

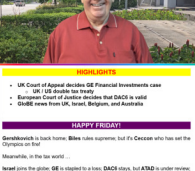
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2 August 2024



HIGHLIGHTS

- UK Court of Appeal decides **OE** Financial Investments case
 - UK / US double tax treaty
- European Court of Justice decides that **DivCS** is valid
- **GloBE** news from UK, Israel, Belgium, and Australia

HAPPY FRIDAY!

Gershkovich is back home; **Biles** rules supreme; but it's **Ceccon** who has set the Olympics on fire!

Meanwhile, in the tax world ...

Israel joins the globe; **OE** is stayed to a loss; **DACS** stays; but **ATAD** is under review; **maquiladoras** reach agreement; and the **UK** has a black hole!

But at the end of the week, the most important question is this: "Which country will win the most gold medals at the Paris Olympics - US, China or someone else?"

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. **G20**
3. **OE** Financial Investments case
4. Asia Pacific
 - Australia, Singapore
5. Europe
 - ECU, Estonia, EU, Italy, UK
6. Middle East & Central Asia
 - Saudi Arabia, UAE
7. Americas
 - Colombia, Mexico, US, Venezuela
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 DGTs and other relevant similar measures (ITB, 8 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, 26 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 4) (ITB, 26 June; 5, 12 & 18 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 CFC taxes (Parts 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)
 - July 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: GOMTT Safe Harbour (Parts 1 & 2) (ITB, 16 & 17 November 2023)
 - July 2023 Administrative Guidance on **GloBE** rules: GOMTTs (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 & 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, 18 & 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, 16, 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: GOMTTs (Parts 1 & 2) (ITB, 18 & 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)
 - Changing 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 6) (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, 26 July 2023)

WORTH READING

Reuven S. Avi-Yonah
 "Pillar 2 and Specific Benefits for Multinationals"
 Tax Notes International, Tax Analysts, 22 July 2024.

Krutika Prakash
 "The Indian Supreme Court's Ruling in *Neelie* and the Static Interpretation – An Aristotelian"
 Asia-Pacific Tax Bulletin, IBFD, 2024 (Vol. 30), No. 1.

Joachim Saldanha
 "California High Court's Tangled Take on Nondiscrimination"
 Tax Notes International, Tax Analysts, 22 July 2024.

INTERNATIONAL TAX QUIZ

THIS WEEK'S NEW QUIZ

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.

XCo has pre-Transition Year DTLs of 150 in the Aggregate DTL Category.

The net DTL movement in the Aggregate DTL Category for each of 16 years is:

- Y1: 50
- Y2: 80
- Y3: (50)
- Y4: (30)
- Y5: 80
- Y6: (50)
- Y7: (10)
- Y8: (10)
- Y9: 40
- Y10: (10)
- Y11: (50)
- Y12: (60)
- Y13: (10)
- Y14: (10)
- Y15: (10)
- Y16: (10)

XCo uses the LIFO methodology.

XCo makes an Unclaimed Accruals Annual Election, covering all DTLs in the Aggregate DTL Category, in each of years 2 and 5.

Based on this limited information, what will be the impact on **XCo**'s Top-up Tax in each of years 1 to 16?

Please ignore issues which might arise with Short-term DTLs.

Answer in next ITB email alert on 18 August 2024!

LAST WEEK'S QUESTION

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.

ACo has pre-Transition Year DTLs of 100 in the Aggregate DTL Category.

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

- Year 1: 50
- Year 2: 80
- Year 3: (50)
- Year 4: (10)
- Year 5: 80
- Year 6: (50)
- Year 7: 30
- Year 8: (40)
- Year 9: 60
- Year 10: 50

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

ACo makes an Unclaimed Accruals Annual Election, covering all DTLs in the Aggregate DTL Category, in each of years 2 and 5.

Based on this limited information, what will be the impact on **ACo**'s Top-up Tax in each of years 1 to 10?

Please ignore issues which might arise with Short-term DTLs.

LAST WEEK'S ANSWER

This answer is based on paras. 112.1 to 112.6 of Comm to Art. 4.4.7 and Examples 4.4.7.1 to 3 in the June 2024 AG ...

Reversals allocated to pre-Transition Year DTLs: Y3: (50)

- Y4: (10)
- Y6: (40)

Net DTL movement (after allocation to pre-Transition Year DTLs)

- Y1: 50
- Y2: 80
- Y3: 0
- Y4: 0
- Y5: 80
- Y6: (10)
- Y7: 30
- Y8: (40)
- Y9: 60
- Y10: 50

Exclusion of unclaimed DTL accruals:
 Y2: (80)
 Y5: (80)

Net DTL movement (after allocation to pre-Transition Year DTLs and after exclusion of unclaimed DTL accruals):

- Y1: 50
- Y2: 0
- Y3: 0
- Y4: 0
- Y5: 0
- Y6: (10)
- Y7: 30
- Y8: (40)
- Y9: 60
- Y10: 50

Outstanding Balance:

- Y1: 50
- Y2: 50
- Y3: 50
- Y4: 50
- Y5: 50
- Y6: 40
- Y7: 70
- Y8: 30
- Y9: 90
- Y10: 140

Maximum Justifiable Amount:

- Y6: 0
- Y7: 30
- Y8: 30
- Y9: 90
- Y10: 140

Unjustified Balance:

- Y6: 40
- Y7: 40
- Y8: 0
- Y9: 0
- Y10: 0

Unjustified Balance (yearly movement):

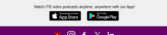
- Y6: 40
- Y7: 0
- Y8: (40)
- Y9: 0
- Y10: 0

Impact on Top-up Tax computations:

Y6 (Current Fiscal Year) corresponds to Y1 (Tested Fiscal Year): 40 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.

Y8: reversal of 40 of Y2 unclaimed DTL accrual of 80: if the 40 is reflected in current tax expense in Y6, the Y6 ACT will increase by 40.

Do you agree?



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