Guidance on GloBE rules: Allocation of taxes arising under Blended CPC Tax Regimes (ITB, 3 March 2023)
 - Administrative Guidance on GloBE rules: QDMTTs (Parts 1 & 2) (ITB, 10 & 24 February 2023)
 - Art. 7.4 on ETR computation for Investment Entities (ITB, 2 December 2022)
 - Corporate Restructurings and Holding Structures (Parts 1 to 7) (ITB, 23 & 30 September; 7, 14 & 21 October; 11 & 18 November 2022)
 - Scope (Parts 1 & 2) (ITB, 24 June; 1 July 2022)
 - Charging Provisions (Parts 1 to 5) (ITB, 6, 13 & 20 May; 10 & 17 June 2022)
 - Computation of Effective Tax Rate and Top-up Tax (Parts 1 to 6) (ITB, 18 & 25 March; 1, 8, 22 & 29 April 2022)
 - Flow-through Entities and Hybrid Entities (ITB, 4 March 2022)
 - Computation of Adjusted Covered Taxes (Parts 1 to 9) (ITB, 11, 18 & 25 February; 29 July; 5, 12, 19 & 26 August; 16 September 2022)
 - Computation of GloBE Income or Loss (Parts 1 to 4) (ITB, 7, 14, 21 & 28 January 2022)
- **Subject to Tax Rule (STTR):**
 - STTR (Part 4) (ITB, 15 December 2023)
 - STTR (Parts 1 to 3) (ITB, 6 & 20 October; 3 November 2023)
 - Subject to Tax Rule (STTR): overview (ITB, 28 July 2023)

WORTH READING

Muhammad Ashfaq Ahmed, Hira Nazir, and Mustafa Haider
"UN MTC Article 15: Reconciling the Global North's 'Digital Norm' With the Global South's 'Digital Freedom': Will the Rising Tide Lift All Boats?"
Interfax, Kluwer, 2024 (Vol. 52), Issue 6 & 7.

Christian Engelen
"Stricter Transfer Pricing Rules for German Inbound Financing"
Tax Notes International, Tax Analysts, 13 May 2024.

Tommaso Faccio & Jayati Ghosh
"Why Should EU Countries Support a UN Framework Convention on International Tax Cooperation?"
Interfax, Kluwer, 2024 (Vol. 52), Issue 5.

INTERNATIONAL TAX QUIZ

THIS WEEK'S NEW QUIZ

ACo, a company located in jurisdiction A, is a Constituent Entity in an MNE Group which is "within scope" of the GloBE rules.

BCo, a company located in jurisdiction B, is also a Constituent Entity in the same MNE Group. ACo owns 100% of the shares in BCo.

BCo is treated as fiscally transparent under the jurisdiction A corporate income tax law.

Jurisdictions A and B have a corporate income tax rate of 12% and 20%, respectively. Jurisdiction A provides a foreign tax credit for foreign tax incurred on foreign source taxable profits.

For the 2024 fiscal year:

- BCo derives pre-tax profits of 100. It has no "permanent differences".
- BCo pays a dividend of 30 (out of 2023 profits) to ACo. Dividend withholding tax of 3 is deducted by BCo and remitted to the jurisdiction B tax authorities.
- BCo incurs interest of 10 on a loan from ACo. Under the terms of the loan agreement, BCo "grosses up" the interest for the jurisdiction B withholding tax of 10%. Thus, BCo pays 10 to ACo and 1.1 to the jurisdiction B tax authorities.

Based on this limited information:

- Q1: Which taxes will each of ACo and BCo take into account in performing the Simplified ETR computation under the Transitional CbCR Safe Harbour?
- Q2: Which taxes will each of ACo and BCo take into account in computing their respective ETRs under the GloBE rules?

Answer in next ITB email alert!

LAST WEEK'S QUESTION

XCo, a company located in jurisdiction X, is a Constituent Entity in an MNE Group which is "within scope" of the GloBE rules.

YCo, a company located in jurisdiction Y, is also a Constituent Entity in the same MNE Group.

Each of Jurisdiction X and Y has a corporate income tax rate of 20%.

XCo manufactures and sells goods to YCo. In each of years 1, 2 and 3, the consideration paid by YCo to XCo for the purchase of the goods is EUR 100m. This amount is reflected in the respective financial statements of XCo and YCo, in each of years 1, 2 and 3.

In year 4, prior to filing the corporate income tax returns in jurisdictions X and Y, the MNE Group agrees a bilateral APA (BAPA) with the tax authorities in jurisdictions X and Y. The BAPA applies to years 1 to 5 (i.e., there is a roll-back to years 1, 2 and 3). Under the BAPA, the arm's length consideration for the purchase of the goods is agreed as EUR 90m for each of years 1, 2 and 3.

Based on this information, what impact will implementation of the BAPA have on the GloBE ETRs of XCo and YCo, in each of years 1, 2 and 3?

LAST WEEK'S ANSWER

Para. 99 of the Comm to Art. 3.2.3 directs that Art. 4.6.1 apply to implement the transfer pricing changes under a bilateral APA (BAPA).

Art. 4.6.1 distinguishes between 2 situations: (1) increases and non-material decreases in Covered Taxes, and (2) material decreases in Covered Taxes.

YCo falls within situation (1): the BAPA results in an increase of EUR 2m in Covered Taxes in each of years 1, 2 and 3. Art. 4.6.1 requires that the adjustments to Covered Taxes and GloBE Income be made to YCo in the current Fiscal Year – i.e., year 4. Thus, in year 4, YCo's ETR will be computed, after: (i) increasing Covered Taxes by EUR 6m, and (ii) increasing GloBE Income by EUR 30m. There will be no adjustments to YCo's ETR in years 1, 2 and 3.

In contrast, XCo falls within situation (2): the BAPA results in a material decrease (i.e., EUR 1m or more) in Covered Taxes in each of years 1, 2 and 3. Art. 4.6.1 requires that the adjustments to Covered Taxes and GloBE Income be made to XCo in each of years 1, 2 and 3. Thus, in each of those years, XCo's ETR will be recalculated, under Art. 5.4.1, by: (i) decreasing Covered Taxes by EUR 2m, and (ii) decreasing GloBE Income by EUR 10m. Any amount of incremental Top-up Tax resulting from such recalculations shall be treated as Additional Current Top-up Tax under Art. 5.2.3 in year 4: Art. 5.4.1.

Do you agree?



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