# International Tax News

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Start

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# In this issue

# Legislation

## Singapore

### Changes to tax regime for gains on disposal of foreign assets in Singapore

Singapore has introduced a tax on gains from the disposal of foreign assets received in the country by entities belonging to relevant groups, effective 1 January 2024. This change is in response to updates in the EU Code of Conduct Group guidance. The Inland Revenue Authority of Singapore (IRAS) has provided guidance to clarify the scope of this new taxing provision, the requirements for exclusion from the tax based on economic substance, and administrative requirements including the option to seek advance rulings on economic substance adequacy.

This change means that businesses can no longer rely on non-taxation of capital gains or the statutory safe harbour for the sale or disposal of foreign assets received in Singapore. It is important for businesses to understand the implications and ensure compliance with the economic substance requirements to avoid unintentional remittance of foreign-sourced gains into Singapore.

Businesses with economic substance are not expected to be significantly affected. However, they should monitor their own circumstances and assess if future disposals of foreign assets, including in the case of group restructuring, fall within the scope of the new tax provision. Factors to consider include the situs of the assets, remittance of gains to Singapore, adequacy of economic substance requirements, and the possibility of seeking advance rulings from the IRAS.

For details, refer to the PwC Tax Bulletin.

Business should stay vigilant and ensure compliance with the economic substance requirements or to prevent inadvertent remittance of foreign-sourced gains into Singapore. Businesses owning foreign assets should assess the potential impact of this legislative change and consider factors such as asset situs, remittance of gains, economic substance requirements, and the option of seeking advance rulings from the IRAS.

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# Legislation

## Bermuda

### Bermuda enacts corporate income tax, requiring businesses to prepare for compliance

With the assent of the governor on 27 December, the Bermuda Corporate Income Tax Act of 2023 became law. Consistent with the three prior public consultations, a 15% corporate income tax (CIT) will apply to Bermuda businesses that are part of multinational enterprise (MNE) groups with annual revenue of €750M or more. The tax is effective beginning in 2025.

In addition, the Bermuda Ministry of Finance released a form for making elections pursuant to the CIT, as well as accompanying instructions. A list of frequently asked questions (FAQs) also was released, with an updated version including additional guidance.

Until recently, Bermuda had not imposed taxes on profits, income, dividends, or capital gains. Going forward, MNE groups will need to understand the scope of the new CIT, including details surrounding the computation of taxable income and the tax itself.

For more please see our PwC Insight.

Now that the Bermuda CIT has been enacted, in-scope Bermuda Constituent Entities (BCEs) must prepare for compliance. A significant part of this process will include determining which elections to make and analyzing potential tax accounting implications.

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# Legislation

## Bulgaria

### 15% global minimum tax adopted in Bulgaria as of 1 January 2024

While Bulgaria is keeping its standard 10% nominal CIT rate, starting 1 January 2024, Bulgarian entities in scope of the global minimum tax will be subject to a 15% effective tax rate. The law implementing the EU Global Minimum Tax Directive was finally voted by the Bulgarian Parliament on 12 December 2023. Ever since publication of the draft bill in September 2023, the key debate was around important reliefs allowed under the EU Directive that Bulgaria refused to introduce. After strong business reactions, the Parliament granted at least a partial relief for capital investments in fixed assets in Bulgaria.

The minimum effective tax rate of 15% will apply to Bulgarian companies and permanent establishments, part of multinational or purely domestic groups, with a consolidated turnover above EUR 750 million for two out of the last four years. New and complex rules will be introduced in the Bulgarian CIT Act to determine the effective tax rate (calculated on an aggregate basis for all entities in each jurisdiction) and Top-up Taxes due (where the effective tax rate for a jurisdiction is below 15%). These include special rules and book-to-tax adjustments for calculating the taxable base, taxes paid, etc.

For more information see our PwC Insight.

The complex Pillar Two legislation will impact many large businesses in Bulgaria. Companies should prioritize the analysis of the financial and administrative impact of the new rules on their business organization.

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# Legislation

## Germany

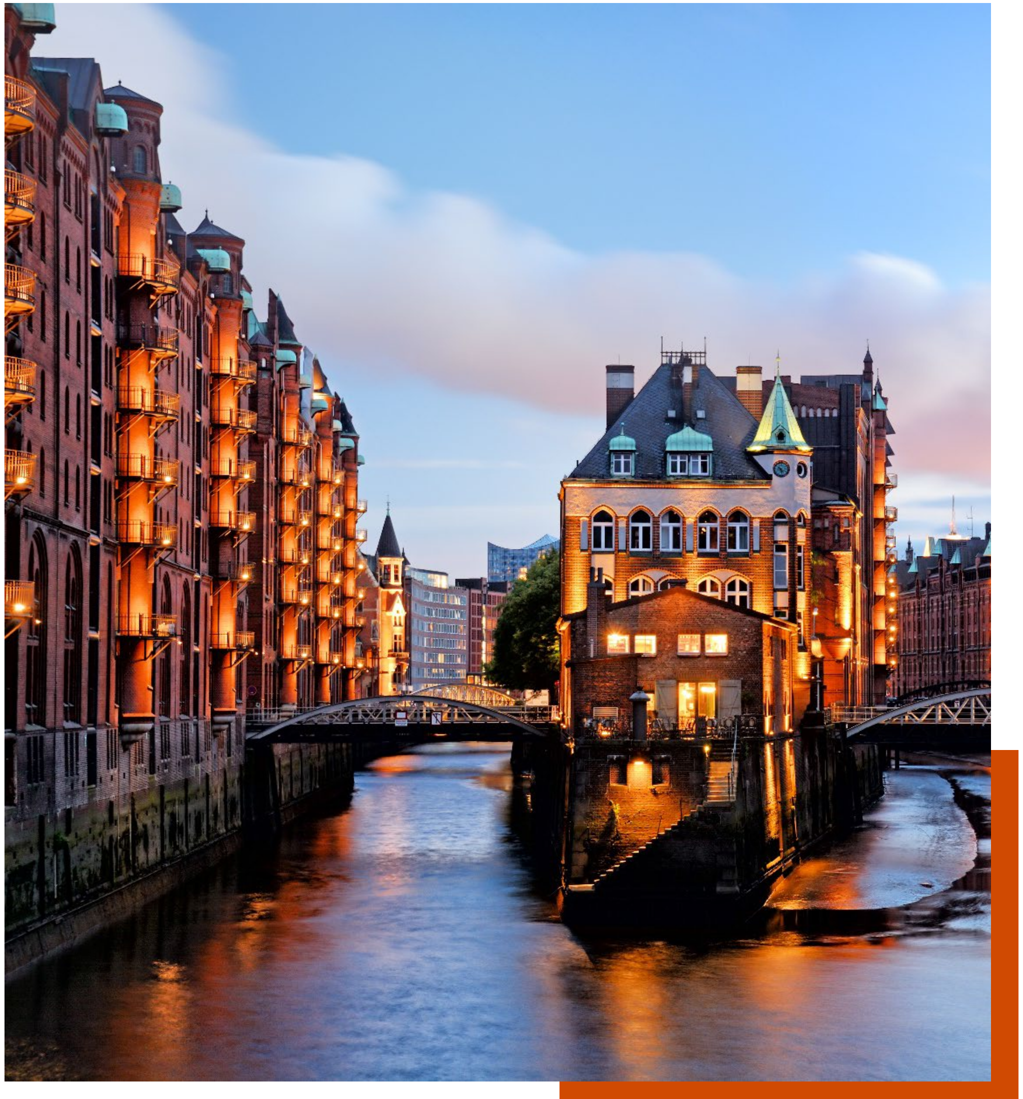
### Germany implements Pillar Two rules

The German Pillar Two implementation act came into force on 28 December 2023. The rules, including the German Qualified Domestic Minimum Tax (QDMTT), apply to financial years starting after 30 December 2023. The Undertaxed Profits Rule (UTPR) will be applicable for financial years starting after 30 December 2024, unless an EU Member State has deferred the implementation based on the EU Directive on Pillar Two.

The German Pillar Two implementation act aligns with the OECD-Model Rules and incorporates the OECD Administrative Guidance from February and July 2023. However, it does not yet reflect the OECD December 2023 guidance. Notably, the application of the CbCR Safe Harbour requires a stand-alone result, excluding consolidation adjustments and intra-group transactions. The incorporation of the OECD December 2023 guidance remains to be seen.

The German Pillar Two implementation act imposes compliance obligations on both German outbound and inbound companies. These obligations include filing the GloBE Information Return (GIR) and separate tax returns for the Income Inclusion Rule (IIR), UTPR, and QDMTT.

Companies, including foreign MNE groups operating in Germany, must understand and fulfill their compliance obligations. This includes filing the necessary tax returns and adhering to the GIR requirements. Staying informed about the evolving guidance and ensuring compliance will help companies navigate the complexities of the German Pillar Two implementation act.



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# Legislation

## Hong Kong

### Hong Kong launches consultation on global minimum tax and domestic minimum Top-up Tax

The Hong Kong Government has announced the implementation of a 15% global minimum tax on multinational enterprise groups and a domestic minimum Top-up Tax in Hong Kong (HKMTT) starting from 2025. A consultation paper on the implementation of these taxes has been published, with the consultation period open until 20 March 2024. Draft legislation is expected to be published in the second half of 2024.

The proposed legislative framework for the global minimum tax and HKMTT closely follows the global anti-base erosion (GloBE) rules set by the OECD. These taxes will take effect for fiscal years beginning on or after 1 January 2025.

The Hong Kong Government will likely have little bandwidth to diverge from the GloBE Model Rules regarding computation and allocation. Thus, companies with operations in Hong Kong should understand and prepare for these changes to ensure compliance and reduce any potential negative effects.

For more see our PwC Insight.

This development in tax policy will have significant implications for companies operating in Hong Kong. Businesses should analyze the potential impact of these new rules and assess whether their current systems can support the requirements. The consultation period also allows stakeholders to express their views and provide recommendations on the implementation of the rules.

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# Legislation

## Liechtenstein

### Liechtenstein implements global minimum tax effective January 2024

Liechtenstein has enacted the global minimum tax following its approval by parliament on 10 November 2023. The law will come into effect 1 January 2024. Liechtenstein groups and companies falling within scope of the global minimum tax will be subject to the Qualified Domestic Minimum Tax (QDMTT) and Income Inclusion Rule (IIR) of 15% for tax years starting on or after 1 January 2024. The effective date of the Undertaxed Profits Rule (UTPR) is yet to be defined.

The implementation of the global minimum tax in Liechtenstein aligns with the OECD model rules. It applies not only to multinational enterprises with gross revenue exceeding EUR 750 million, but also to pure domestic Liechtenstein groups surpassing the revenue threshold. This means that all forms of Liechtenstein corporate or legal entities, including trusts, foundations, and establishments, should assess their applicability under the new law starting 1 January 2024.

Liechtenstein groups falling within scope of the global minimum tax will be required to file an additional tax return for QDMTT and IIR. The first tax return is due 30 June 2026. While the filing data points are defined, the specific Liechtenstein returns are yet to be published.

Liechtenstein's GloBE Tax Law closely follows the OECD model rules. It emphasizes the need for Liechtenstein corporate and legal entities to assess their status under the new law. Companies falling within scope should prepare to file additional tax returns and comply with the QDMTT and IIR requirements. It is important to stay updated on the publication of the specific Liechtenstein returns to ensure timely compliance.

While the required filing data points are defined (see PwC Pillar Two Data Input Catalog), the respective Liechtenstein returns are yet to be published.

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# Legislation

## Italy

### Italy enacts global minimum tax

Italy's Legislative Decree 27 December 2023 n. 209, known as the Decree, has implemented the EU Pillar Two Directive into the Italian legal system. The Decree introduces the Global Anti-base Erosion (GloBE) Model Rules, which are part of the global agreement reached within the OECD/G20. These rules aim to establish a minimum level of effective taxation on multinational enterprise (MNE) groups with respect to low-taxed profit. The Italian GMT rules, introduced by the Decree, are aligned with the Directive and target MNE groups and large-scale domestic groups with annual consolidated revenue of at least EUR 750 million. These rules provide for a Top-up Tax to ensure a minimum effective tax rate of 15% on income derived from each jurisdiction where the group operates. The Decree provides the option to benefit from CbCR Transitional Safe Harbour (CbCR TSH).

The GMT rules will significantly impact MNE groups with Italian operations and large-scale domestic groups. These entities will need to set up systems to collect data from various sources, perform complex calculations, obtain technical advisory, and comply with tax procedures within specific deadlines. It is crucial for these groups to take advantage of the CbCR TSH option. Compliance with the GMT rules will require a tailored and detailed advisory service to assess the tax implications and design an appropriate compliance system.

Under the Decree, Italian parent entities, such as ultimate parent entities (UPE), intermediate parent entities (IPE), and partially-owned parent entities (POPE), are subject to an income inclusion rule (IIR) and an undertaxed profits rule (UTPR). The IIR applies to low-taxed entities directly or indirectly owned by the Italian parent, while the UTPR acts as a backstop to the IIR and applies to constituent entities located in Italy. All entities based in Italy and part of an in-scope group are jointly and severally liable for the UTPR payment. Additionally, there is an Italian domestic minimum top-up tax (QDMTT) that is charged in full and applies to all entities based in Italy and part of an in-scope group. In general, the IIR and the QDMTT apply from the fiscal year beginning on or after 31 December 2023 (i.e., fiscal year 2024 for calendar-year taxpayers), while the UTPR applies from the fiscal year beginning on or after 31 December 2024 (i.e., fiscal year 2025 for calendar-year taxpayers).

MNE groups with Italian operations and large-scale domestic groups will face significant challenges in complying with the GMT rules. They will need to collect and analyze a large amount of data, perform complex calculations, and ensure timely tax compliance. Considering the CbCR TSH option will be crucial. Companies will require tailored advisory services to assess the tax implications and design an appropriate compliance system.

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# Legislation

## Italy

### New Italian tax law provisions introduced by Budget Law 2024 and Legislative Decree on international taxation

Italy has recently passed several new tax laws, via Decree or in its 2024 Budget. These are summarized as follows:

**NID Repealing**
Italy has repealed the Net Interest Deduction (NID) starting from the fiscal year 2024. However, any unused NID surplus can still be carried forward and used to reduce taxable income in future years.

**Implementation of EU Directive on Pillar Two regulation/CFC rules**
Italy has introduced specific provisions for applying the global minimum tax regulations in Italian law (see previous article). This decree streamlines the controlled foreign company (CFC) rules and coordinates them with Pillar Two. It also allows Italian taxpayers to elect an optional regime for CFC purposes, where a 15% tax
is paid on the taxable income of the foreign company.

**New tax residency criteria**
Italy has amended the criteria for determining tax residency of companies and other entities. The previous criteria based on legal seat, administrative seat, and main object of activity have been replaced by the 'place of effective management' and 'ordinary management on a principal basis.' This change aims to provide greater legal certainty and align with international practices.

**Italian anti-hybrid documentation: new penalty protection regime**
Italy has introduced a penalty protection regime for taxpayers who prepare anti-hybrid documentation. This documentation aims to obtain protection from penalties in case of hybrid misalignment disputes.

**Extension of the PEX regime to EU / EEA entities**
Italy has extended the participation exemption (PEX) regime to European Union (EU) / European Economic Area (EEA) resident entities, allowing for a reduced tax rate on capital gains realized upon the disposal of interests of Italian entities.

**Onshoring incentives**
Italy has introduced a new tax incentive for entities that transfer their economic activities to Italy from outside the EU or the EEA. This incentive provides a 50% exemption on taxable income derived from the transferred activity for a period of six tax years.

**Super deduction for new personnel costs**
Lastly, Italy has a new tax incentive for companies that hire permanent employees. For fiscal year 2024, the incentive allows for an increased deduction of 20% (120% deduction) on personnel costs related to increased employment, provided that the number of employees at the end of the fiscal year 2024 is higher than in 2023 and that specific conditions are met.

These changes in Italian tax law have significant implications for MNEs, impacting their financing strategies, tax planning, and potential relocation decisions. The repeal of NID affects the financing choices of Italian entities, making equity financing more appealing. The new CFC rules simplify the computation of the ETR test for foreign controlled companies. The preparation of anti-hybrid documentation allows for penalty protection. The new PEX regime affects the taxation of capital gains in the context of tax treaties. Lastly, the inshoring tax incentive is attractive for MNEs planning to relocate their activities to Italy.

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# Legislation

## Belgium

### Belgium changes its CFC regime

Belgium has made significant changes to its Controlled Foreign Corporation (CFC) regime with the adoption of a new bill on 21 December 2023. These changes will come into effect for the tax year 2024. The new rules focus on the taxation of passive income, including interest, royalties, dividends, and income from the disposal of shares. It also includes rental income and income from invoicing companies that generate sales and services income with little economic value. These income streams, derived by CFCS subject to low taxation abroad, will now be subject to taxation in Belgium unless the taxpayer can prove sufficient substance locally.

Previously, Belgium's CFC regime, introduced in 2017, taxed non-distributed income arising from non-genuine arrangements aimed at obtaining a tax advantage. This required that the significant people functions generating the CFC income were located in Belgium. The new law now implements option A of the Anti-Tax Avoidance Directive (ATAD) in Belgium, introducing a two-step analysis to determine the allocation of CFC income to the Belgian parent entity.

To qualify as a CFC, a foreign company must meet both the participation and taxation conditions. The participation condition is met if a Belgian taxpayer has a direct or indirect interest of at least 50% in the capital or is entitled to receive more than 50% of the entity's profits. The taxation condition is met if the entity is not subject to income tax or if the income tax paid is less than half of what would be due under Belgian legislation.

Once a foreign entity qualifies as a CFC, the amount of income or profit to be allocated to the Belgian taxpayer is calculated according to Belgian accounting and tax rules. Certain exemptions (safe harbours) exempt certain foreign income from Belgian taxation. These include demonstrating substantial economic activity in the CFC, limited passive income, or if the CFC is a financial undertaking. Compliance-wise, detailed information will be required in future Belgian corporate tax returns.

These changes primarily target passive foreign income for potential Belgian taxation. Belgian taxpayers with foreign interests or permanent establishments should assess the implications. Multinational groups subject to Pillar Two rules may also need to consider the interaction between the two frameworks.


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# Legislation

## Switzerland

### Switzerland implements QDMTT, postpones IIR and UTPR

Switzerland decided to implement the Qualifying Domestic Minimum Tax (QDMTT) as of 1 January 2024, to prevent erosion of the tax base. However, the implementation of the Income Inclusion Rule (IIR) and the Undertaxed Profits Rule (UTPR), which are other elements of the Pillar Two Rules, has been postponed to a later date.

This tax law change is significant for companies operating in Switzerland. The implementation of QDMTT aims to protect the tax base from being shifted to other countries. The postponement of IIR and UTPR provides more time for companies to prepare for these elements of the Pillar Two Rules.

In-scope groups must proceed with their assessment and implementation plans for Pillar Two to ensure compliance. Those who are behind in their preparations must take immediate action. Companies need to analyze how the implementation of QDMTT affects their Pillar Two computation and filing positions, both locally and internationally. They should also consider the impact on tax filing obligations and lay the foundation for data, technology, and processes to facilitate Pillar Two computations.

Companies should engage in year-end discussions with stakeholders, such as audit committees, auditors, and investors, to provide insights on the impact of Pillar Two. They should outline the steps taken to prepare for Pillar Two, the challenges faced, and the expected impact. The deadline for filing the first Swiss QDMTT Return and GloBE Information Return is 30 June 2026. Companies should stay updated on evolving cross-border regulations, identify new data requirements, and develop compliance processes tailored to each jurisdiction.

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# Legislation

## Japan

### Japan's 2024 tax reform proposals provide further guidance on Pillar Two legislation

The Japanese government released the 2024 tax reform proposals on 14 December 2023. With respect to the Income Inclusion Rule (IIR), introduced in the 2023 tax reform proposals, the 2024 proposals further incorporated certain provisions of the OECD administrative guidance published in February and July 2023. Japan's IIR will apply to fiscal years beginning on or after April 1, 2024.

Legislation for the Qualified Domestic Minimum Top-Up Taxes (QDMTT) and Undertaxed Payment Rules (UTPR) were not included in the 2024 proposals and will be considered for enactment on or after the 2025 tax reform.

Specific measures will be introduced to mitigate the impact of companies that may reduce their liability for size-based enterprise tax by decreasing amounts of paid-in capital. These measures will apply to all Japanese companies, including subsidiaries of foreign companies.

In a new development, an obligation to report and remit Japanese consumption tax on the cross-border provision of digital services will be imposed on platform operators of a certain size on behalf of foreign operators providing such services to Japanese customers.

The 2024 tax reform proposals align Japan's IIR with the recent OECD administrative guidance that was not captured in the 2023 tax reform legislation. While QDMTT and UTPR are also expected to be implemented, the timing has yet to be determined.

For more information see our Japan Tax Update, which outlines the 2024 Tax Reform Proposals.

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# Administrative

## India

### India amends Safe Harbour Rules applying to international transactions

The Central Board of Direct Taxes (CBDT) recently amended the Safe Harbour Rules for international transactions in India. These amendments, effective 1 April 2024, pertain to the definition of operating expense and revenue, as well as the scope of intra-group loan transactions covered by the Safe Harbour Rules.

Key Amendments in the Rules

Definitions of operating expense and revenue: The amendments now include the loss or income from a transfer of assets with depreciation in the operating expense or revenue. Previously, such loss or income was excluded.

Intra-group loan transactions: The definition of intra-group loan has been expanded to include any non-resident associated enterprise (AE), rather than just non-resident wholly owned subsidiaries. The CBDT has also aligned rule 10TA with rule 10TD, which prescribes the safe harbour interest rate for loans in Indian rupees and foreign currency.

Safe Harbour Interest Rates

Intra-group loan denominated in Indian rupees: Previously, only credit ratings assigned by CRISIL were recognized. Now, credit ratings assigned by any credit rating agency registered with the Securities and Exchange Board of India (SEBI) and accredited by the Reserve Bank of India (RBI) will be recognized.

Intra-group loan denominated in foreign currency: With the cessation of the London Interbank Offer Rate, alternative reference rates such as the Secured Overnight Financing Rate and Euro Interbank Offered Rate will be used. Credit ratings assigned by SEBI-registered and RBI-accredited agencies also will be recognized.

For more information see our PwC Tax Insight.

Rationalization of the Safe Harbour Rules is seen as a positive development for taxpayers in India. The expansion of the rules to cover inter-company loans given to any non-resident AE, rather than just wholly owned subsidiaries, is welcomed. However, there is still room for improvement, such as rationalizing profit margins and removing turnover thresholds for safe harbour eligibility.

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# Judicial

## EU

### General Court dismisses action for annulment of the Pillar Two Directive

On 15 December 2023, the General Court of the EU (the Court) rendered its judgment in Fugro NV vs Council regarding the action for annulment brought by the company against the Pillar Two Directive (T-143/23). The Court decided that the company does not have legal standing to challenge the Directive. As a result, the action was rejected, being considered inadmissible, and there was also no need for the Court to adjudicate on the applications to intervene made by the Kingdom of the Netherlands and other parties.

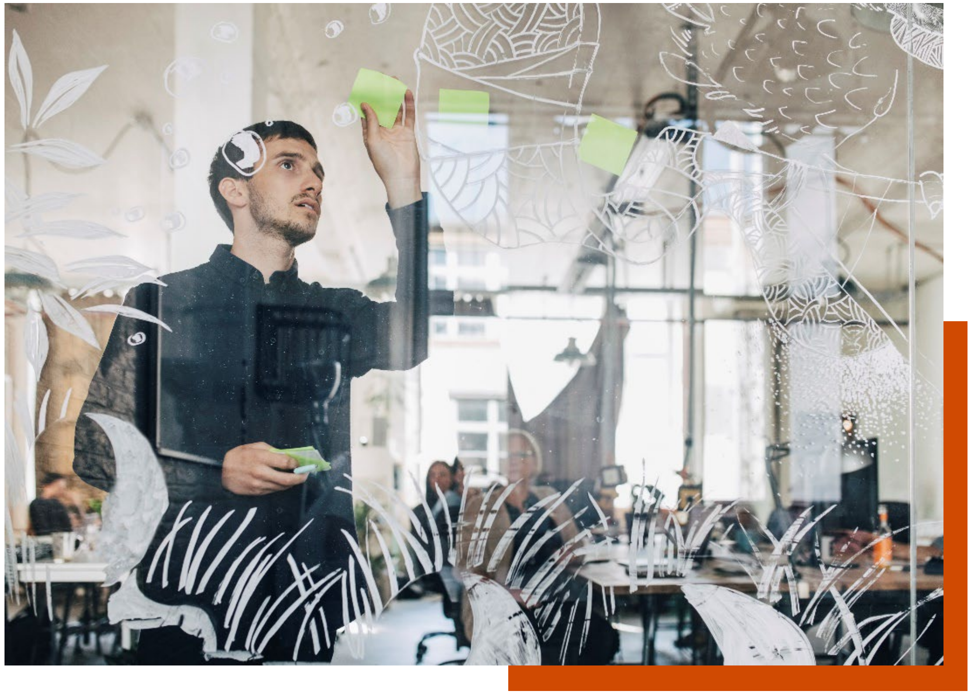
The applicant sought to annul the Pillar Two Directive, claiming that certain provisions of the directive negatively impact their tonnage tax scheme. The applicant argued that the directive does not fully exclude income from a shipping activity covered by an EU Member State's tonnage tax scheme when calculating the qualifying income or loss of a Constituent Entity. This, according to the applicant, results in a potential Top-up Tax that offsets the benefits of their tonnage tax regime.

The General Court ruled that the applicant is not individually concerned by the Pillar Two Directive since it applies to all economic operators in the maritime sector, regardless of their establishment or tax scheme. The court also stated that the applicant failed to prove that they belong to a limited class of persons affected by the directive.

The court's decision reaffirms the established case law on individual concern when challenging a directive. It clarifies that to be considered individually concerned, a person or company must be affected by the measure in a way that distinguishes them from others. In this case, the court found that the applicant is not uniquely affected by the directive and is in the same situation as any other economic operator in the maritime sector. This ruling has implications for companies seeking to challenge directives and may limit their ability to do so based on individual concern.

For more on the decision see our PwC Insight.

While the General Court's decision can still be appealed to the Court of Justice, it highlights the importance of individual concern in challenging directives. The compatibility of the Pillar Two Directive with EU law can still be assessed by the Court of Justice in the future.



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# Treaties

## France

### New tax treaty between France and Denmark comes into force

Denmark withdrew from its former tax treaty with France in 2009 due to unbalanced provisions regarding pensions. As a result, French tax authorities unilaterally eliminated double taxation in certain cross-border situations. However, a new treaty was signed 4 February 2022, and came into force on 29 December 2023. The treaty generally applies to withholding and other taxes from 1 January 2024.

The new treaty between France and Denmark largely follows the 2017 OECD model, with some deviations related to transparent entities, pensions, and the non-discrimination clause. Although the treaty was signed after the ratification of the Multilateral Instrument (MLI) by France and Denmark, it is not covered by the MLI. However, it incorporates similar provisions, such as a general anti-abuse clause and a revised definition of permanent establishment.

This treaty's entry into force means that France now has tax treaties with all 26 member states of the European Union. This treaty will provide clarity and guidance for companies operating between France and Denmark, ensuring that they are not subject to double taxation and can benefit from the provisions outlined in the treaty.

With the new treaty in effect, France has successfully established tax treaties with all other EU member states. Additionally, on 30 December 2023, a new treaty between France and Greece also came into force, replacing the former treaty. This demonstrates France's commitment to maintaining strong tax relationships with its European counterparts.

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# Glossary

| Acronym | Definition |
|---|---|
| AFIP | Argentine Tax Authorities |
| ATAD | anti-tax avoidance directive |
| ATO | Australian Tax Office |
| BEPS | Base Erosion and Profit Shifting |
| CFC | controlled foreign corporation |
| CIT | corporate income tax |
| CTA | Cyprus Tax Authority |
| DAC6 | EU Council Directive 2018/822/EU on cross-border tax arrangements |
| DST | digital services tax |
| DTT | double tax treaty |
| ETR | effective tax rate |
| EU | European Union |
| MNE | Multinational enterprise |
| NID | notional interest deduction |
| PE | permanent establishment |
| OECD | Organisation for Economic Co-operation and Development |
| R&D | Research & Development |
| SBT | same business test |
| SiBT | similar business test |
| VAT | value added tax |
| WHT | withholding tax |

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