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6 December 2024



HIGHLIGHTS

- Australian parliament passes legislation for public country-by-country reporting
- Collapse of French government makes fate of 2025 Budget unclear
- Netherlands issues decree on Amount B
- Continuation of review of June 2024 Administrative Guidance on GloBE rules
 - Today: Allocation of cross-border current taxes (part 3)

HAPPY FRIDAY!

Barrier loses confidence; under 16s are banned in **Australia**, and **Korea's** president thinks it's 1980!

Australia goes public; **EU** declares default; **Netherlands** adjusts for **Amount B**; **Switzerland** is not sure about 10 years; and major **US** importers get really nervous!

But at the end of the week, the most important question is this: "What was the Korean president trying to achieve?"

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: Allocation of Cross-border Current Taxes (part 3)
4. Asia Pacific
 - Australia, India, Japan, Malaysia, Papua New Guinea, Vietnam
5. Europe
 - EU, France, Germany, Ireland, Netherlands, Poland, Switzerland
6. Africa
 - Kenya, Liberia
7. Americas
 - Argentina, Brazil, 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: Allocation of Cross-border Current Taxes (Parts 1 to 3)** (ITB, 15 & 22 November; 6 December 2024)
 - **June 2024 Administrative Guidance on GloBE rules: Divergences between GloBE and accounting carrying values (Parts 1 to 7)** (ITB, 23 & 30 August; 6 & 13 September; 4, 11 & 18 October 2024)
 - **June 2024 Administrative Guidance on GloBE rules: DTL recapture (Parts 1 to 4)** (ITB, 28 June; 5, 12 & 19 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 GLoCR 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

- Xiaoli Ortega
"US and China Corporate Tax Implications for Pillar 2 Adoption"
Tax Notes Today International, Tax Analysts, 27 November 2024.
- Isabel Verlinden and Stefan De Baets
"The ECJ Apple Judgment: A Sour Taste Tain?"
International Transfer Pricing Journal, IBFD, 2025 (Vol. 32), No. 1.
- Yairv Brauner
"What Can the UN Do That the OECD Can't or Won't?"
Interfax, Kluwer, 2025 (Vol. 53), Issue 1.

INTERNATIONAL TAX QUIZ

THIS WEEK'S NEW QUIZ

ACo, a company located in jurisdiction A, owns 100% of the shares in XCo, a company located in jurisdiction X.

XCo is treated as a disregarded entity for jurisdiction A corporate income tax (CIT) purposes.

Under the jurisdiction A CIT law:

- Tax (15% rate) is imposed on both domestic source income and foreign source income
- Credit is given for foreign tax paid on foreign source income
- Cross-crediting is allowed and there is only one "basket" – i.e., credit is calculated on total foreign tax paid on total foreign source income
- Credit is limited to the lower of foreign tax paid and A CIT on foreign income (credit limitation)
- Credit cannot be used against A CIT on domestic source income

In a particular fiscal year:

- ACo directly derives 2,000 of domestic source revenue, and incurs 1,400 of expenses related to that revenue.
- ACo is entitled to a Qualified Refundable Tax Credit of 30. ACo uses this credit to reduce its A CIT liability.
- XCo derives 1,000 of revenue, and incurs 500 of expenses.
- Included in XCo's 1,000 of revenue is a payment of 200 from ACo. This amount is disregarded under the A-CIT law. Therefore, the resulting net amount of XCo's profits (1,000 – 200 – 500 = 300) is included in ACo's taxable income for A CIT purposes.

Based on this limited information, what amount of "Allocable Covered Taxes" (for the purposes of the allocation of cross-border current taxes under Art. 4.3.2) does ACo have for this fiscal year?

Answer in next ITB email alert!

LAST WEEK'S QUESTION

Parent Entity, a company located in jurisdiction P, owns 100% of the shares in (1) ACo, a company located in jurisdiction A; and (2) BCo, a company located in jurisdiction B.

ACo is treated as a disregarded entity for jurisdiction P corporate income tax (CIT) purposes.

Under the jurisdiction P CIT law:

- Tax is imposed on both domestic source income and foreign source income
- Credit is given for foreign tax paid on foreign source income
- Cross-crediting is allowed and there is only one "basket" – i.e., credit is calculated on total foreign tax paid on total foreign source income
- Credit is limited to the lower of foreign tax paid and P CIT on foreign income (credit limitation)
- Credit cannot be used against P CIT on domestic source income

In a particular fiscal year, ACo has gross revenue of 1,000, and gross expenses of 700.

Included in ACo's gross revenue of 1,000 are 2 receipts:

- 100 service fee income received from Parent Entity. This receipt is disregarded under the P CIT.
- 150 royalty income received from PCo, an unrelated company located in jurisdiction P. This 150 is treated as domestic source income under P CIT law.

In the same fiscal year, BCo pays 500 of service fees to Parent Entity. This 500 is treated as domestic source income under P CIT law.

Based on this limited information, what amount of "foreign source income" (for the purposes of the allocation of cross-border current taxes under Art. 4.3.2) does Parent Entity have for this fiscal year?

LAST WEEK'S ANSWER

References are to paras. 52.1 to 52.34 of Comm to Art. 4.3.2.

Preliminary point: ACo is a "Hybrid Entity" Art. 10.2.5.

(1) Parent Entity's income through ACo:

ACo has gross revenue of 1,000, and expenses of 700. Therefore, Parent Entity's prima facie "foreign source income" (for the purposes of Art. 4.3.2) ("FSI") is 300: para. 52.3 (use of "net" amounts).

100 service fee income received from Parent Entity: Although this amount is disregarded under P CIT law, it is included in ACo's GloBE Income or Loss. Thus, it is included in Parent Entity's FSI (para. 52.8) – i.e., no adjustment for this amount.

150 royalty income received from PCo: Although this amount is treated as domestic source income under P CIT law, it is included in ACo's GloBE Income or Loss. Thus, it is included in Parent Entity's FSI (para. 52.8) – i.e., no adjustment for this amount.

Therefore, as no adjustments are made for the 100 or the 150, Parent Entity's FSI remains at 300.

(2) Parent Entity's income from BCo:

Parent Entity receives 500 of service fees from BCo. The 500 is treated as domestic source income under P CIT law. It is therefore excluded from FSI: para. 52.2.

Thus, final answer: Parent Entity's FSI is 300.

Do you agree?



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