

International Tax News

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Welcome

Keeping up with the constant flow of international tax developments worldwide can be a real challenge for multinational companies. International Tax News is a monthly publication that offers updates and analysis on developments taking place around the world, authored by specialists in PwC's global international tax network.

We hope that you will find this publication helpful, and look forward to your comments.

Featured articles

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Responding to the potential business impacts of COVID-19

COVID-19 can cause potentially significant people, social and economic implications for organisations.

This link provides information on how you can prepare your organisation and respond.

In this issue

Legislation

Administrative

OECD/EU

Treaties

Legislation

Canada

Canadian Government releases 2022 federal budget

The Deputy Prime Minister and Minister of Finance, Chrystia Freeland, presented the government's budget on 7 April. There are no changes to corporate tax rates.

Pillar One

Pillar One will introduce new rules for allocating taxing rights between countries, to address challenges raised by the digital economy. The budget notes that Canada currently is working with its international partners to develop a multilateral convention to implement Pillar One rules, and will introduce implementing legislation once a multilateral agreement has been reached.

The budget also notes that if these rules have not come into force by 1 January 2024, Canada's proposed Digital Services Tax (DST) would take effect with respect to revenues earned as of 1 January 2022. The budget states that the government hopes and assumes the Pillar One rules will be implemented by 2024, making this DST unnecessary.

Pillar Two

Pillar Two will introduce a 15% global minimum tax. This tax generally will apply to MNEs with global revenues of at least €750 million. The budget announces that Canada will implement Pillar Two, along with a domestic minimum top-up tax (which will apply to Canadian members of MNE groups that are within the scope of Pillar Two). Draft legislation to implement Pillar Two will be released for consultation in the future. The income inclusion rule (IIR) and domestic minimum top-up tax would come into effect in 2023, with the effective date to be determined. The undertaxed profits rule (UTPR) would come into effect no earlier than 2024.

Interest coupon stripping

The 2022 Budget proposes an amendment to the interest withholding tax rules to ensure that the total interest withholding tax paid under an interest coupon stripping arrangement is the same as if the arrangement had not been undertaken.

The proposed rules apply to interest accrued on or after 7 April 2022 that is paid or payable by a Canadian resident borrower to an interest coupon holder. However, the application of the rules is deferred to 7 April 2023 where:

- the debt was issued by the Canadian resident borrower prior to 7 April 2022, and

- the payment is made to an interest coupon holder that deals at arm's length with the non-resident lender, and who acquired the interest coupon under an arrangement entered into before 7 April 2022

For more information see our **PwC Insight**.

PwC observation:

The 2022 Budget reconfirmed Canada's commitment to the two – pillar plan developed by the OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting. Taxpayers can consider providing comments on the Canadian implementation of the Pillar Two rules and the domestic minimum top-up tax.

Taxpayers who entered into interest coupon stripping transactions should consider the impact of the proposed amendment to the interest withholding tax rules.

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China

China releases new preferential tax policies for SMEs

During the first quarter of 2022, China launched a series of new preferential tax policies to relieve financial burdens on Small and Medium-Sized Enterprises (SMEs). Some of the Corporate Income Tax (CIT) provisions include:

- Where the annual taxable income of a qualified Small and Thin Profit Enterprise (STE) exceeds RMB 1 million, but does not exceed RMB 3 million, its annual taxable income would be cut by 75% and subject to CIT rate at 20%, with an effective CIT rate of 5% beginning January 1, 2022 until December 31, 2024.
- Effective from 1 January 2022, super deduction ratio of R&D expenses for CIT purposes was increased from 75% to 100% for Technological SMEs.
- New equipment and appliances acquired between 1 January 2022 and 31 December 2022 with unit value exceeding RMB 5 million could be expensed-off proportionately in one lump sum in the year of acquisition by eligible SMEs.

PwC observation:

To further vitalize market entities, China will intensify tax deduction efforts and launch targeted support measures this year, while also focusing on the high-quality development of the manufacturing industry, smaller businesses and scientific innovation.

According to the Government Work Report, tax refunds and cuts are expected to total RMB 2.5 trillion in 2022.



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Mexico

New rules to identify and document the controlling beneficiary

As of 1 January 2022, legal entities, trusts, as well as any other legal vehicles must obtain, keep and upon request of the Mexican Tax Authorities, provide as part of their accounting books and records, reliable, complete and updated information with respect to their controlling beneficiaries.

In addition, any other party (e.g., a Notary) taking place in a legal act, like the incorporation of an entity, trusts or any other legal figure in Mexico, as well as the members of the financial system, are also required to obtain this information and identify such controlling beneficiaries.

In all cases, the controlling beneficiary must be an individual (national or non-Mexican) and to determine who has this characteristic, both the Federal Tax Code and the administrative rules (i.e., Miscellaneous Tax Resolution), establish the parameters for their identification, as well as guidance on the information that must be kept as part of the accounting books and records, which include:

1. Documentation supporting the percentage of participation of the controlling beneficiaries in the capital of the legal vehicle.
2. The relationship or chain of ownership of said participation when the controlling beneficiary holds indirect participation through other legal entities or vehicles.
3. Name, date of birth, gender, nationality, tax residence, tax ID number and marital status. Among other details of the individuals.

This information can not only be difficult for taxpayers to obtain but for individuals to provide in terms of private and privilege information. Therefore, Mexican entities should consider how to provide timely access to the tax authorities and grant the facilities to access the information, records, data and documents related to the controlling beneficiaries when requested.

Failure to comply with this obligation can trigger penalties ranging from USD25k to USD100k per controlling beneficiary.

Taxpayers also could be denied clean tax compliance status, which could create business issues for some entities.

For more information see our **PwC Insight**.

PwC observation:

Legal entities should incorporate internal controls procedures to identify, obtain and keep the information and documentation with respect to the controlling beneficiaries of legal vehicles to avoid penalties for the noncompliance of this new obligation which entered into force on 1 January 2022.



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Portugal

Portugal Budget proposal targets patent box regime, tax incentives and start-ups

After the appointment of the government following the January elections, the 2022 State Budget Law proposal was presented to Parliament on April 13. The proposal includes new tax measures and amendments to the tax legislation.

Patent box regime: Increase of the corporation tax deduction

The Budget proposes to increase the deduction for Corporation Income Tax (CIT) purposes under the existing Patent Box regime to 85% (currently, 50%).

The Portuguese Patent Box regime, which is considered BEPS Action 5 compliant, applies to income derived from the use or exploitation of copyright from computer programs, as well as to patents, industrial models, and drawings registered on or after 1 July 2016.

Tax incentives

New tax credit for investment

Under this regime, companies incurring expenses in the acquisition of tangible assets, non-consumable biological assets, and intangibles, from 1 July to 31 December 2022 (or from the 7th to the end of the 12th month of the tax year for tax

years starting after 1 January 2022), would benefit from a tax credit equal to:

- i. 10% of the eligible expenses incurred in the tax year capped at the average of the eligible investments expenses incurred in the three previous tax years; and
- ii. 25% of the eligible expenses incurred in the tax year, on the excess of the amount mentioned in (i).

The tax credit would be capped at EUR 5 million of the eligible expenses and 70% of the CIT assessed. In addition, the tax credit could be carried forward for five years. To benefit from this incentive, the taxpayer may not distribute profits or terminate labour contracts based on collective redundancy or layoff beginning in the 2022 tax year and for a three-year period thereafter.

Extension of existing incentives

The contractual tax benefits scheme as well as the Tax Regime for Investment Support ('Regime Fiscal de Apoio ao Investimento' or RFAI) would be extended until 31 December 2027.

For more information see our **PwC Insight**.

PwC observation:

Parliament currently is discussing the Budget proposal. The proposed tax measures are likely to be enacted given the government's parliamentary majority. However, amendments and additional tax measures are possible following the hearings of relevant public and private institutions and organizations, and the subsequent parliamentary debate.



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United States

United States revokes MFN status for Russian and Belarusian goods

President Joe Biden on April 8 signed into law H.R. 7108, the 'Suspending Normal Trade Relations with Russia and Belarus Act.' Enactment came shortly after the Senate approved the legislation unanimously on April 7 and the House did so later that day by a vote of 420-3.

According to guidance issued April 11 by US Customs and Border Protection (CBP) through its Cargo Systems Messaging Service (CSMS):

- Effective for shipments entered or withdrawn for consumption on or after April 9, 2022, the rates of duty set forth in Column 2 of the Harmonized Tariff Schedule of the United States (HTSUS) shall apply to all products of the Russian Federation and of the Republic of Belarus.
- Pursuant to H.R. 7108, should the President increase the rates of duty applicable to products of the Russian Federation and of the Republic of Belarus above the Column 2 rates of duty, CBP will issue a follow-up CSMS message.

For prior coverage, for more information see our **PwC Insight**.

PwC observation:

Taxpayers should analyse the impact of these developments on their supply chains and monitor all developments in connection with the issuance of implementing guidance. Top US imports from Russia include oil and petroleum products; metals such as palladium, rhodium, iron, steel, aluminium, lead, nickel, and copper; chemicals and fertilizers; crabs and other seafood; and diamonds.



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Administrative

Hong Kong

Hong Kong Revenue's taxonomy package

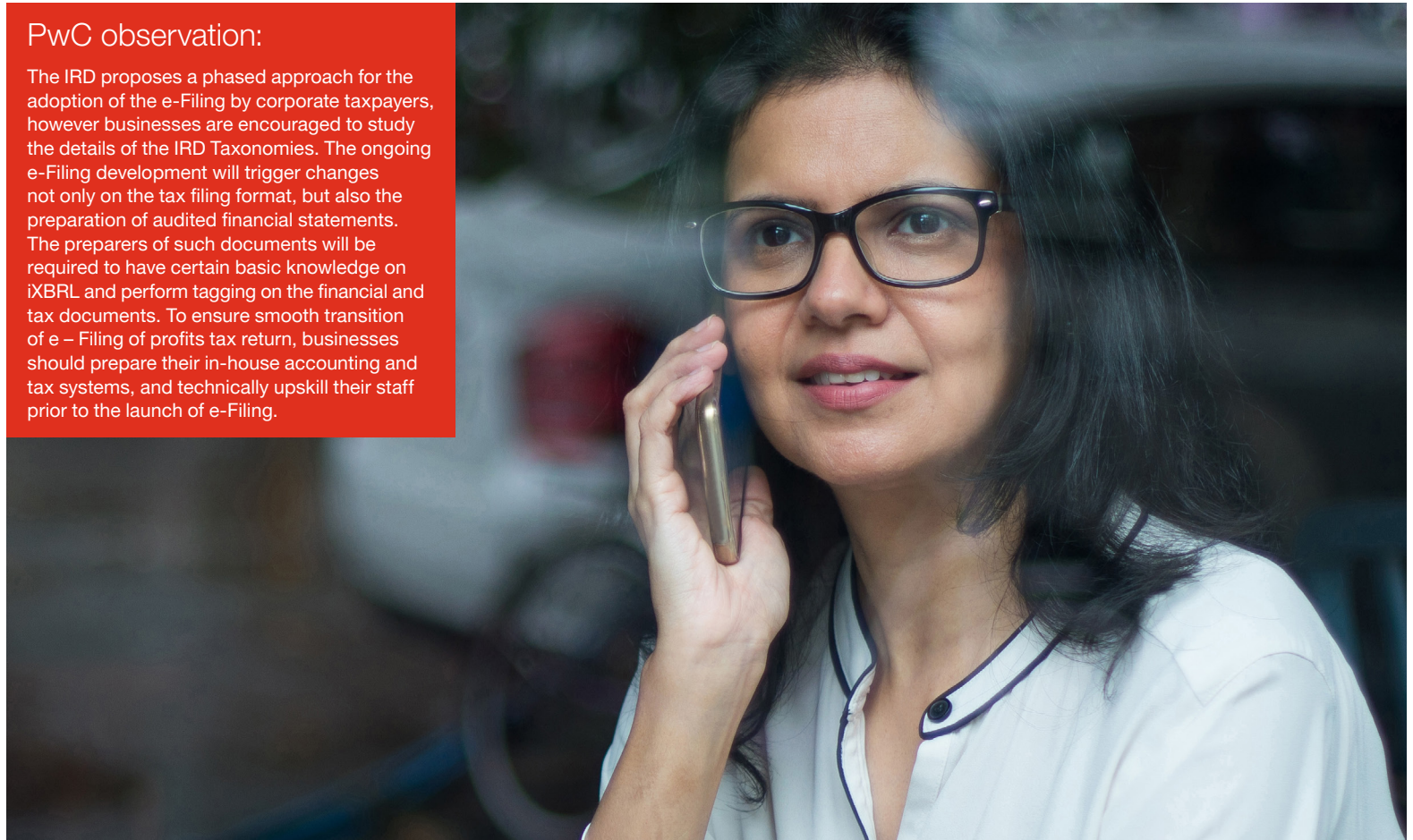
The Inland Revenue Department (IRD), on March 31, 2022, announced the latest update to its project on electronic filing (e-Filing) of profits tax returns. The announcement followed a series of consultations with various parties and stakeholders that took place in late 2021. As a part of the draft IRD taxonomy package the IRD published a list of taxonomies rendered in Excel spreadsheets.

This IRD taxonomy package provides an overview for tagging financial statements and tax computations, as well as for generating iXBRL data files to be e-filed through the IRD's eTAX Portal going forward. The package also contains an inline extensible business reporting language (iXBRL) schema, which the IRD will release in the future.

For more information see our **PwC Insight**.

PwC observation:

The IRD proposes a phased approach for the adoption of the e-Filing by corporate taxpayers, however businesses are encouraged to study the details of the IRD Taxonomies. The ongoing e-Filing development will trigger changes not only on the tax filing format, but also the preparation of audited financial statements. The preparers of such documents will be required to have certain basic knowledge on iXBRL and perform tagging on the financial and tax documents. To ensure smooth transition of e – Filing of profits tax return, businesses should prepare their in-house accounting and tax systems, and technically upskill their staff prior to the launch of e-Filing.



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OECD

OECD issues public consultation document on Pillar One – Amount A: Extractive Exclusion

The OECD released the public consultation document on the **Pillar One – Amount A: Extractive Exclusion** on 14 April 2022. Comments on the consultation document were due by 29 April.

The Extractives Exclusion is intended to exclude from the scope of Amount A the profits from ‘Extractive Activities.’ In a narrative format, the consultation document outlines that the exclusion applies where a Group both derives revenue from the exploitation of ‘Extractive Products’ and has carried out the relevant ‘Exploration, Development or Extraction.’ Hence, the definition of Extractive Activities contains two elements: a ‘product test’ and an ‘activities test,’ both of which must be satisfied. This means, for example, that revenue from commodity trading only (without having conducted the relevant extractive activity), or revenue from performing extraction services only (without owning the Extractive Product) will not qualify for the exclusion.

The consultation document lays out the seven steps that a Group covered by the Extractive Exclusion would follow to apply Amount A as a whole. Steps Two and Three are specific to the Extractives Exclusion.

Step Two: After applying the general scope rules as Step One (i.e., EUR 20 billion global revenue test and 10% profitability test) and subtracting third party revenue derived from Extractive Activities from the Group’s consolidated revenue figure, a Group must re – determine whether the EUR 20 billion revenue threshold is met by testing only the in-scope (i.e., non-Extractives Activities) revenue. If this is not above EUR 20 billion, the Group is not in scope. If it is above EUR 20 billion, then the profitability should be tested (Step Three).

Step Three: Re-determine whether the 10% profitability threshold is met by isolating the Extractives profits and testing the profit margin of the remaining in-scope profits. If this profit margin is above 10%, the Group is in scope of Amount A.

Read the full discussion in this [Tax Policy Bulletin](#).

PwC observation:

The approach envisaged in the explanation is likely to involve significant complexity for industry participants, particularly where parties are unable to rely on the disclosed segment approach or where they have ‘mixed segments’ that do not meet the predominance test. The approach outlined for the Extractive Exclusion highlights the need for an effective tax certainty mechanism for Amount A – particularly for Groups in scope of the Extractives Exclusion.

It also seems likely that the test outlined in these rules for identifying excluded versus in-scope profits using an Entity-level approach (for the purpose of then reapplying profit thresholds) will be equally applicable to the exclusion for Regulated Financial Services. Therefore, the draft rules for extractives should give the financial services sector a head start for assessing the potential impact.

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OECD/EU

OECD launches public consultation on Pillar One draft Model Rules for domestic legislation on scope

On 4 April 2022, the OECD released **draft Model Rules** for domestic legislation on the scope of Amount A of Pillar One. Comments to the draft Model Rules were due by 20 April. This is the third in a series of public consultations on the Pillar One Amount A Model Rules that the OECD is expected to release over the coming months, with very short comment periods, as part of a 'rolling consultation.'

The draft Model Rules on scope ('scope rules') introduce two threshold tests to determine if a business is in scope of Amount A. The first test is a global revenue test, where businesses must determine if the total revenues of the Group for the period in question are greater than EUR 20 billion, pro rata for a period of less than 12 months. The second test is a three-part profitability test that is designed to determine if a business consistently earns above 10% profitability (pre-tax profit margin) as measured against total revenues.

The scope rules are intended to apply at the level of a Group, in accordance with the general design of Amount A. The concept of Group is defined by reference to the Ultimate Parent Entity (UPE) where consolidated financial statements are commonly

prepared under financial accounting standards. This definition of 'Group' appears narrower than that used for the purpose of the Pillar Two GloBE rules (for GloBE, the Group also includes entities excluded from the consolidated financial statements in certain circumstances). The scope rules include a small number of exceptions which provide that certain entities cannot be a UPE to ensure a standardised approach to define a UPE. The rules also introduce an anti-abuse rule as a deterrent to prevent a UPE of a Group that is owned by an excluded entity, investment fund, or real estate investment vehicle from restructuring in order to circumvent the scope rules (i.e., the 'anti-fragmentation rule').

For more information see our **Tax Policy Alert**.

PwC observation:

There still are many unresolved issues and policy decisions for Amount A that need to be addressed. The consultation document on the scope rules notes that discussions are ongoing within the TFDE on many aspects of these rules. The consultation document also notes that future commentary will elaborate on the practical application of these rules.

Stakeholder input is specifically requested on almost all aspects of these rules – most notably on whether the threshold scope tests should apply averaging mechanisms as an initial 'entry test' or permanently on a rolling basis.



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Treaties

United States

Proposed reservations to pending US-Chile treaty: action in the stalled treaty ratification process

Ratification of the pending US-Chile treaty, along with other pending treaties, has been stalled — most recently, due to a potential conflict between certain provisions of US tax law enacted in 2017 and the nondiscrimination article and/or other articles of the treaty. Following recent input from the business community, the Senate Foreign Relations Committee (SFRC) considered the pending treaty at a hearing, and on March 29, 2022, approved it for full Senate consideration, with certain reservations.

The reservations address the base erosion and anti-abuse tax (BEAT) concern by affirming that nothing in the treaty “shall be construed as preventing the United States from imposing a tax under section 59A” (i.e., the BEAT rules) on a US tax-resident company or on the profits of a Chilean tax – resident company that are attributable to a US permanent establishment. The reservations also would replace the first paragraph of the Relief from Double Taxation article of the treaty with a modified provision. The language in the pending treaty provides that the United States shall allow a US resident or citizen a credit for income tax paid or accrued to Chile by or on behalf of such resident or citizen. It also provides that

a US company that owns at least 10% of the voting stock of a Chilean company is entitled to an indirect foreign tax credit for taxes paid or accrued to Chile with respect to the profits out of which dividends are paid. The reservations would remove the indirect foreign tax credit language (which equates to the prior-law indirect foreign tax credit under Section 902) and replace it with a provision that permits a US corporate shareholder owning at least 10% of the vote or value of a Chilean tax resident company to deduct the amount of dividends received from the Chilean subsidiary in computing its taxable income (which equates to the current-law dividends received deduction under Section 245A).

The treaty was ratified by the Chilean Congress in September 2015. However, if the US Senate approves the treaty with the reservations, the reservations would have to be accepted by Chile. Assuming all the relevant procedures in the United States and Chile are completed and the Contracting States notify each other in writing (through diplomatic channels) that their respective applicable procedures have been satisfied, the treaty would enter into force on the date of the later of the notifications. Once the treaty enters into force, the provisions with respect to taxes withheld at source would be effective for amounts paid or credited on or after the first day of the second month following the date of entry into force. The treaty would be effective with respect to other taxes for taxable periods beginning on or after January 1 of the calendar year immediately following the date of entry into force. Information exchange provisions would be effective from the date of entry into force.

For more information see our [PwC Insight](#).

PwC observation:

There is presently momentum behind consideration by the full Senate of the pending US-Chile treaty. How the agreement with reservations advances may be a precursor to progress on the pending US tax treaties with Hungary and Poland.



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Glossary

Acronym	Definition
ATAD	Anti-Tax Avoidance Directive
BEPS	Base Erosion and Profit Shifting
CFC	controlled foreign corporation
CGT	capital gains tax
CIT	corporate income tax
DAC6	EU Council Directive 2018/822/EU on cross-border tax arrangements
DST	digital services tax
DTT	double tax treaty
EBITDA	earnings before interest, tax, depreciation and amortization
EC	European Commission
ECOFIN	EU Economic and Financial Affairs Council
EU	European Union
GAAP	generally accepted accounting principles

Acronym	Definition
HRMC	Her Majesty's Revenue and Customs
IF	inclusive framework
IP	intangible property
M&A	mergers and acquisitions
MNC	multinational corporation
NCST	non-cooperative states and territories
OECD	Organisation for Economic Co-operation and Development
PE	permanent establishment
R&D	research & development
STE	Small & Thin Profit Enterprises
UTT	uncertain tax treatment
VAT	value added tax
WHT	withholding tax

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