PwC Tax Insight # 04/2024
Tax Update

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Thailand to sign on to the Pillar Two Subject to Tax Rule

The following report may be of interest to:

All clients

In brief:

On 27 August 2024, the Thai Cabinet approved in principle the implementation of the Pillar Two Subject to Tax Rule (STTR) for Thailand and granted the Revenue Department the authority to undertake further action as considered necessary regarding its adoption.

In detail:

After the 15th OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting (IF) plenary meeting in July 2023, the OECD published a report with a model treaty article and commentary on the STTR. The STTR is a treaty-based rule that allows source countries to impose an additional withholding tax on certain outbound intragroup payments that are subject to a normal tax rate of less than 9% in the country of the recipient. A wide range of payments between connected persons are targeted by the rule, including interest, royalties and service fees. There is a notable exclusion in the case of dividends.

In September 2023, the IF concluded negotiations on the Multilateral Convention to Facilitate the Implementation of the Pillar Two Subject to Tax Rule and in October 2023 made the STTR Multilateral Convention open for signature, with a signing ceremony planned for 19 September 2024 in Paris, France.

The Thai Cabinet resolution of 27 August 2024 approved the signing of the draft letter of intent for Thailand to participate and join the aforementioned STTR Multilateral Convention signing ceremony.

However, at the outset, since the STTR is a very complex concept, careful consideration and further analysis will be required before its implementation. Thus, the Thai Cabinet resolved to order the Revenue Department to take the action it deems appropriate and necessary including, after signing the letter of intent, coordinating closely with the OECD Secretariat to implement the STTR.

Our observations:

Unlike the OECD's Global Anti-Base Erosion Model Rules (Pillar Two GloBE Rules), the STTR is not limited to MNEs with group revenues of EUR 750 million or more. If the criteria are met, the STTR will apply to all in-scope payments between connected persons, irrespective of the turnover of the payer or the MNE group. The STTR will therefore take priority over the GloBE Rules. Taxes imposed under the STTR would then be treated as Covered Taxes in the computation of the effective tax rate under the GloBE rules.

The first step for implementing the STTR would be for Thailand to sign on to the STTR Multilateral Convention. Thereafter, for the STTR Multilateral Convention to become effective, the Instrument of Ratification would need to be deposited with the OECD. Taxpayers in Thailand that are part of an MNE with transactions falling within the scope of the rule should quickly evaluate the upcoming impact before the STTR comes into effect so as to prepare for any potential changes and incremental tax costs on their cross-border payments.

For further information, please contact:

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