International Tax News

November 2024

Start

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Welcome

Our monthly publication offers updates and analysis on international tax developments around the world, authored by specialists in PwC's global international tax network. We hope you find this publication helpful. For more international tax-related content, please visit:

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Cross Border Tax Talks

Doug McHoney, PwC ITS Global Leader, hosts PwC specialists who share insights on issues and developments in the OECD, EU, US and other jurisdictions. Listen to the latest:

US Election Results: What's next for tax

Doug McHoney is joined by Rohit Kumar, PwC's National Tax Co-leader to discuss the US election results. Doug and Rohit cover what the republican-controlled House, Senate and Presidency means for tax reform, why 2025 will be a year for significant "must-pass" tax legislation, the role the federal debt and budget deficit will play, the potential implementation of tariffs, the fate of the OECD's Pillar One and Two, as well as how the new administration could approach digital services taxes (DSTs).

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Doug McHoney, PwC's Global International Tax Services Leader shares some of the highlights from the latest edition of International Tax News

In this issue

Legislation

Austria

Potential Pillar Two reporting obligation by 31 December 2024 upon appointment of Austrian Pillar Two taxpayer

The Pillar Two rules apply in Austria effective 1 January 2024 to all companies and permanent establishments of a group with consolidated group revenue exceeding EUR 750 million. Even if a group has multiple Austrian constituent entities, only one Austrian constituent entity is regarded as the Pillar Two taxpayer. That taxpayer is obliged to pay any top-up tax due in Austria (domestic top-up tax, income inclusion rule, undertaxed profits rule). This constituent entity will then also be responsible for filing the Pillar Two advance notification in Austria (details on the advance notification will be determined in a separate ordinance).

The Pillar Two taxpayer is the Austrian constituent entity that:

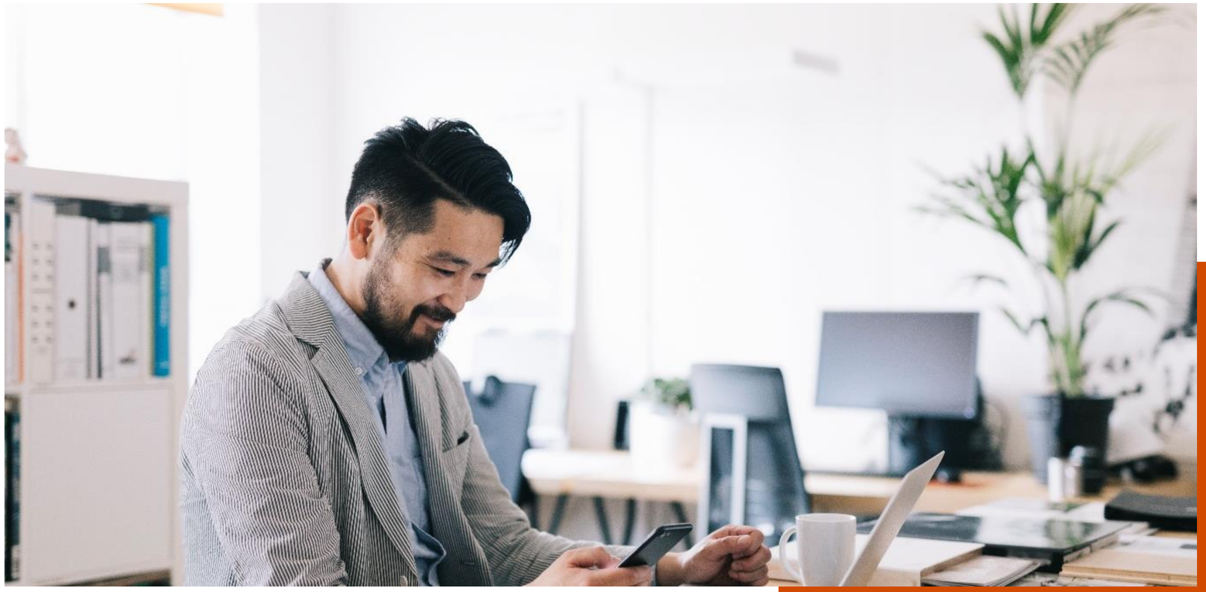
- is appointed by the ultimate parent company; or
- if no appointment is made by the ultimate parent company, the top Austrian constituent entity (in the group structure); or
- if there is no top Austrian constituent entity (e.g., sister companies in Austria), the economically most significant Austrian constituent entity. When assessing which entity is the economically most significant Austrian constituent entity, the following should be considered in an overall view: business activity, the amount of turnover, information from the Austrian commercial register, the GloBE Information Return, and the Country-by-Country Report.

Depending on the specific group structure and set-up, in many cases the ultimate parent company should appoint a specific Austrian constituent entity as the Pillar Two taxpayer. If such appointment is made, the Austrian Pillar Two taxpayer must notify the Austrian tax office, enclosing proof of appointment. This notification can be submitted via the Austrian FinanzOnline platform and is due by 31 December 2024 for fiscal years with a balance sheet date of 31 December, and by 31 December 2025 for fiscal years that deviate from the calendar year.

If no appointment is made by the ultimate parent company, the top Austrian constituent entity or the economically most significant Austrian constituent entity will automatically become the Pillar Two taxpayer. In this case, no notification to the Austrian tax administration is required.

Pillar Two entails not only complex calculations but also various compliance obligations. Although the filing of the GloBE Information Return and the Austrian Pillar Two advance notification is not due until 2026, one compliance issue may already require action by December 31, 2024.

The appointment of an Austrian constituent entity as the Pillar Two taxpayer depends on the specific facts and circumstances; such appointment may have further tax and legal implications (such as the requirement of a Pillar Two tax allocation agreement).



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Legislation

Hungary

Hungary establishes Pillar Two notification requirement

Domestic companies affected by the global minimum tax rules are subject to a notification obligation regarding the MNE group within 12 months from the start date of the tax year beginning in 2024. Based on the rule's wording and the regulation's basic logic, MNEs applying the Transitional country-by-country reporting (CbCR) Safe Harbour for Hungary are still required to fulfill the notification obligation.

Failure to submit the notification or submitting it late may result in the tax authority imposing a penalty of up to 5 million HUF (approx. $13,000 USD) on the affected companies.

The notification must be submitted on a form provided by the National Tax and Customs Administration via the usual electronic method; this form is currently unavailable. Based on the draft autumn tax package published 17 October, companies subject to the Minimum Tax Act must include in the notification:

- Identification details of group members (e.g., company name, tax number),
- Their classification under the Minimum Tax Act, which requires considerations from a global minimum tax perspective. This classification is expected to include classifications such as joint venture, flow-through entity, permanent establishment, or excluded entity status of group members.
- Information on the ownership relationships among group members.

For more information see our PwC Insight.

Taxpayers should determine which entity is required to file the notification under Hungarian Pillar Two rules. For calendar-year companies the required notification date is 31 December 2024, as per the rules set forth in the Minimum Tax Act.

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Legislation

Ireland

Participation Exemption introduced in Finance Bill 2024

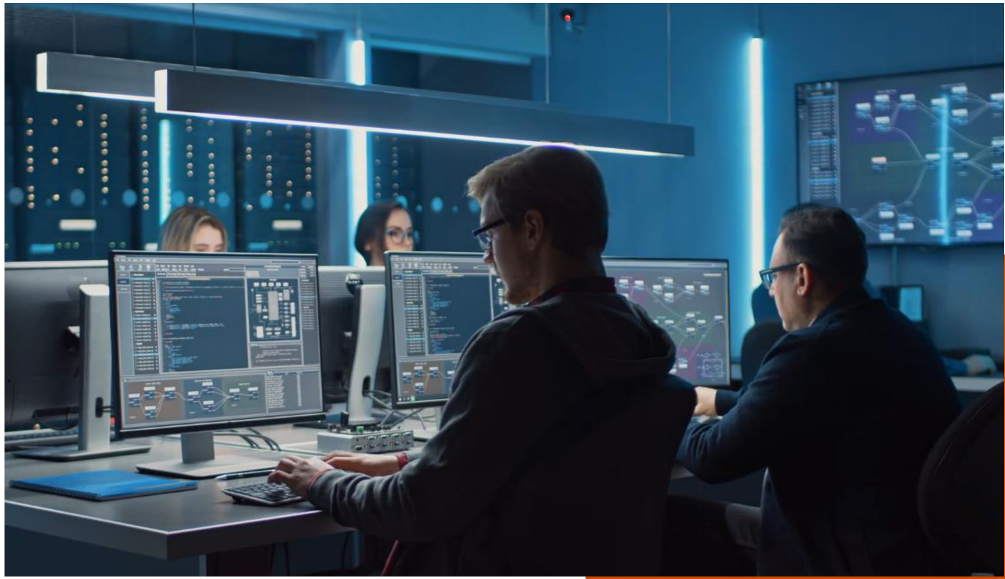
There have been incremental changes to the tax treatment of dividends received by Irish-resident companies from non-Irish resident companies over the past 20 years - all aimed at either simplifying or improving Ireland's holding company regime. The introduction of a Participation Exemption in Finance Bill 2024, exempting certain income receipts from share capital, is one further such progressive measure of relevance to dividends, or other distributions received from 'relevant territory' resident companies from 1 January 2025 onwards. A 'relevant territory' includes EEA and Tax Treaty territories as well as territories where a Tax Treaty with Ireland has been made but is not yet in force.

The introduction of the regime follows a long period of engagement between stakeholders and the Department of Finance. Further engagement is expected to continue into 2025, after the introduction of the first iteration of the regime, where consideration may be given to extending the Participation Exemption regime, via a future Finance Bill, to include dividends or other distributions from non-EEA/Treaty-resident companies. For now though, it will only remain available in respect of EEA/Treaty-resident companies.

The key features of the Participation Exemption introduced in Finance Bill 2024 include:

- Applicable in respect of dividends or other distributions received as income from EEA/Treaty-resident companies
- Optionality - elect in on an accounting period-by-accounting period basis. Exists in tandem with current 'tax and credit' regime
- Ownership requirement - 5% of ordinary share capital, profits and assets entitlements for continuous 12-month period
- Where a dividend/distribution is paid out of profits - no 626B requirement is expected to exist (Note: the current wording creates slight uncertainty around this point and may need clarification)
- Where dividend/distribution paid out of assets - 626B test to be satisfied
- Exclusions for S110 companies, capital receipts and, amounts in respect of which a tax deduction was or may be taken.

For more information see our PwC Tax News.



The introduction of a Participation Exemption has been a long time coming and follows an extended period of consultation. Although limited in geographic scope at present and requiring administrative exercises almost as burdensome as the existing 'tax and credit' regime, it is still a welcome addition to the overall holding company tax regime. Hopefully, it will be expanded upon and streamlined in future Finance Bills.

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Legislation

Portugal

Portugal adopts the Global Minimum Tax

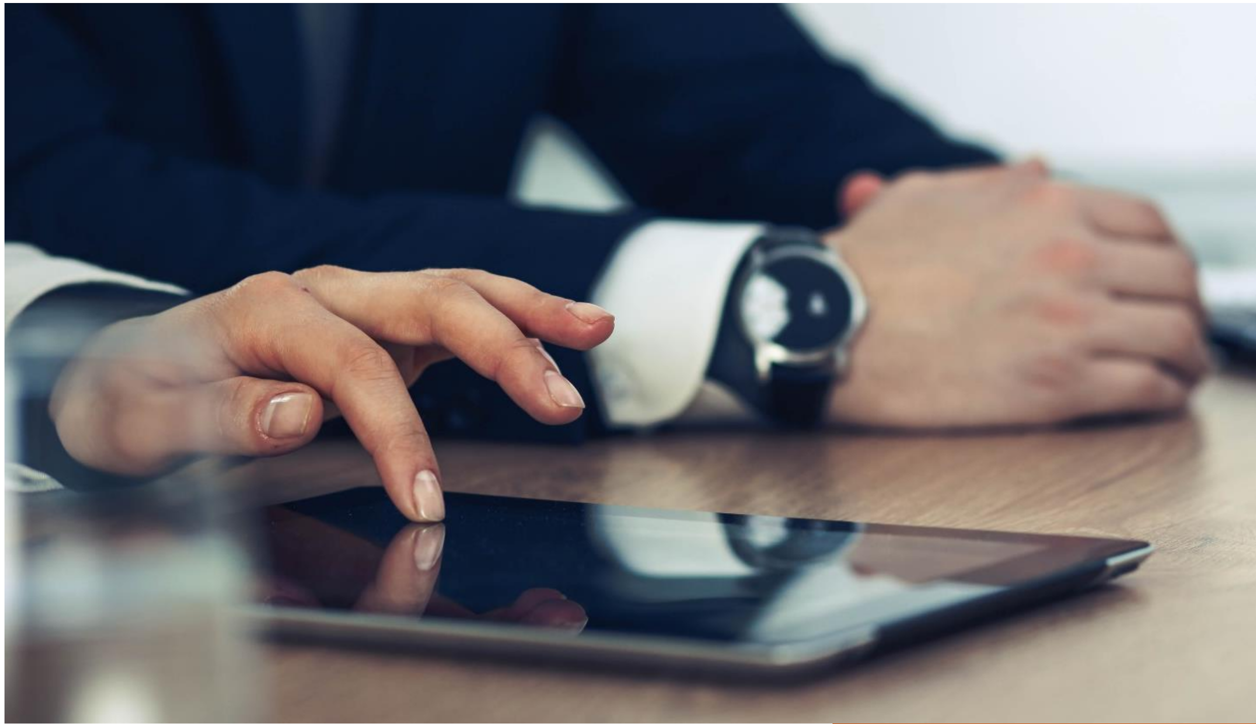
Law 41/2024, of 8 November 2024, published in the Official Gazette, transposes into national legislation Council Directive (EU) 2022/2523 of 15 December 2022 on ensuring a global minimum level of taxation for multinational enterprise groups and large-scale domestic groups whose annual consolidated revenue is equal to or greater than 750 million euros ('Pillar Two Directive').

This new regime, formally designated as the Global Minimum Tax Regime (Regime do Imposto Mínimo Global or RIMG), follows the model rules developed by the OECD/G20 Inclusive Framework. It introduces a new top-up tax when the effective tax rate of a covered group, in any of its jurisdictions, calculated according to the newly approved rules, is less than 15%. The Law includes:

- The Income Inclusion Rule (IIR): This rule requires the ultimate or intermediate parent entity of a group to calculate and pay a top-up tax on the profits of its constituent entities located in a jurisdiction where their aggregated effective tax rate is less than 15%.
- The Undertaxed Profits Rule (UTPR): This rule ensures that the constituent entities of a multinational group pay the portion of the top-up tax that was not collected by the IIR;
- The Qualified Domestic Minimum Top-up Tax (QDMTT): This tax is applicable to the profits of all constituent entities located in Portugal when the group determines an effective tax rate of less than 15% in this jurisdiction.
- The Law establishes various transitional provisions, notably the safeguard rules based on the Country-by-Country Report (CbCR), through which the tax due may be reduced to zero in the first three years of the regime's application. The reporting and sanctioning framework applicable is also established.

For more information see our PwC Insight.

The Law is effective for fiscal years beginning on or after 1 January 2024, except for the UTPR rule, which generally applies to fiscal years beginning on or after 1 January 2025.
Following the amendments introduced to the IAS 12 accounting standard in May 2023, the entities covered should evaluate and reflect the potential impacts of this regime in their financial statements for the fiscal year 2024.



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Legislation

UK

Autumn Budget 2024

The Chancellor of the Exchequer, Rachel Reeves, delivered her first Budget on 30 October 2024, accompanied by a full fiscal statement from the Office of Budget Responsibility (OBR). The key announcements in relation to corporation tax were set out in a Corporate Tax Roadmap, which aims to provide predictability, stability and certainty to businesses and investors. Key features include:

- **Capping of corporation tax rate:** The headline rate of corporation tax is to be capped at 25% for the duration of the Parliament whilst ensuring that the UK's regime remains competitive. The small profits rate and marginal relief will likewise be maintained at their current rates and thresholds.
- **Reaffirmed commitment on OECD Pillars One and Two**: The government reaffirmed its commitment to introducing Pillar One and Pillar Two rules that are aligned to international developments They also are considering opportunities for simplification or rationalisation of the UK's tax rules for taxing cross-border activities in light of Pillar Two. In particular, the government confirmed that:
  - as previously announced, legislation will be included in Finance Bill 2024-25 to implement the Pillar Two Undertaxed Profits Rule (UTPR), taking effect for accounting periods beginning on or after 31 December 2024;
  - a number of amendments to the UK's existing Pillar Two rules will be introduced in Finance Bill 2024-25 to implement aspects of the OECD's June 2024 and December 2023 Administrative Guidance, plus the safe harbour anti-arbitrate rule previously announced and consulted on;
  - the Offshore Receipts in respect of Intangible Property rules will be repealed and will not apply to income arising from 31 December 2024; and
  - the government continues to support a multilateral solution to Pillar One and has confirmed that DST (Digital Sales Tax) will be repealed when that multilateral solution is in place.
- **Transfer pricing reform consultation**: The government will further consult on reforms to the UK's rules on transfer pricing, permanent establishments, and Diverted Profits Tax in Spring 2025. The government will consult on further changes to the transfer pricing rules, including considering lowering the thresholds for medium-sized businesses and a requirement to report cross-border related party transactions to HMRC. The government will review the transfer pricing treatment of cost contribution arrangements.
- **Capital allowances rates maintained**: The government will maintain permanent full expensing, the £1m Annual Investment Allowance, writing down allowances and the Structures and Buildings Allowance. The government will further explore providing clarity to businesses on what qualifies for different capital allowances, consolidating and simplifying the Capital Allowances Act 2001 and extending full expensing to assets bought for leasing when fiscal conditions allow. A consultation will be launched to explore the tax treatment of predevelopment costs, aiming to provide greater clarity and simplification.
- **R&D tax relief rates maintained**: The existing rates for the merged R&D Expenditure Credit scheme and the Enhanced Support for R&D Intensive SMEs will be maintained. HMRC will proceed with establishing the R&D expert advisory panel and continuing to improve signposting and guidance on the reliefs. An R&D disclosure facility will be launched by the end of the year and use its powers to tackle agents who breach agent standards. The government has also committed to discussing widening the use of advance clearances in R&D reliefs with the intention to consult on lead options in Spring 2025.
- **Patent Box and intangible assets regimes maintained**: The government has committed to maintaining the Patent Box and preserving the intangible fixed assets regime.
- **Consultation on the administration of corporation tax**: The government will launch a consultation in Spring 2025 to develop a process through which investors in major projects can obtain increased tax certainty in advance. The Autumn Budget also included a number of announcements which impact the workforce, which may interest multinational companies with employees in the United Kingdom.
- For more information see the UK Budget page or watch the replay.

The Business Tax Roadmap may feel like a small step rather than a giant leap forward for businesses and their growth aspirations given the increased tax burden many will face. There are some encouraging signs the government is listening to feedback on how the tax system can be improved to provide the certainty that businesses need to support investment.

While only a first step, businesses will take some encouragement from the commitments to provide more clarity on tax relief for capital investments and R&D as well as the possibility of advance clearance for major investments. While there is a clear objective to achieve future tax simplification, little detail has been provided on how this will be achieved.

Importantly, the Roadmap also recognizes that operational improvement is needed in the tax administration - that is both in terms of modernization and major technology investment as well as how businesses are supported day-to-day in navigating the system to find greater certainty.

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Legislation

United States

US election results shape 2025 tax reform

Business leaders and individuals will need to evaluate the potential effect of the tax policies proposed by President-elect Trump on the US economy, business, and individuals.

Updated results from the 5 November elections show that Republicans will retain control of the House, with the minimum required majority of at least 218 Republican seats. In addition, results show Republicans are set to hold a Senate majority of 53 Republican seats to 47 Democrat seats. Control of the White House and Congress will provide President-elect Trump and Congressional Republicans the opportunity to set the direction of US tax policy and potentially act on the tax and trade policies that Trump proposed during his campaign.

2025 will be a year for significant 'must-pass' tax legislation, with key 2017 Tax Cuts and Jobs Act (TCJA) individual provisions set to expire at the end of 2025 and several significant business tax provisions set to change. Failure to act would result in across-the-board tax increases on virtually every individual taxpayer and automatic increases in some business taxes.

Republican control of the White House and Congress will allow for the use of 'budget reconciliation' procedures to enact tax legislation in 2025 with only Republican votes, as was the case in 2017 when the TCJA was enacted. However, the narrow margins of the House and Senate Republican majorities could complicate the ability of Republican Congressional leaders to enact all of President-elect Trump's campaign proposals. Reaching agreement on how to address expiring TCJA tax provisions and campaign tax and trade proposals could delay action on a reconciliation tax bill until late 2025.

The reinstatement of a statutory federal debt limit on 1 January 2025 – when a temporary suspension of the debt limit will expire – ensures that debate over the federal debt and annual federal budget deficits will confront the next Republican-controlled Congress early next year. While the incoming Trump administration's Treasury Department can use 'extraordinary measures' to postpone the need for an increase in the statutory debt limit until later in the year, the need to avert a default on federal debt obligations by enacting new debt limit legislation will focus attention on the worsening US fiscal policy outlook and could complicate debate on 2025 tax legislation.

For more information see our PwC Insight.

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Legislation

Vietnam

Draft regulation released on global minimum tax in Vietnam

The Ministry of Finance is accepting feedback on the draft decree until 6 December 2024. The draft decree sets out essential guidance for multinational enterprises (MNE) operating in Vietnam, detailing the application of Resolution 107 effective from financial year 2024.

Clarification of financial year 2024

Resolution 107 took effect with financial year 2024. The draft decree clarifies that financial year 2024 applies to the accounting period commencing on or after 1 January 2024. However, if the ultimate parent entity's (UPE) financial year starts in December 2023, that financial year will also be considered FY2024 under this draft decree. For the purposes of the Qualified Domestic Minimum Top-up Tax (QDMTT), the financial year of the constituent entities (CE) in Vietnam will align with the UPE's financial year. This ensures consistency and simplifies compliance across a group.

Financial accounting standards

For QDMTT purposes, the financial accounting standards used for consolidated financial statements will be applied. If it is not feasible to determine a CE's net income or loss using these standards, another acceptable or authorized financial accounting standard (such as the Vietnamese Accounting Standard) may be used. However, adjustments are required for permanent differences over EUR 1 million that result from discrepancies between these standards and the standards used for consolidation.

Allocation of QDMTT among CEs in Vietnam

MNE groups subject to QDMTT can decide how to allocate the top-up tax liabilities among their CEs in Vietnam. The allocation has to be declared to the tax authorities.

Currency for top-up tax calculation

QDMTT calculation is performed using the currency in which the UPE prepares its consolidated financial statements, with appropriate adjustments for exchange rate movements. The resultant top-up tax amount would be converted into Vietnamese Dong to make the payment into the State Budget.

Post-filing adjustments and tax rate changes

The draft decree permits taxpayers to incorporate adjustments that increase the prior year's Covered Tax in the current year's Covered Tax. Conversely, any adjustments that decrease the prior year's Covered Tax will require a re-computation of the Effective Tax Rate and top-up tax for that prior year. However, if the adjustment is below EUR 1 million, taxpayers may choose to include such decrease in the current financial year.

Tax filing and administration

If the MNE has more than one CE in Vietnam, it must nominate one entity to pay the QDMTT in Vietnam within 30 days of the financial year end. Within 90 days of the financial year end, the nominated CE in Vietnam must apply for a tax code to pay the top-up tax. Within 9 months of the financial year end, the nominated CE must provide the General Department of Taxation a list of CEs within the MNE group in Vietnam that are subject to the QDMTT.

For more information see our PwC Insight.

The introduction of a global minimum tax aims to create a more fair taxation system and tackle issues like base erosion and profit shifting. Vietnam is aligning with these international efforts, and the long-awaited draft decree on global minimum tax has now been published for comments. The draft decree is, in principle, aligned with the OECD Pillar Two model rules and commentary, with the objective of meeting the conditions for a QDMTT and a Qualified Income Inclusion Rule.

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Administrative

Australia

Australia's new thin capitalisation regime: ATO releases draft guidance on restructures

The ATO released its first public guidance on Australia's new thin capitalisation rules in the form of draft Practical Compliance Guideline PCG 2024/D3, which is intended to provide a framework for assessing the risk of anti-avoidance provisions applying to restructures in response to the changes to Australia's thin capitalisation rules. The draft PCG highlights areas in which the ATO is likely to apply resources to review arrangements, with risk assessment categories ranging from white (further risk assessment not required) to red (high risk) and associated examples indicating the likely approach.

Currently, the draft PCG only covers compliance risks arising from restructures in response to the debt deduction creation rules (DDCR). It will be updated to include a new schedule on restructures arising from the other changes to the thin capitalisation rules at a later date.

The draft PCG also provides limited guidance on the records and evidence that a taxpayer will require to determine whether the DDCR applies to arrangements. Importantly, the ATO considers that the onus is on the taxpayer to prove that the DDCR does not apply, and the ATO does not consider it appropriate to limit its compliance activities to more recent transactions. When finalised, the guideline will apply to restructures entered into on or after 22 June 2023 (being the date that the thin capitalisation amending Bill was introduced into Parliament). Comments on the draft guideline closed 8 November 2024.

Taxpayers that have already undertaken or are considering undertaking restructures or refinancing in response to the new thin capitalisation rules should review the PCG against their own facts and circumstances to identify the risk that the ATO will seek to apply the anti-avoidance provisions. This is particularly important given that all restructures undertaken in anticipation of the debt deduction creation rules must be disclosed in the 2024 International Dealings Schedule to be lodged with the income tax return. In addition, taxpayers may, in the future, be required to report any self-assessed risk ratings based on the PCG in a Reportable Tax Position Schedule to be lodged with the ATO. Clearly, where high-risk restructures are identified, taxpayers should consider engaging with the ATO early, as this issue is likely to be a key feature of ATO compliance action over the next year.

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Administrative

India

Revised guidelines for compounding of offences

The Central Board of Direct Taxes issued revised guidelines for the compounding of offences under the Income-tax Act, 1961, effective 17 October 2024 (‘revised guidelines’). These guidelines supersede all existing guidelines (‘previous guidelines’) and have introduced significant changes in the application process, fees, conditions for compounding and the authority responsible for compounding of offences in certain special cases.

The revised guidelines apply to all compounding applications filed after 17 October 2024, as well as those filed but not yet disposed of.

For more information see our Tax Insight.

The revised guidelines for compounding of offences under the Act introduce a more structured and transparent process, with specific conditions and fees. The new guidelines are expected to streamline the process, reduce litigation and encourage voluntary compliance. Taxpayers may opt for compounding provisions wherever applicable.

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Administrative

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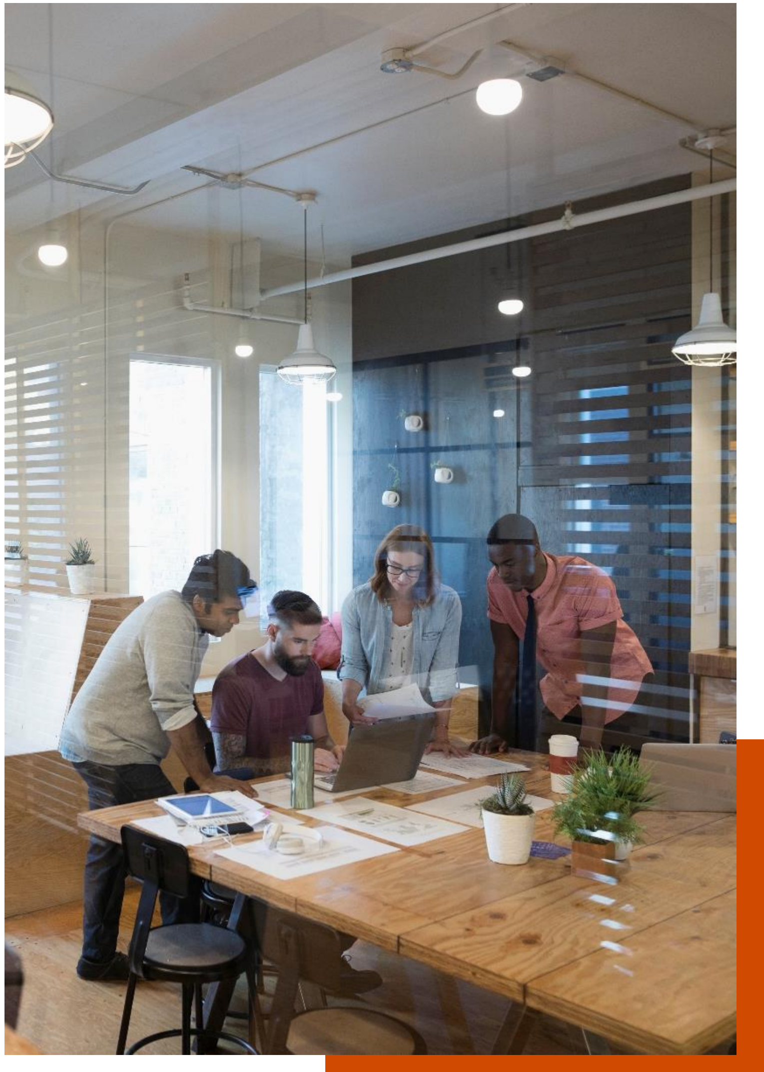
Direct tax dispute resolution scheme 2.0



In view of the success of the Direct Tax Vivad se Vishwas scheme introduced in 2020 (VsV 1.0), the Indian Government introduced the Direct Tax Vivad se Vishwas Scheme, 2024 (VsV 2.0) with an objective to reduce direct tax litigation. VsV 2.0 came into effect 1 October 2024, and the Direct Tax Vivad se Vishwas Rules, 2024 were notified on 20 September 2024.

A taxpayer who opts for VsV 2.0 needs to pay a specified percentage of the disputed tax, pursuant to which the interest, penalty and prosecution provisions would be waived. In case the disputes are only related to interest, penalty or fee, a reduced percentage of the same needs to be paid. The VsV 2.0 provides for different scenarios categorised into new appellant and old appellant cases, under which the amount payable by the taxpayer is determined based on the specified percentage of the disputed tax.

For more information see our Tax Insight.

Owing to the success of VsV 1.0 and the rising pendency of appeals, the dispute resolution scheme has been reintroduced to provide a mechanism for settling disputed issues, ultimately reducing litigation without significantly burdening the exchequer. The Central Board of Direct Taxes has issued a notification stating that VsV 2.0 will come into effect on 1 October 2024. With a complete waiver of interest, penalties and prosecution, this presents an opportunity for taxpayers to assess their income-tax disputes for prompt resolution. However, unlike VsV 1.0, all search and seizure cases, regardless of the disputed tax amount, are excluded from the benefits of VsV 2.0.

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Judicial

Australia

Judicial view on royalty withholding tax on software distribution necessary

The Federal Court refused to grant a taxpayer a temporary stay in its dispute with the ATO involving royalty withholding tax and software distribution arrangements, citing public interest reasons. The taxpayer sought a temporary stay on relevant court proceedings pending the conclusion of a mutual agreement procedure (MAP) between the relevant tax authorities of Australia and Ireland, under the terms of the relevant Australia-Ireland double tax agreement (DTA).

The proceedings before the Federal Court arose following the Commissioner of Taxation disallowing the taxpayer group's objection decisions regarding failure to withhold tax from alleged royalty payments. The issue before the court would involve the question of whether sublicence fees paid by an Australia entity to an Irish entity within the group were 'royalties' for purposes of the DTA, and therefore subject to royalty withholding tax. The Australian entity had purchased enterprise software and hardware from Ireland for distribution in Australia under complex contractual arrangements, which included rights to use computer programs in which the Irish entity owned the copyright. The taxpayer group appealed to the Federal Court against the objection decisions to preserve its domestic rights of appeal, and immediately sought the temporary stay to permit the MAP to progress.

The ATO subsequently suspended the MAP under the relevant Article of the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (MLI) which it was permitted to do so since "a case with respect to one or more of the same issues is pending before a court or administrative tribunal."

Considering a number of valid arguments from both parties, ultimately the Federal Court concluded in the Commissioner's favour and denied the stay request primarily for public interest reasons.

Justice Perram concluded that a final appellate judicial determination to address the royalty definition question under tax treaties was necessary to provide guidance for the Commissioner as well as other taxpayers on the operation of royalty withholding tax in relation to distribution of software or related arrangements. It was also considered that a judicial conclusion would assist the tax authorities on other MAPs and subsequent arbitrations and provide guidance to the various competent authorities, arbitrators and to any other trading partners with whom Australia is presently in dispute about the nature of a royalty.

Interested stakeholders should keep a watching brief on the progress of the judicial consideration of this matter (although Justice Perram noted that the matter likely will be appealed to the Full Court, possibly eventually to the High Court, and unlikely to be finally resolved until 2027).

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EU/OECD

OECD

OECD publishes report Pricing Greenhouse Gas Emissions 2024

The OECD recently published a new report Pricing Greenhouse Gas Emissions 2024: Gearing Up to Bring Emissions Down (‘the Report’). The Report provides a comprehensive analysis of carbon pricing and energy taxation trends from 2021 to 2023 across 79 countries, covering 82% of global Greenhouse Gas (GHG) emissions.

The Report underscores the need for rigorous and more globally aligned carbon pricing and energy taxation to meet climate goals. It provides valuable insights that are directly relevant to the discussions and negotiations at COP29, particularly concerning Article 6 of the Paris Agreement. Informing the implementation of Article 6 the Report includes insight on:

- the effectiveness of carbon pricing instruments;
- benefits of international linkages;
- importance of robust measuring, reporting, and verification systems;
- strategies to address carbon leakage;
- the potential for revenue generation.

By leveraging these insights, countries can advance their climate action efforts, promote international cooperation, and achieve the goals of the Paris Agreement more effectively.

For more information see our Tax Policy Alert.

While progress has been made, it is clear that a significant gap remains between existing policies, those that are announced but not yet implemented, and those that would be necessary to reach net zero (see Figure 1.1 of the Report). The Report calls for comprehensive reforms and targeted support measures to ensure a just and effective

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EU/OECD

European Union

European Commission proposes (DAC9) to simplify Pillar Two implementation

The European Commission has proposed amendments to the EU Directive on administrative cooperation in taxation (DAC9). These changes aim to facilitate the exchange of top-up tax information between Member States and allow multinational enterprises (MNEs) to switch from local to central filing. If adopted by the Council of the EU, the rules would enable MNE groups and large domestic groups to file a single Top-up tax information return in one EU Member State instead of multiple filings across different Member States.

DAC9 aims to simplify reporting requirements by incorporating the GloBE Information Return (GIR) from the OECD/G20 Inclusive Framework on BEPS (IF) into EU law. This proposal sets up a system for tax authorities to exchange information with other EU Member States. Once adopted by the Council of the EU and the EU Parliament, governments have until 31 December 2025 to implement DAC9. The first Top-up tax information returns are due 30 June 2026, with information exchange required by 31 December 2026.

For more information see our Tax Policy Alert.

Businesses should consider the Member State where they might wish to file their Top-up tax information return, using a designated filing entity if that is not the location of the Ultimate Parent Entity. They should also consider the data requirements if they have not already done so.

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EU/OECD

European Union

ECOFIN approves VAT in the Digital Age package

On 5 November 2024, the EU Finance Ministers at ECOFIN approved the latest version of the VAT in the Digital Age (ViDA) package released on 30 October 2024. This is positive news given that Estonia had earlier raised concerns in relation to the platform rules, a matter which was the subject of compromise discussions throughout 2024.

The latest ViDA package contains several compromises and new start dates, compared to the original 8 December 2022 proposals. The main pillars of ViDA relate to:

1. Digital Reporting Requirements (DRR) and mandatory e-invoicing on intra-EU business-to-business (B2B) transactions - the application date and transitional date for DRR are 1 July 2030 and 1 January 2035 respectively;
2. The platform economy - the application date is 1 July 2028 (at the earliest) with a mandatory application date of 1 January 2030; and
3. Simplifying VAT compliance by taking away the need for multiple VAT registrations - application date of 1 July 2028

Given the substantial differences between the EC proposal and the compromise text, the European Parliament will need to be reconsulted through a simplified written procedure. This approval should be forthcoming because the start dates are well into the future and the compromise text reflects a balance of factors.

For more information see our Tax Policy Alert.

Given the prominence of the digital economy, ViDA is highly significant in the European Union and on the global tax policy stage. The ViDA proposals are designed to: a) help streamline and harmonise the EU's VAT rules (thus lessening fragmentation and making them more apt for the modern economy and the single market); b) reduce administrative burdens for businesses operating cross-border; and c) safeguard significant tax revenues for Member States.

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EU/OECD

OECD

OECD report proposes measures for international tax transparency on real estate

The OECD published a new report, Strengthening International Tax Transparency on Real Estate - From Concept to Reality, on 25 July 2024. This report proposes measures for international exchange of information and due diligence regarding foreign-owned real estate, noting the current state of play and potential challenges for enhancing international tax cooperation in this area. The proposals aim to build a framework for improving international collaboration and reliable data sharing among tax administrations with respect to cross-border real estate (beneficial) ownership.

This report proposes an information reporting framework and exchange of information regime for real estate analogous to other tax transparency reporting frameworks such as the OECD Common Reporting Standard.

The report outlines six building blocks within three key steps to enhance tax transparency on real estate. The first step involves the regular exchange of readily available information on real estate transactions, holdings, and income between tax administrations. This would require understanding the information that jurisdictions currently have and need and designing a legal basis for automatic and spontaneous exchange of information for interested jurisdictions.

The second step enhances the consistency and quality of the information through common due diligence and reporting requirements. This would involve imposing obligations on relevant service providers to collect and report information to tax authorities regarding the tax and beneficial ownership details of parties involved in real estate transactions, as well as on the financial details of the transactions and the recurrent income from real estate.

The third step aims to enhance real-time access for tax authorities to beneficial ownership information in respect of foreign real estate held by their taxpayers. The report suggests leveraging existing beneficial ownership registers and digital land registers and interlinking such registries to provide tax authorities with fast-track access to up-to-date information.

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Relevant businesses should be conscious of these developments, and aware of the potential impacts if an enhanced international exchange of information regime on cross-border ownership and income from real estate were to be globally adopted in the foreseeable future.

Businesses and investors involved in real estate investments should be aware of the increased focus on transparency and potential increased scrutiny on the ownership structures of real estate assets. Should an international framework for the common reporting of real estate information be adopted, real estate intermediaries would need to maintain accurate records of relevant information to report to tax authorities and be ready to comply with new rules.

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Glossary

Acronym	Definition
ATAD	anti-tax avoidance directive
ATO	Australian Tax Office
BEPS	Base Erosion and Profit Shifting
CFC	controlled foreign corporation
CIT	corporate income tax
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	notionial 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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