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16 August 2024



HIGHLIGHTS

- **US proposed regulations on dual consolidated loss rules:**
 - Interaction with other countries' GloBE rules
 - And a surprising DPL rule
- **Canada's proposed "treaty-override" provision for GloBE rules**
- **Germany's draft guidance on transfer pricing rules for interest deductibility**
 - A softer approach

HAPPY FRIDAY!

DDOS stops Trump; Jordan Chiles loses time; and Raygun tries to break the bullies!

Meanwhile, in the tax world ...

Canada overrides treaties; European General Court is asked to add value; Germany softens its approach; the public rules in Kenya; and it's DCL vs. DPL in the US!

But at the end of a long hot summer's day, the most important question is this: "Should companies encourage employees to take siestas?"

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
 - Australia, Japan, Korea, Malaysia
4. Europe
 - ECJ, EU, Germany, Slovak Republic, UK
5. Africa
 - Kenya, South Africa
6. Middle East & Central Asia
 - Bahrain
7. Americas
 - Canada, Chile, Peru, US
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:**
 - June 2024 Administrative Guidance on GloBE rules: DTL recapture (Parts 1 to 5) (ITB, 28 June; 5, 12 & 19 July; 2 August 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)
 - 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 & 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

Reuven Avi-Yonah and Ajitesh Kir
"Building the Gateway: Why the Two Pillars Need Each Other"
Intertax, Kluwer, 2024 (Vol. 52), Issue 10.

Jack Sheehan and Jidapa Tiamsutikam
"Thailand's Emergence as a Location for Holding and Financing Activities, and Intragroup Services"
Tax Notes International, Tax Analysts, 5 August 2024.

Lukas Hrdlicka
"The Pillar 2 Directive and Qualified Domestic (Minimum) Top-up Tax Puzzle"
Intertax, Kluwer, 2024 (Vol. 52), Issue 10.

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. ACo is the only Constituent Entity located in jurisdiction A.

BCo, a company located in jurisdiction B, is also a Constituent Entity in the same MNE Group. BCo is the only Constituent Entity located in jurisdiction B.

Prior to entering into the loan transaction described below, ACo has these expected tax numbers for the current year:

- GloBE Income (GI): 1,000
- Adjusted Covered Taxes (ACT): 130
- Substance-based Income Exclusion (SBIE): 900
- Taxable income (for jurisdiction A corporate income tax (CIT) purposes): 1,000
- CIT: 120 (12% CIT rate)
- Excess interest expense brought forward from previous years (available for deduction against current year interest income, if any (currently, nil)): 100

Also prior to entering into the loan transaction described below, BCo has these expected tax numbers for the current year:

- GI: 200
- ACT: 10
- SBIE: 0
- Taxable income (for jurisdiction B CIT purposes): 200
- CIT: 10 (5% CIT rate)

At the start of the current year, ACo lends money to BCo. The current year's interest expense, which is deductible for jurisdiction B CIT purposes, is 100. Please assume that the full amount of 100 of ACo's excess interest expense brought forward from previous years is deductible in the current year, against the 100 of ACo's interest income.

Based on this limited information, what amounts of Top-up Tax will arise for the current year in regard to jurisdictions A and B?

Answer in next ITB email alert!



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