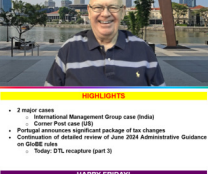


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12 July 2024



**HIGHLIGHTS**

- 2 major cases
  - International Management Group case (India)
  - Corner Post case (US)
- Portugal announces significant package of tax changes
- Continuation of detailed review of June 2024 Administrative Guidance on GloBE rules
  - Today: DTL recapture (part 3)

**HAPPY FRIDAY!**

"Vice-President Trump" and "President Putin of Ukraine"

Meanwhile, in the tax world ...

Portugal finally moves the globe, New Zealand allows a section 304, the International Management Group bifurcates a win, Peru releases its latest catalogue, and time stands still for the IRS!

But at the end of the week, the 2 most important questions are these: "England or Spain? Argentina or Colombia?"

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. June 2024 Administrative Guidance on GloBE rules: DTL recapture (part 3)
4. Asia Pacific
  - Hong Kong, India, New Zealand
5. Europe
  - EU, Greece, Portugal, Russia, Switzerland
6. Americas
  - Argentina, Peru, 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:
  - June 2024 Administrative Guidance on GloBE rules: DTL recapture (Parts 1 to 3) (ITB, 28 June; 5 & 12 July 2024)
  - 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 (Parts 1 & 3) (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; 6 & 27 October; 3 November 2023)
  - July 2023 Administrative Guidance on GloBE rules: Substance-based Income Exclusion (Parts 1 & 3) (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**

Jean Schaffner, Brin Rajathurai, Hugo Chan, and Guilhem Beovort  
"Impact of Pillar Two on Investment Funds: A Practical Overview"  
Finance and Capital Markets, IBFD, 2024 (Vol. 25), No. 2.

UF Tax Incubator  
"Considerations for Reforming the U.S. Transfer Pricing Rules"  
Tax Notes International, Tax Analysts, 8 July 2024.

Mees Vergouwen  
"Conflicts Between Directives and Tax Treaties: Which Obligation Takes Precedence? Three Perspectives"  
EC Tax Review, Kluwer, 2024M.

Robert Goulder  
"EU and U.S. Tariffs on Chinese EVs: Same Approach, Different Results"  
Tax Notes International, Tax Analysts, 8 July 2024.

**INTERNATIONAL TAX QUIZ**

**THIS WEEK'S NEW QUIZ**

ACo is a Constituent Entity in an MNE Group which is "within scope" of the GloBE rules.

For a particular balance sheet account, ACo chooses to track DTLs (for the purposes of the DTL recapture rule) by reference to an Aggregate DTL Category which consists of all the general ledger accounts which comprise the balance sheet account.

The net DTL movement in this Aggregate DTL Category for each of 10 years is:

- Year 1: 50
- Year 2: 60
- Year 3: 20
- Year 4: (30)
- Year 5: (20)
- Year 6: 70
- Year 7: 60
- Year 8: (50)
- Year 9: (80)
- Year 10: 30

ACo does not qualify to use the FIFO methodology. It therefore uses the LIFO methodology.

Based on this limited information, what will be the impact on ACo's Top-up Tax computations for years 1 through 10?

Please ignore issues which might arise with: (1) Short-term DTLs; and (2) Transition Year.

Answer in next ITB email alert!

**LAST WEEK'S QUESTION**

XCo is a Constituent Entity in an MNE Group which is "within scope" of the GloBE rules.

For a particular balance sheet account, XCo chooses to track DTLs (for the purposes of the DTL recapture rule) by reference to an Aggregate DTL Category which consists of all the general ledger accounts which comprise the balance sheet account.

The net DTL movement in this Aggregate DTL Category for each of 10 years is:

- Year 1: 130
- Year 2: 120
- Year 3: (40)
- Year 4: 0
- Year 5: 80
- Year 6: 90
- Year 7: (100)
- Year 8: 50
- Year 9: 70
- Year 10: 30

XCo qualifies to use the FIFO methodology, and it chooses to do so.

Based on this limited information, what will be the impact on XCo's Top-up Tax computations for years 1 through 10?

Please ignore issues which might arise with: (1) Short-term DTLs; and (2) Transition Year.

**LAST WEEK'S ANSWER**

This answer is based on paras. 90.22 & 90.23 of Comm to Art. 4.4.4 and Example 4.4.4-2 in the June 2024 AG ...

Outstanding Balance:

- Y1: 130.
- Y2: 130 + 120 = 250.
- Y3: 250 + (40) = 210.
- Y4: 210 + 0 = 210.
- Y5: 210 + 80 = 290.
- Y6: 290 + 90 = 380.
- Y7: 380 + (100) = 280.
- Y8: 280 + 50 = 330.
- Y9: 330 + 70 = 400.
- Y10: 400 + 30 = 430.

Maximum Justifiable Amount:

- Y6: 120 + 80 + 90 = 290.
- Y7: 80 + 90 = 170.
- Y8: 80 + 90 + 50 = 220.
- Y9: 80 + 90 + 50 + 70 = 290.
- Y10: 90 + 50 + 70 + 30 = 240.

Unjustified Balance:

- Y6: 380 - 290 = 90.
- Y7: 280 - 170 = 110.
- Y8: 330 - 220 = 110.
- Y9: 400 - 290 = 110.
- Y10: 430 - 240 = 190.

Unjustified Balance (yearly movement):

- Y6: 90.
- Y7: 20.
- Y8: 0.
- Y9: 0.
- Y10: 80.

Impact on Top-up Tax computations:

1. Y6 (Current Fiscal Year, CFY) corresponds to Y1 (Tested Fiscal Year, TFY): 90 is treated as DTL recapture in Y1. If reduction in Adjusted Covered Taxes (ACT) causes increase in Y1 Top-up Tax, it will be treated as Additional Current Top-up Tax in Y6: Art. 5.4.
2. Y7 (CFY) corresponds to Y2 (TFY): 20 is treated as DTL recapture in Y2. If reduction in ACT causes increase in Y2 Top-up Tax, it will be treated as Additional Current Top-up Tax in Y7: Art. 5.4.
3. Y10 (CFY) corresponds to Y5 (TFY): 80 is treated as DTL recapture in Y5. If reduction in ACT causes increase in Y5 Top-up Tax, it will be treated as Additional Current Top-up Tax in Y10: Art. 5.4.
4. Based on the facts, there is no reversal of recaptured DTLs (Art. 4.4.2(b)).

Do you agree?



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