

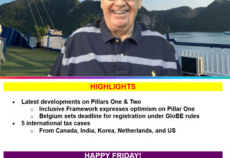
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31 May 2024



HIGHLIGHTS

- Latest developments on Pillars One & Two
- Inclusive Framework expresses optimism on Pillar One
- Belgium sets deadline for registration under GloBE rules
• 5 international tax cases
- From Canada, India, Korea, Netherlands, and US

HAPPY FRIDAY!

Trump is trumped by a New York jury; Robert de Niro shows that actors always need a script; and North Korea floats its, um, garbage!

Meanwhile, in the tax world ...

IF feigns confidence; Royal Bank of Scotland (that well-known Dutch bank) loses to an explanation; Aeroplan Miles are no gift; Meyer, Borgman researches, but with no success; and Korea's vaccine does not provide immunisation against PE status!

But at the end of the week, the most important question is this: "Will Trump's conviction help or hurt his election campaign?"

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. Pillar One
3. Other global developments
4. Asia Pacific
- India, Korea
5. Europe
- EU, Germany, Luxembourg, Netherlands, Russia
6. Americas
- Canada, US
7. 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 CFC 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 5) (ITB, 15, 22 & 29 September; 6 & 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 CFC 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

Miriam Friel
'How Safe Are Insurers on Pillar Two?'
Finance and Capital Markets, IBFD, 2024 (Vol. 25), No. 1.

Marcelo H.B. Moura
'Beyond State Aid: A Transfer Pricing Analysis for the Amazon Case'
International Tax Studies, IBFD, 2024 (Vol. 7), No. 3.

INTERNATIONAL TAX QUIZ

THIS WEEK'S NEW QUIZ

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. XCo owns 100% of the shares in YCo.

Jurisdiction X has a 20% corporate income tax, and a 15% QDMTT. The corporate income tax includes CFC rules and a foreign tax credit.

Jurisdiction Y has a 5% corporate income tax, and a 15% QDMTT.

XCo is a pure holding company. Its only source of income is dividends received from YCo.

YCo carries on a trading business. It buys goods from, and sells goods to, other members of the MNE Group.

In a particular fiscal year:

- XCo derives no profits (i.e., it receives no dividends from YCo).
• YCo derives 100 of pre-tax profits. Please assume that there are no permanent or timing differences vs. the corporate income tax laws of jurisdictions X and Y, respectively.
• XCo includes 100 in its jurisdiction X taxable income, under the CFC rules.

Based on this limited information, what amounts of corporate income tax and QDMTT will each of XCo and YCo be required to pay in respect of this fiscal year?

Answer in next ITB email alert!

LAST WEEK'S QUESTION

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 or timing differences vs. the corporate income tax laws of jurisdictions A and B, respectively.
• 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 1.11 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?

LAST WEEK'S ANSWER

1. BCo's pre-tax profits of 100: With the relative corporate income tax rates and the jurisdiction A FTC, it is unlikely that there will be any ACo jurisdiction A tax in regard to BCo's pre-tax profits of 100. However, to the extent that there is, then:
(Q1) Simplified ETR: The tax will be retained by ACo.
(Q2) GloBE ETR: As BCo is a Hybrid Entity, ACo's jurisdiction A tax (if any) will be allocated to BCo, under Art. 4.3.2(d). To the extent that BCo derives Passive Income, the amount allocated to BCo might be capped by Art. 4.3.3.

BCo will incur 20 of jurisdiction B corporate income tax on its pre-tax profits of 100:

(Q1) + (Q2): For both the Simplified ETR and the GloBE ETR, the tax will be retained by BCo.

2. BCo's dividend of 30: As BCo is treated as fiscally transparent by jurisdiction A, the dividend will not be recognised for jurisdiction A corporate income tax purposes. Thus, there will be no jurisdiction A tax on the dividend. In regard to the jurisdiction B DWT of 3:
(Q1) Simplified ETR: The jurisdiction B DWT of 3 will be retained by ACo.
(Q2) GloBE ETR: The jurisdiction B DWT of 3 will be allocated to BCo, under Art. 4.3.2(a).

3. BCo's interest payment of 10: As BCo is treated as fiscally transparent by jurisdiction A, the interest will not be recognised for jurisdiction A corporate income tax purposes. Thus, there will be no jurisdiction A tax on the interest. In regard to the jurisdiction B IWT of 1.11:
(Q1) Simplified ETR: The tax will be retained by ACo - it will not be allocated to BCo. See Note.
(Q2) GloBE ETR: The tax will be retained by ACo - it will not be allocated to BCo. See Note.

Note: For both the Simplified ETR and the GloBE ETR, the IWT of 1.11 will qualify as Covered Tax only if it is included in ACo's income tax expense. If this does not occur, and instead ACo accounts for 10 of interest income and no related tax (and the 1.11 is accounted by BCo), then the 1.11 will not qualify as Covered Tax for either Simplified ETR or GloBE ETR purposes.

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