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28 February 2025



HIGHLIGHTS

- **US tax and trade announcements**
 - Tariffs on imports from EU, Canada, Mexico, and China
 - Plans to respond to foreign countries' DSTs
 - America First Investment Policy
- **International tax cases**
 - India, France, US

HAPPY FRIDAY!

Merz wins, BP rediscovers oil, and Prabowo does a DOGE!

Meanwhile, in the tax world...

US imposes a tariff on everything that moves, Gibraltar provides a choice, Samsung does not come in second, CBAM is simplified, time runs out for Greece and the UAE, and FedEx does a Loper Bright!

But at the end of the week, the most important point to note is this: if you want US security in the age of Trump, you should find a big deposit of critical minerals!

Have a great weekend!

Steve

THIS WEEK'S PODCAST

(For ITB video subscribers, please log in to access the video and documents/reports)

1. US tax and trade policies
2. Amount B
3. GloBE news
4. Other global developments
5. Asia Pacific
 - Australia, Hong Kong, India, Malaysia
6. Europe
 - EU, France
7. Middle East & Central Asia
 - Israel, Saudi Arabia
8. Americas
 - Canada, Chile, Costa Rica, US
9. 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, 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, 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 Deferred Taxes (Parts 1 to 3)** (ITB, 24 January; 14 & 21 February 2024)
 - **June 2024 Administrative Guidance on GloBE rules: Allocation of Cross-border Current Taxes (Parts 1 to 5)** (ITB, 15 & 22 November; 6, 13 & 20 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 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, 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: 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)
 - **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 9)** (ITB, 11, 18 & 25 February; 29 July; 5, 12, 19 & 26 August; 18 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

Gergely Csoboly and Gabriella Erdős
"QDMTT's Alignment With International Obligations, With Potential Deviations"
Intertax, Kluwer, Vol. 53, Issue 4.

Robert Goulder
"Reciprocal Tariffs: Making Sense of Trump's Hang-up With VAT"
Tax Notes International, Tax Analysts, 24 February 2025.

Jeroen Bijl
"The Margin as Compensation for a Service"
EC Tax Review, Kluwer, 2025/1.

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.

Jurisdiction A has a corporate income tax (CIT) rate of 10%, and it also imposes a 15% GDMTT.

Jurisdiction A allows a resident Constituent Entity to elect to be exempt from CIT and to be subject to the 15% GDMTT only.

Please assume that ACo's taxable income for CIT purposes and its GloBE Income for GDMTT purposes are both 1,000.

Would ACo pay less or more total jurisdiction A tax if it makes the election?

Answer in next ITB email alert!

LAST WEEK'S QUESTION

XCo is a Constituent Entity in an MNE Group, and is located in jurisdiction X.

Jurisdiction X imposes a 25% CIT rate and has a CFC tax regime (not a Blended CFC Tax Regime).

The jurisdiction X CFC tax regime provides for taxation of CFC income by including such income in the taxable income of the shareholder in the tax year immediately following the tax year in which the income is derived by the CFC. For the purposes of the CFC tax regime, "CFC income" is equal to Passive Income (as defined in Art. 10.1.1). A foreign tax credit is given for any tax incurred by the CFC in deriving the CFC income.

XCo owns 100% of the shares in YCo, which is located in jurisdiction Y.

Jurisdiction Y imposes a 5% CIT rate on Passive Income (as defined in Art. 10.1.1) and a 9% CIT rate on other income. YCo is the only Constituent Entity located in jurisdiction Y.

In year 1, YCo derives GloBE Income of 1,000, of which 500 is Passive Income (as defined in Art. 10.1.1) and 500 is other income.

In year 2, YCo derives GloBE Income of 1,500, of which 1,000 is Passive Income (as defined in Art. 10.1.1) and 500 is other income.

Based on these limited facts, how much of XCo's CFC tax is allocated to (1) YCo and (2) XCo, in each of years 1 and 2?

LAST WEEK'S ANSWER

See paras. 71.4 to 71.17 of Comm to Art. 4.4.1.

Year 1:

Income / not GloBE Income (GI): 0.
GI / not Passive Income (PI): 500.
GI / PI: 500.

Pre-FTC DTE: 500 x 25% = 125.
Recast to 15%: 125 x 15/25 = 75.
FTC: 500 x 5% = (25) (no recast).

Net CFC DTE allocable to YCo (before Art. 4.3.3 limit): 75 - 25 = 50.

ETR for Juris. Y (ignoring CFC regime): 70 / 1,000 = 7%.
Top-up Tax Percentage (TuTP) (ignoring CFC regime): 15% - 7% = 8%.

Art. 4.3.3 limit: 500 x 8% = 40.

Thus, in year 1: (1) 40 allocated to YCo, and (2) 10 allocated to XCo.

Year 2:

Before Art. 4.3.3 limit:

- Reversal of Year 1 allocation to YCo: (40).
- Allocation of current CFC tax: 125 - 25 = 100.
- Allocation of year 2 DTE:

Recast of pre-FTC DTE: 1,000 x 25% = 15/25 = 150.
FTC: 1,000 x 5% = (50) (no recast).
Net DTE: 150 - 50 = 100.

Art. 4.3.3 limit:

ETR for Juris. Y (ignoring CFC regime): 95 / 1,500 = 6.33%.
TuTP (ignoring CFC regime): 15% - 6.33% = 8.67%.
Art. 4.3.3 limit: 1,000 x 8.67% = 86.7.

Application of Art. 4.3.3 ordering rule:

- Reversal of year 1 allocation: (40)
- Current year CFC tax: 100 [Note: aggregate allocation, so far, is 60]
- Year 2 DTE: 26.7 can be allocated to YCo. Excess of 73.3 (100 - 26.7) allocated to XCo.

Thus, in year 2: (1) 66.7 allocated to YCo, and (2) 73.3 allocated to XCo.

Do you agree?



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