International Tax News

December 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:

Accounting for Pillar Two: More than a tax exercise

Doug McHoney is joined by Andy Wiggins, PwC Partner based in the United Kingdom and PwC's Global Tax Accounting Services Leader to(birming)ham it up on the tax accounting implications of Pillar Two. Together they discuss, deferred accounting, the differences between US Generally Accepted Accounting Principles (GAAP) and International Financial Reporting Standards (IFRS), accounting implications of the qualified domestic minimum top-up tax (QDMTT), income inclusion rule (IIR), and undertaxed profits rule (UTPR), country by country reporting (CbCR), and transitioning from the full safe habor to GloBe rules.

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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

Australia

New Australian public country by country reporting laws

Legislation to introduce public country-by-country (CBC) reporting obligations in Australia effective from 1 July 2024 has now been enacted. This requires the CBC reporting parent of a large multinational group with an Australian presence to submit data on their global financial and tax footprint to the Australian Taxation Office (ATO), which will be made publicly available. This new obligation applies in addition to existing confidential CBC reporting regimes and any other public CBC reporting regimes (e.g. the European Union regime) that may apply to a multinational group.

The ATO expects to issue guidance by March 2025 on several practical matters related to the new regime's implementation. nuidance is likely to be needed o:

- **Lodgment mechanics**: For example, confirming the technical specifications of the file (the specific XML schema and validation rules), the portal through which files will be submitted, whether any registration is required by the global parent entity, whether files will need to be submitted by an agent, and who is required to approve a file prior to lodgment.
- **Exemptions**: The law does not prescribe the circumstances in which exemptions will be considered, but the explanatory memorandum notes that it may include considering whether disclosure of the data would impact national security, breach Australian or foreign laws, or result in substantial ramifications for an entity by revealing commercially sensitive information.
- **Definitions and interpretations:** Technical guidance may be needed on specific definitions that require clarification for the public CBC report.

We also await confirmation of which 'specified' countries will need to be reported separately.

Although there is still time before the first report is due, it is not too early for groups to begin to prepare for public CBC reporting obligations. This may include:

- Evaluating whether you fall within the scope of the rules.
- Ensuring relevant stakeholders within your organisation are aware of the upcoming obligations.
- Reviewing the readiness of your systems and processes to gather the necessary data and ensuring that the different data required across Australian public CBC reporting, confidential CBC reporting, EU public CBC reporting, Pillar Two, and other tax obligations can be reconciled and explained.

Considering your communications strategy and whether it may be appropriate to voluntarily publish additional information or explanations to provide context for the CBC data that the ATO will publish.

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Legislation

Australia

Australia's Parliament passes Global and Domestic Minimum Tax

Australia has successfully passed its Pillar Two primary legislation through Federal Parliament. This legislation establishes the framework for applying the Pillar Two tax, including the Australian Domestic Minimum Tax (DMT) and Australian Income Inclusion Rule (IIR) tax, effective for income years commencing on or after 1 January 2024. In addition, the Australian Undertaxed Profits Rule (UTPR) tax will take effect for income years commencing on or after 1 January 2025.

At the time of writing, the subordinate legislation necessary for the substantive computation of top-up tax is still being finalised. All aspects of Australia's Pillar Two top-up taxes likely will be 'substantively enacted' just prior to the end of their first full year of operation.

For in-scope Multinational Enterprise (MNE) groups, it is crucial to prepare for the financial, tax, governance and compliance implications of this significant change without delay.

For more information see our PwC Tax Alert.

In anticipation of the Australian Pillar Two regime being substantively enacted before 31 December 2024, in-scope MNE groups should assess the application of the rules and prepare the necessary calculations and documentation to evidence their Pillar Two position and related financial reporting disclosures. The extent and nature of the work required will vary depending on the Pillar Two profile of each in-scope MNE group. However, a minimum level of work will be necessary to support the group's Pillar Two position. An immediate area of focus will generally be whether the Transitional CbC Report Safe Harbour is available.

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Legislation

Cyprus

Cyprus passes global minimum tax

The Cyprus House of Representatives, on 12 December 2024, passed the global minimum tax of MNE groups and large-scale domestic groups law. This law transposes the Pillar Two EU Directive into Cyprus national law. The legislative process will complete once the Law is published in the Government Gazette, which is expected soon.

The Law aligns with the EU Directive and includes additional text to account for certain elements of the OECD/G20 Inclusive Framework on BEPS Administrative Guidance (the AG) released to date.

The main rule, the Qualified Income Inclusion Rule (QIIR), will be effective from 2024. The secondary rule, the Qualified Undertaxed Profits Rule (QUTPR), and the Cyprus domestic minimum top-up tax (DMTT) will be effective from 2025.

The Law does not modify Cyprus' corporate income tax (CIT) legislation. Instead, it introduces additional tax legislation, which is only to be applied in parallel to the CIT legislation for groups within scope.

For more information see our PwC Insight.

Given the effective application of the Cyprus QIIR, effective in 2024, and the imminent application of the Cyprus QUTPR and DMTT, in-scope groups should take measures immediately. They should analyze the Law's potential impact and implications and assess whether their existing data, systems, technology, and processes can adequately support the Law's requirements in order to fully comply.

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Legislation

Greece

Extension of participation exemption regime to subsidiaries in third countries

Law 5162/2024, as published in the Greek Official Gazette on 5 December 2024, amends the Greek Income Tax Code (L. 4172/2013) and expands the scope of the dividends and capital gains participation exemption, subject to certain conditions. These new provisions will be effective for tax year 2025. The new provisions aim to enhance the tax advantages available to Greek tax-resident legal entities, particularly in relation to intragroup dividends and capital gains from share transfers.

Under these new provisions, the income tax exemption for intragroup dividends received by a Greek tax resident legal entity, which was previously limited to distributions from legal entities established within the European Union, has now been extended to include distributions from subsidiaries established in third countries.

Similarly, the exemption from tax on capital gains earned by a Greek tax-resident legal entity arising from the transfer of shares in EU subsidiaries has been extended to cover participations in non-EU legal entities.

These extensions are subject to the same terms and conditions as previously established, specifically requiring a minimum holding percentage of 10% for a duration of at least 24 months. This modification aims to enhance the competitiveness of Greek businesses by providing them with greater flexibility in their international operations.

However, an additional condition has been introduced for both dividends and capital gains exemptions: the distributing legal entity, or the entity whose shares are being transferred, must not be established in a non-cooperative state (article 65 of L. 4172/2013). This measure ensures that the tax benefits are not exploited through entities in jurisdictions that do not comply with international tax standards.

This legislative reform is designed to bolster the competitiveness of Greek businesses by offering them increased flexibility in their international operations

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Legislation

Guernsey

Guernsey enacts Pillar Two rules

Guernsey recently approved legislation to implement the OECD's Pillar Two rules, effective from 1 January 2025. Local guidance notes have not been released yet. The Pillar Two rules ensure that large multinational enterprises with a consolidated annual turnover exceeding EUR 750 million (Qualifying MNEs) pay a minimum tax of 15% at a jurisdictional level, with a top-up tax on any low-tax profits. As part of the legislation, Guernsey implemented a Qualified Domestic Top-up Tax (DTT) and Multinational Top-up Tax (MTT) for the Qualified Income Inclusion Rule (IIR), which follow the GloBE Model Rules with some modifications.

The corporate income tax rate in Guernsey will remain at 0% (with 10% and 20% applying to certain activities). The 15% minimum effective tax rate applicable under the Pillar Two legislation will only apply to MNEs meeting the consolidated turnover threshold. Therefore, any entities in Guernsey that are part of an MNE but do not meet the threshold will not be impacted by the Pillar Two legislation.

Key highlights of Guernsey's Pillar Two regulation include:

- **Implementation date:** Effective from fiscal periods starting on or after 1 January 2025.
- **Exempt entities:** Investment entities and insurance investment entities are exempt, in line with the GloBE Model Rules.
- **Consolidated financial statements:** Not required under local GAAP but must follow an Acceptable Financial Accounting Standard, in line with the GloBE Model Rules.
- **Domestic Top-up Tax (DTT):** Guernsey tax-resident entities that are constituent entities of Qualifying MNEs, Domestic Joint Ventures, and their subsidiaries will be liable to DTT.
- **Multinational Top-up Tax (MTT):** Ultimate parent entities of Qualifying MNEs will be liable to MTT.
- **Registration:** Qualifying MNEs are required to appoint a domestic entity of the group as the domestic filing entity responsible for submitting the necessary returns and notifications to the Guernsey Revenue Service. The domestic filing entity is responsible for registering all Guernsey entities in the group. The registration is required to be submitted within the later of 12 months of the first fiscal period beginning on or after 1 January 2025 or six months from the date the entity becomes a member of a Qualifying MNE. Failure to register could result in summary convictions as well as financial penalties up to £20,000.
- **Filing requirements:** Returns must be filed within 15 months after the fiscal year-end, or 18 months for the first year. If a GloBE Information Return is filed in another jurisdiction with a Qualifying Competent Authority Agreement, a notification must be submitted to the Guernsey Revenue Service. Where an MNE, previously in-scope of the rules, is below the threshold in a particular year, the domestic filing entity would be required to submit a below-threshold notification to the Guernsey Revenue Service.

For more information see our PwC Insight.

As these rules come into force from 1 January 2025, larger structures -- especially if they report under the country-by-country reporting regime, which has a similar reporting threshold -- should analyze whether they are in scope, from which fiscal year the legislation would apply, and what the impact would be, both fiscal and administrative, for their local operations. Groups or local entities that fall within the scope of the legislations should consider:

- Increased compliance requirements: Ensuring timely registration and submission of returns to avoid penalties. Calculating applicable DTT and MTT is complex.
- Financial implications: Assessing potential DTT and MTT liabilities and the financial statement impact.
- Financial statement disclosures: Disclosing calculations of potential DTT and MTT liabilities in financial statements.
- Record keeping: Maintaining accurate records to comply with the new legislation and avoid penalties.

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Legislation

Hungary

Hybrid mismatch rules amended

Recently enacted legislation includes amendments to the corporate income tax law, addressing hybrid mismatch rules pertaining to double deducted costs and expenses (transposed from the relevant EU directive).

Until now the Hungarian implementation of the Directive did not allow the carry forward of double deducted costs and expenses to use them against possible future dual inclusion income. As a result, such deductions were lost permanently.

The amendment addresses the lost deduction issue and introduces regulations to allow taxpayers to deduct disallowed expenses incurred in previous fiscal years in such cases.

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Legislation

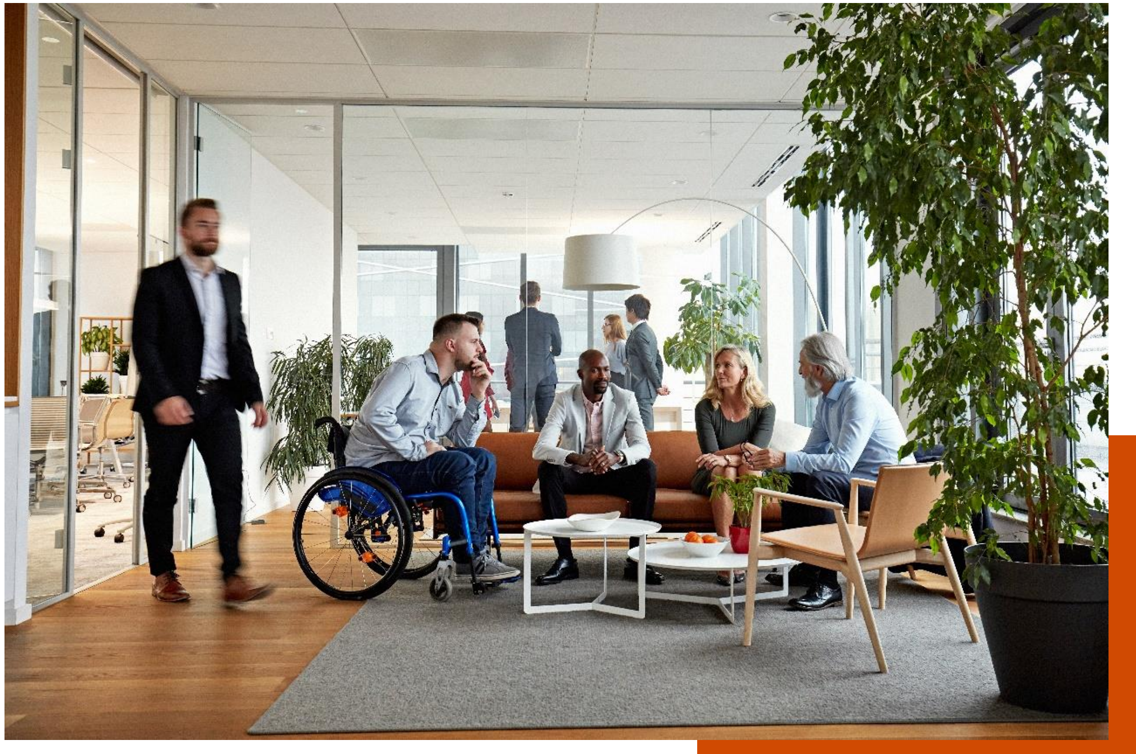
Italy

Legislative Decree on corporate income taxation

On December 3, 2024, the Italian Government approved the final draft of the Legislative Decree on income taxes, introducing relevant updates regarding extraordinary transactions, including:

- amendments to the tax attributes (net operating losses, excess interest expenses and notional interest deductions) forfeiture rules applicable to changes of ownership (direct and indirect) of Italian entities;
- amendments to the tax attributes forfeiture rules applicable to mergers and demergers;
- introduction of the tax law provision governing the downstream demerger (*"scissione con scorporo"*);

importation of non-Italian tax losses, for the merger of an EU/Single European Act (SEA) entity into an Italian entity, the Italian surviving entity will be allowed to carry forward the tax losses inherited from the EU/SEA entity if certain conditions are met. Such a rule is aimed at aligning the Italian tax law system to the principles of the EUCJ (*ex multis*, decisions Marks & Spencer, C-446/03; Holmen, C-608/17; Memira Holding, C-607/17).



MNEs that implemented during 2024 or are considering implementing Italian reorganizations should consider the impact of the new rules on the tax attributes carryforwards. Additionally, the opportunity to convert an Italian branch into an Italian subsidiary in a tax neutral manner, as well as the merger of an EU company with the chance to use foreign tax losses, will pave the way for new restructuring options.

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Legislation

Italy

Amendments to the Italian digital service tax

Italy currently levies a 3% Digital Services Tax (DST), applicable only to companies with global revenues exceeding €750 million and at least €5.5 million of revenues generated from digital services provided in Italy.

The 2025 Draft Budget Law, currently under consideration by the Italian Parliament, proposes removing both the revenue thresholds currently limiting applicability of the DST. Should the proposal be approved, the revised provisions are expected to come into effect on 1 January 2025. This would significantly broaden the scope of the Italian DST to include a wider range of businesses (regardless of their size) engaged in the provision of digital services in Italy.

However, consider that the Draft Budget Law is still under parliamentary discussion and may be amended.

If the proposed amendment is approved, both Italian and non-Italian entities, regardless their size, must determine whether they perform digital services in Italy. If they do, they must comply with the associated DST obligations (i.e. filing of DST return, etc.) and pay the relevant Italian DST.

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Legislation

Italy

Implementation of the Italian penalty protection regime for hybrid mismatches

The Italian Ministry of Economy and Finance, on December 6, approved the Decree implementing the penalty protection regime for hybrid mismatch arrangements based on anti-hybrid documentation as set forth by Decree no. 209, published in December 2023.

Proper preparation of the anti-hybrid documentation is critically important for Italian taxpayers within multinational groups, as the penalty-protection regime:

- protects them against administrative penalties;
- ensures that they have ready-to-exhibit and adequate supporting documentation against the application of anti-hybrid rules (AHR) in case of a tax audit;
- provides benefits during due diligence; and
- demonstrates proper management of internal tax risks and is connected to the cooperative compliance regime.

Relevant hybrid cases are not always a result of aggressive tax planning strategies but, instead, can be created by unintended behaviors. Consequently, proper documentation allows taxpayers to control the tax and penalty risks connected to previous fiscal years not duly mapped.

For more information see our PwC Insight.

Impacted taxpayers should consider developing an effective, efficient, and practical approach to anti-hybrid documentation. User-friendly technology should be able to help with this approach.

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Legislation

Colombia

Colombian Congress Shelves Proposed Tax Reform for 2024

On December 11, 2024, the Congress of Colombia officially shelved the tax reform project proposed by the government. The initiative aimed to introduce significant changes, including progressive reductions in income tax rates, new deductibility requirements, increased minimum taxation rates, increased carbon tax and adjustments in VAT, among others . With this decision, no changes will be implemented in the taxation for the 2025 fiscal year.

With this decision, no changes will be implemented in the taxation for the 2025 fiscal year

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Legislation

Luxembourg

Luxembourg enacts law to amend the Pillar Two law

On 19 December 2024, the Luxembourg Parliament voted to adopt law n° 8396 to amend the law of 22 December 2023 introducing the Pillar Two minimum taxation rules. The law aims to enact into Luxembourg law the OECD Administrative Guidance that has been issued so far, including the majority of the Administrative Guidance issued by the OECD on 17 June 2024. While this makes Luxembourg one of the first countries to enact nearly all OECD Administrative Guidance, several questions remain with respect to some practical aspects of the Luxembourg Pillar Two rules.

With respect to the transitional rules, an important clarification is included in the commentary with respect to carried forward tax losses (and related deferred tax assets) that have been generated in relation to non-portfolio shareholdings during the transition period. The transition period started on 1 December 2021 and ends when a jurisdiction falls within the full Pillar Two rules (the transitional year). If a jurisdiction applies one of the transitional country-by-country safe harbours, the transition period would be extended. Deferred tax assets due to losses on shareholdings (impairments or capital losses) which originated during the transition period would be grandfathered, subject to the condition that Luxembourg entities apply for the jurisdictional Equity Investment Inclusion Election in the transitional year. Hence, groups which have Luxembourg entities that generated such tax losses during the transition period would need to make the election to prevent that the future utilization of those tax losses would have a dilutive effect on the jurisdictional effective tax rate.

In line with the possibility provided by the OECD Administrative Guidance, Luxembourg would not apply the QDMTT rules to Luxembourg entities being part of a large-scale domestic group or a group in its initial phase of international activity (i.e., a group which is present in no more than 6 jurisdictions and with an aggregate net book value of tangible assets outside of the 'reference jurisdiction' that does not exceed €50 millions). This does not preclude that Luxembourg parent entities in such groups could still be required to apply the income inclusion rule with respect to foreign entities.

With respect to the transitional country-by-country safe harbours, the law enacts the Hybrid Arbitrage Arrangement Rule, where Luxembourg has chosen to implement the rule with retroactive effect for arrangements implemented or amended after 18 December 2023. Under such a rule, certain expenses, income taxes or losses could be disregarded when testing the transitional country-by-country safe harbours. The Luxembourg Government included several arguments to defend the retroactivity of the rule in the commentary to the law.

For more details see our Tax Alert.

The amendments proposed by the law provide welcome clarifications on several points for Luxembourg businesses, such as the grandfathering of certain tax losses on shareholdings, clarifications on the consolidation rules and treatment of deferred tax liabilities of Luxembourg reinsurance entities.

While clarifying certain concepts, doubts remain with respect to several aspects of the Luxembourg Pillar 2 rules, such as the treatment of compartments of funds, the treatment of deferred taxes for entities filing Lux GAAP financial statements and the Pillar Two filing obligations that will be due in Luxembourg.

As many Luxembourg companies will be finalizing their FY24 financial statements in the first half of 2025, it remains to be seen whether Luxembourg administrative guidance clarifying some of the issues would be issued early 2025.

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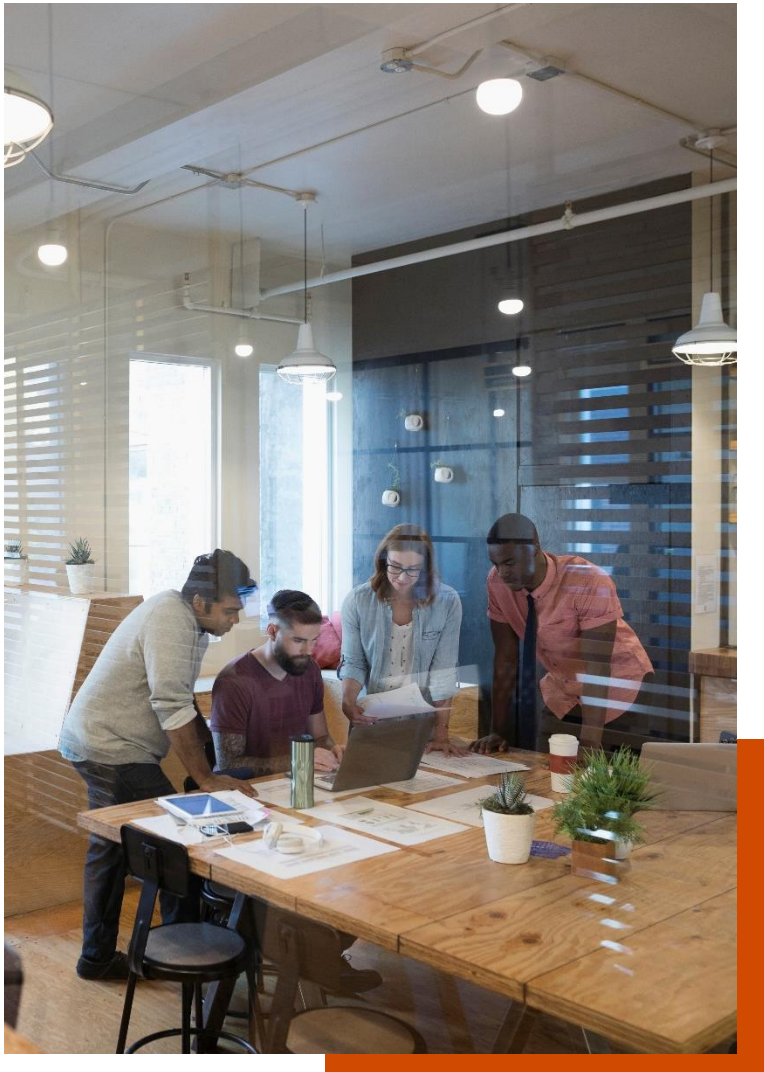
Administrative



Bahrain

Bahrain releases DMTT regulations

The National Bureau for Revenue (NBR) officially published the Executive Regulations for the Domestic Minimum Top-Up Tax (DMTT) for Multinational Enterprises (MNEs) on 15 December 2024. The Executive Regulations supplement the primary DMTT Law released on 1 September 2024. As a general overview, the DMTT Law applies a 15% effective tax rate to Bahrain profits of MNEs with global consolidated revenues of at least EUR 750 million in at least two of the previous four fiscal years. This includes MNEs headquartered in Bahrain as well as foreign MNEs with operations in Bahrain. However, the DMTT Law will not apply to local businesses with operations limited to Bahrain or that do not meet the Revenue test. The DMTT Law will be effective on 1 January 2025.

The Executive Regulations state that if the MNE Group meets the EUR 750 million test for at least two of the four Fiscal Years immediately preceding the date on which the Law comes into effect, the Filing CE must apply for registration with the NBR within 30 days following the effective date of the DMTT Law. In other cases, the Filing CE must apply for registration with the NBR within 120 days from the first day of the Transition Year, i.e., the first year in which the MNE Group falls within the scope of DMTT. Registrations are required even where the MNE Group meets or is expected to meet any relevant safe harbour or de minimis exclusion.

For more information see our Tax Alert.

As anticipated, the Executive Regulations are largely in line with the GloBE Model Rules. Significantly, for affected MNE Groups, you may be required to register for DMTT with the NBR as early as 30 January 2025, even if you qualify for any safe harbour or de minimis exclusions. Additionally, affected MNE Groups will be required to make quarterly advance payments within 60 days after the end of each quarter, with the first payment during the Transition Year payable on the due date for the second advance payment for the year.

There is a significant amount of information required to complete the DMTT registration, such as financial data to be compiled (e.g., the MNE Group's consolidated revenue). Therefore, it is advisable for taxpayers to begin preparing the necessary documentation in advance to ensure they are ready for registration by the deadline. Additionally, taxpayers should be aware that penalties may be imposed for late registration and any incorrect or incomplete information provided in the registration form.

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Administrative

Germany

Germany publishes final anti-hybrid rules guidance

The German Federal Ministry of Finance published on December 9 the final decree on its interpretation of the German anti-hybrid rules. The rules generally apply to all expenses incurred after 31 December 2019. The decree includes some changes to the draft version, which was published in July 2023 (see our PwC Insight). The decree includes statements regarding the impact of foreign controlled foreign corporation (CFC) regimes on the German anti-hybrid rules, which are also relevant for the US global intangible low-tax income (GILTI) rules.

The published decree is the final guidance from the German tax authorities on the anti-hybrid rules. Below are some key amendments to the draft version that was published in 2023:

- **Impact of foreign CFC taxation on D/NI outcomes:** Based on the decree, income that is taxed under a foreign CFC taxation regime is considered to be 'included income' and no D/NI outcome would arise, if the foreign CFC taxation is a CFC taxation within the meaning of the EU anti-tax avoidance directive (ATAD). Therefore, if income is taxed under a non-EU CFC taxation, it may be required to compare such foreign CFC taxation with the CFC taxation rules under the ATAD. The draft decree did not include this requirement.
- **Impact of US GILTI and Pillar Two rules on D/NI outcomes:** Contrary to the above, if income is only included under a foreign tax regime that provides for a 'blending' of income, losses, and taxes of all or several CFCs, such income is *not* considered 'included income' under the decree. This may include US GILTI as well as Pillar Two regimes. Therefore, based on the decree, an inclusion of income for US GILTI or Pillar Two purposes is not expected to constitute the existence of 'included income.'
- **Dual inclusion income for disregarded payments:** Based on the decree, income that is taxed in Germany but not in the foreign jurisdiction due to a hybrid mismatch may – regardless of the non-taxation of the income in the foreign jurisdiction – in certain cases constitute dual inclusion income, provided such income gives rise to a 'No-Deduction/Inclusion outcome.' Note that such treatment is contrary to the wording of the law. However, the German tax authorities appear to apply an economic view and grant such relief to avoid unfair outcomes. The draft decree did not include such relief.
- **Impact of foreign CFC rules, US GILTI, and Pillar Two rules on DD outcomes**: Under the decree, a double deduction does *not* arise if expenses are tax deductible for German tax purposes and for purposes of a foreign CFC taxation. This is contrary to the draft decree (but now in line with the legislative materials), which said that a foreign CFC taxation gives rise to a double deduction.

For more information see our PwC Insight.

Multinational companies with German subsidiaries should analyze the decree's impact on the deductibility of expenses in Germany. Businesses also should comply with the documentation requirements for the treatment of transactions under foreign law, as required by the decree.

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Administrative

Germany

German Pillar Two Tax Amendment Act published

The German Federal Ministry of Finance published, on 5 December 2024, a second draft of the German Pillar Two Tax Amendment Act ('the draft act'). The Ministry requested feedback by 31 January 2025, as part of the consultation process. In addition to the aspects previously included in the first draft, this second draft includes further amendments by implementing the OECD Administrative Guidance from June 2024.

The draft act also proposes repealing several international tax provisions. These include the license barrier rule, a rule foreseeing the non-deduction of so-called special business expenses, and the CFC taxation rules for participation in investment companies.

CbCR Safe-Harbour calculation

The draft act adjusted the wording in the definition of 'reporting packages' as one of the central elements when applying the CbCR Safe-Harbour . In addition, a reference to the German implementation of the CbCR rules in Sec. 138a of the German Tax Code was added to clarify that the CbCR requirements also need to be considered to benefit from the CbCR Safe-Harbour. Under the new rules, only aggregated and not consolidated data are required, according to the OECD CbCR Guidance.

Sec. 87 para. 1 sent. 2 of the draft act foresees that use of the CbCR Safe-Harbour for a tested jurisdiction cannot be claimed if adjustments to the data for the CbCR Safe-Harbour, which are required under the German Pillar Two act, have not been made. This rigid rule is supposed to apply even if the omitted adjustment would have had no effect when applying the CbCR Safe-Harbour. Therefore, all adjustments (e.g., elimination of tax expense from uncertain tax positions) need to be made when determining the reporting packages (even if the CbCR Safe-Harbour would have passed without such an adjustment).

For more information see our PwC Insight.

Taxpayers should determine which entity is the head of the German tax minimum group. For financial years beginning on 1 January 2024, the notification must be made no later than 28 February 2025.

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Administrative

United States

Treasury releases final and proposed foreign currency regulations

Treasury and the IRS released, on 10 December 2024, final regulations under Section 987 on the taxation of foreign currency translation gains or losses arising from qualified business units (QBUs) that operate in a different currency from their owner. The final regulations generally retain the rules contained in the proposed regulations published in November 2023. The final regulations generally reserve on the treatment of partnerships and S corporations (other than a few specific provisions), add a new mark-to-market election for Section 988 transactions of a QBU, and provide a simplified computation for taxpayers that use the transition method and/or elect to treat all items of a QBU as marked items under the current rate election. The final regulations are effective 10 December 2024, and generally apply to tax years beginning after 31 December 2024.

Treasury and the IRS also released proposed regulations relating to the determination of taxable income or loss and foreign currency gain or loss with respect to a QBU. The proposed regulations include an election that is intended to reduce the compliance burden of accounting for certain frequently recurring disregarded transactions between a QBU and its owner. The proposed regulations request comments relating to the treatment of partnerships and controlled foreign corporations (CFCs).

Impacted companies, including banks, insurance companies, leasing companies, finance coordination centers, regulated investment companies, and real estate investment trusts (specified entities), must assess the impact of the finalized regulations on existing QBUs, including the adoptions of methods and elections under the finalized regulations, and consider the potential financial reporting impact of the final regulations, as under ASC 740 the tax effect resulting from the change in tax law must be accounted for in the period the regulations were released.

For more information see our Tax Insight.

Companies should review their existing Section 987 calculations and consider modeling the overall impact of the final regulations on their QBUs with and without the elections (including the new election for frequently recurring disregarded transactions), as the elections would affect both the quantitative results of the regulations, and the data required to be tracked. Companies should consider providing comments on the proposed regulations and the application of Section 987 to partnerships and CFCs, which are due by 11 March 2025.

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Administrative

United States

Treasury releases first set of long-awaited PTEP regulations

Treasury and the IRS released, on 29 November 2024, proposed regulations on the treatment of previously taxed earnings and profits (PTEP) under Section 959 and several related provisions. The regulations provide rules addressing core aspects of the PTEP regime, such as increases and decreases to basis of stock and other property, foreign currency gain or loss, allocation of foreign tax credits, partnerships, and consolidated returns.

The proposed regulations provide long-awaited guidance on PTEP, which has taken on increased significance after the enactment of the mandatory repatriation tax in Section 965 and global intangible low-taxed income (GILTI) in Section 951A as part of the 2017 Tax Cuts and Jobs Act (TCJA). The regulations are proposed to be effective for tax years of foreign corporations starting on or after the date final regulations are issued, except the rules implementing the provisions of Notice 2019-01 apply for tax years of US shareholders ending after 14 December 2018, and tax years of foreign corporations ending therein. Taxpayers may apply the proposed regulations (as finalized) early, subject to certain conditions.

For more information see our Tax Insight.

Comments on the proposed regulations are due by 3 March 2025. Taxpayers should consider the applicability dates of the proposed regulations and the transition rules related to the new requirements to track PTEP accounts, dollar basis pools, and PTEP tax pools.

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Administrative

Belgium

Belgium issues circular letter on hybrid mismatches.

While the circular offers helpful clarifications, it may indicate that Belgian tax authorities will scrutinize hybrid mismatches more closely in future audits. Therefore, taxpayers should carefully monitor their cross-border transactions, particularly concerning potentially imported hybrid mismatches.

The Belgian Tax Authorities published, on 22 October 2024, a circular letter (2024/C/66) to provide guidance on Belgium's hybrid mismatch rules. These rules, which stem from the implementation of the EU Directives ATAD 1 and ATAD 2 into Belgian tax legislation, have been in effect since 1 January 2019. The new guidance was highly anticipated due to significant uncertainty and discussion around the treatment of hybrid mismatches.

Article 2 of the Belgian Income Tax Code (BITC) defines a hybrid mismatch as an arrangement that results in deductible expenses for a Belgian company, Belgian establishment, foreign company, or foreign establishment, without these expenses being included in the recipient's taxable income. This definition encompasses both 'double deduction' (where two taxpayers deduct the same expense) and 'deduction without inclusion' (where an expense is deducted without the corresponding income being taxed). To address hybrid mismatch arrangements, the Belgian anti-hybrid rules prohibit the deductibility of such expenses from Belgian taxable income.

The circular letter clarifies key concepts related to the application of hybrid mismatch rules, including the concept of 'associated' entities within the framework of hybrid mismatch arrangements. It also provides several examples of situations addressed by hybrid mismatch rules, including the imported mismatch rules, which are significant for Belgian taxpayers

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Judicial

Portugal

CJEU rules on discriminatory treatment of non-resident insurance companies

The Court of Justice of the European Union (CJEU) ruled, on November 7, 2024, that national legislation allowing resident taxpayers to:

- deduct from their taxable profits the expenses related to their commitments to customers under unit-linked insurance contracts, and
- offset the taxation of dividends against corporate tax, while non-resident companies pursuing the same activities are subject to final withholding tax (WHT) on the gross amount of such dividends,

constitutes an unjustified restriction of the EU free movement of capital, as prohibited by Article 63 Treaty on the Functioning of the European Union (TFEU).

The CJEU referred to earlier case law and evaluated the business model of insurance companies with obligations under unit-linked contracts in the light of its previous considerations regarding pension funds. While judicial precedents exist for violations of Article 63 TFEU whenever a non-resident is subject to a final WHT on gross amounts of income obtained in another State, whereas residents in that State are taxed on the net amounts of such income (case C-18/15), this is the first time the CJEU applied this reasoning to insurance companies and dividends obtained under unit-linked contracts, intended to cover future liabilities of the receiver.

For more information see our PwC Insight.

In light of this judgment, Portuguese tax law provisions that impose final WHT on dividends and/or interest to non-resident taxpayers appear to constitute an unjustified restriction of Article 63 TFEU. Accordingly, non-resident insurance companies (within and outside the EU) that invest in financial assets in Portugal should assess the impacts of this case law and consider filing a tax claim for reimbursement of the final dividend/interest WHT imposed on Portuguese-sourced income received in connection with unit-linked products.

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Treaty

Australia

Consultation on the new tax treaty between Australia and Portugal

The Australian and Portuguese Governments signed a double tax treaty on 30 November 2023. Australia has started the domestic process to give the treaty legal effect by initiating a consultation on the proposed law.

Among other matters, the treaty supports bilateral trade and investment and reduces double taxation by:

- lowering withholding tax rates on cross-border interest, dividends, androyalty payments

implementing base erosion and profit shifting (BEPS) recommendations.

The tax treaty will make it easier for Australian companies to access capital and export to Portugal through reduced withholding tax rates. The treaty will also provide more certainty and reduced compliance costs for Australians and Australian businesses earning income in both countries. The new treaty will take effect after both countries exchange instruments of ratification following completion of all domestic requirements.

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EU/OECD

EU/OECD

EU Parliament approves new EU Commissioners – But tax role is split

The European Parliament, sitting in Plenary, approved the new College of Commissioners on 27 November 2024, with a narrow majority. The Commissioners assumed office on 1 December 2024. Their priorities will impact the tax agenda and overall business activity within the European Union.

President Ursula von der Leyen directed the new College of Commissioners to work collaboratively, sharing equal responsibilities to deliver the EU's priorities. Tax matters are a major part of the files entrusted to Commissioners Wopke Hoekstra and Valdis Dombrovskis. Executive Vice-President Teresa Ribera is responsible for competition, including State Aid and the Foreign Subsidies Regulation.

Wopke Hoekstra (Commissioner for Climate, Net Zero and Clean Growth)
In addition to his roles related to Climate, Net Zero, and Clean Growth, Commissioner Hoekstra is responsible for tax matters. During his confirmation hearing before the European Parliament, he committed to delivering climate transition-friendly taxation, focusing on closing the tax gap, combating tax fraud, and simplifying the EU tax system. He supports international cooperation on Pillar One and Pillar Two, the preferred approach to dealing with the taxation of the digital economy. He aims to conclude negotiations on the Energy Taxation Directive, further 'green' the VAT system, and promote EU initiatives like BEFIT, HOT, and Unshell.

Commissioner Hoekstra also intends to address simplification and decluttering at the EU level, although he conceded that a gap analysis could also lead to stronger provisions. He emphasised the responsibility of Member States in enforcing Pillar Two. If a deal on Pillar One fails, he would support a common EU approach to digital taxation in cooperation with the United States. He intends to pursue a broader solution for wealth taxation at the G20 level. Commissioner Hoekstra is also tasked with corporate tax reform and developing "the strategic use of taxation measures to incentivise the uptake of clean technologies."

Valdis Dombrovskis (Commissioner for Economy and Productivity; Implementation and Simplification)

Commissioner Dombrovskis is tasked with reducing administrative burdens and streamlining regulations to enhance competitiveness. He aims to ensure that the tax system supports Europe's decarbonisation and competitiveness, while ensuring social fairness. On taxation, he supports the OECD framework, particularly Pillar Two, and global efforts to tax ultra-high net worth individuals. He mentioned the potential return to national digital services taxes or EU-level initiatives if Pillar One does not advance. Additionally, Commissioner Dombrovskis advocates for initiatives like the BEFIT proposal to drive simplification of tax measures. He acknowledges the burdens of CSRD and stressed the need for balanced reporting requirements, especially for SMEs. He committed to including social dimensions are included in economic governance frameworks and will work closely with Commissioner Hoekstra to achieve tax-related goals.

For more information see our Tax Policy Alert.

The business community should note the priority areas identified by the Commissioners and prepare for possible future initiatives. The development of the present proposals into more concrete initiatives should be closely monitored.

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EU/OECD

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Council of the European Union adopts FASTER

On 10 December 2024, the Council of the EU adopted the Faster and Safer Relief of Excess Withholding Taxes (FASTER) Directive. As covered in a recent tax policy alert, this FASTER Directive aims to harmonise procedures for cross-border dividend payments subject to withholding taxes and simplify the system to make the Capital Markets Union (CMU) more attractive to investors. It also addresses tax fraud and abuse linked to securities investments.

Member States must transpose the Directive into national legislation by 31 December 2028, with national rules applying from 1 January 2030. However, EU Member States may choose to implement the FASTER requirements earlier.

FASTER aims to transform investment processes across the European Union, strengthening the CMU and enhancing the fight against tax fraud through:

- Streamlined withholding tax and refund procedures, simplifying cross-border investments in listed equities and bonds;
- A common EU digital tax residence certificate, providing uniformity; and
- Fast-track mechanisms, such as ‘relief at source’ and ‘quick refund’ systems, expediting tax relief and promoting ‘safer’ mechanisms through anti-avoidance provisions.

For more information see our Tax Policy Alert.

Businesses, especially those involved in determining the application of withholding taxes to beneficial owners (such as the certified financial intermediaries mentioned in the Directive) should start preparing for FASTER. Here are steps to consider:

- **Transformation Program Requirements:** Develop a comprehensive transformation program requirements document. This should include system updates, operational adjustments, and stakeholder training to ensure readiness. Detailed regulatory requirements are expected by mid-2025.
- **Explore Member State Impacts:** Focus on Germany as a case study to understand implementation challenges and opportunities within a complex market environment, leveraging insights to guide strategies for other Member States.
- **Compliance Preparation:** Identify and prioritise key compliance actions, including robust due diligence processes, verification of tax residence, and streamlined withholding tax mechanisms to meet the evolving regulatory landscape effectively.

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EU/OECD

EU/OECD

Global implementation of the crypto-asset reporting framework

The Global Forum's 17th Plenary Meeting was held from 26-28 November in Asunción, Paraguay and showcased the progress in the global implementation of the Crypto-Asset Reporting Framework (CARF). Thus far, 63 jurisdictions have already committed to implementing the CARF, and 48 of these jurisdictions have signed the Multilateral Competent Authority Agreement which will operationalize CARF exchanges globally.

CARF tackles the transparency challenges of the decentralized nature of crypto-asset transactions, enabling tax authorities to monitor and address gaps in existing tax frameworks. The CARF focuses on crypto-specific transaction reporting to bridge gaps in the Common Reporting Standard (CRS). At its core, it ensures that crypto asset users more accurately report income and gains, despite complexities and evolving local tax rules (please see the PwC Global Crypto Tax Report 2024 for more details).

A Reporting Crypto-Asset Service Provider (RCASP) is the focus of CARF reporting obligations. This is defined as any individual or entity that provides services effecting digital asset transactions and may include businesses beyond those traditionally associated with digital asset transactions. This could involve acting as a counterparty, intermediary, or facilitating a trading platform and may include exchanges, wallet providers, protocol operators, marketplaces, issuers, and more. RCASPs have tax due diligence and reporting obligations. In order to deliver compliance, organizations must firstly stay proactive as these rules evolve, especially in relation to decentralized finance (DeFi), secondly leverage technology, and thirdly adapt operational models.

For more information see our Tax Policy Alert.

We have analyzed 13 jurisdictions that have either consulted on CARF or released draft legislation. The observations below provide an outline of key issues RCASPs should consider in their jurisdictions of operation, to ensure preparedness with the upcoming CARF legislation that will be implemented across the globe.

- Specific Rules on Nexus, Registration, and Reporting: RCASPs should consider the specific rules for determining reporting nexus with a jurisdiction and potential local registration obligations;
- Requirements to Notify Users, Record Keeping and Domestic Reporting: RCASPs may be obligated to notify users about reportable transactions, maintain accurate records on relevant transactions, conduct comprehensive due diligence and potentially report domestic tax-resident crypto users;
- Stronger Penalty Framework Compared to CRS: In many jurisdictions, the CARF establishes a stricter penalty regime than the CRS, with significant fines, operational restrictions, and potential criminal charges for non-compliance with reporting, record-keeping, and due diligence requirements.

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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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