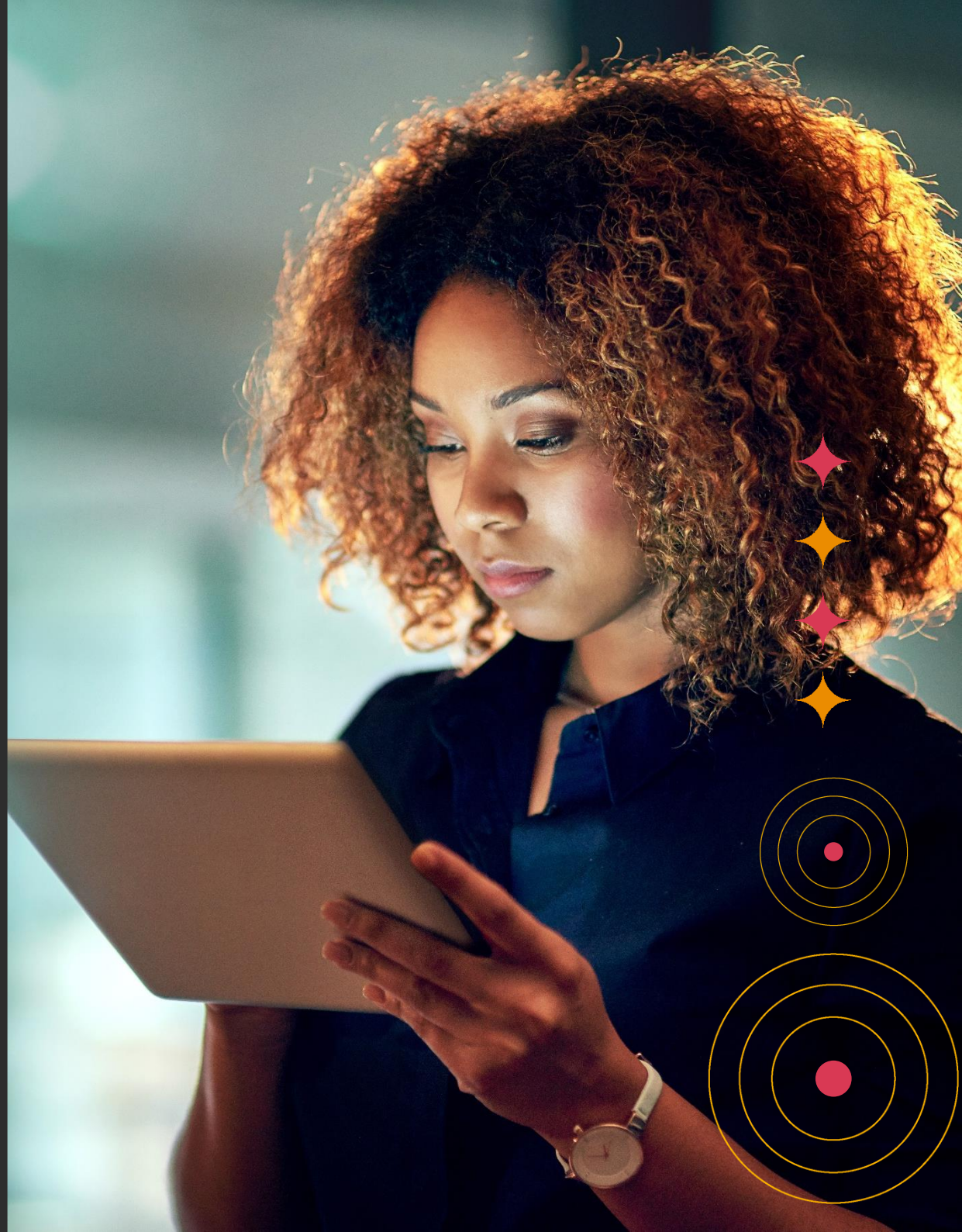




Transfer Pricing Q3 Briefing

2024

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Welcome

PwC's quarterly transfer pricing briefing helps multinational organizations keep up with the continuous flow of relevant tax and transfer pricing developments. Included in this quarterly briefing is a summary of Tax Insights and News Alerts published by individual members of the PwC network* covering July 1 through September 30, 2024.

TP Talks

Kristina Novak (Principal in PwC's US Washington National Tax Services Transfer Pricing practice) hosts specialists from the global PwC global transfer pricing network to share insights on key transfer pricing developments around the world.

CbCR: The evolving landscape

Kristina Novak is joined by David Ernick (Principal in PwC's US National Tax Services Transfer Pricing practice) to discuss the evolving landscape of country-by-country reporting (CbCR) with a focus on the Pillar Two Transitional CbCR Safe Harbor, its three tests, and the importance of accuracy in CbCR data. They also discuss public CbCR, addressing the shift from confidentiality to public disclosure, the potential differences in rules between countries, and important strategic considerations for companies.

Upcoming events

PwC Singapore and PwC India are hosting a client-facing webinar on October 23, 2024, titled [Reimagining transfer pricing certainty and dispute resolution strategy in uncertain times - A distinguished speaker series by PwC](#). View details via the link. Click [HERE](#) to register directly.



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Americas

Brazil

Brazil opens public consultation on Normative Instructions regulating intra-group services and unilateral APAs.

The Brazilian Federal Revenue Service (RFB) on August 29 published the drafts of the regulations (Normative Instructions) that will rule transactions involving intra-group services and unilateral advance pricing agreements (APA) concluded within the scope of a specific consultation process on transfer pricing. The consultation deadline originally ended on September 30 but was been extended to October 15.

The Brazilian legislation, Law No. 14,596/2023, has aligned the country's rules with international standards (see [PwC's Tax Insight](#) published January 20, 2023) by expressly incorporating the arm's-length principle into the Brazilian legal framework. Compliance with this principle is mandatory starting in 2024. Currently, Article 23 of Law No. 14,596/2023 contains specific provisions for intra-group services, and Article 38 provides for the possibility of establishing a specific consultation process regarding the methodology to be used by the taxpayer to comply with the arm's-length principle (APA). The proposed regulations presented for public consultation detail the application of these and other provisions contained in the legislation for these transactions.

Impacted companies should be attentive to further developments on these regulations resulting from input received during the consultation period.



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Americas

United States

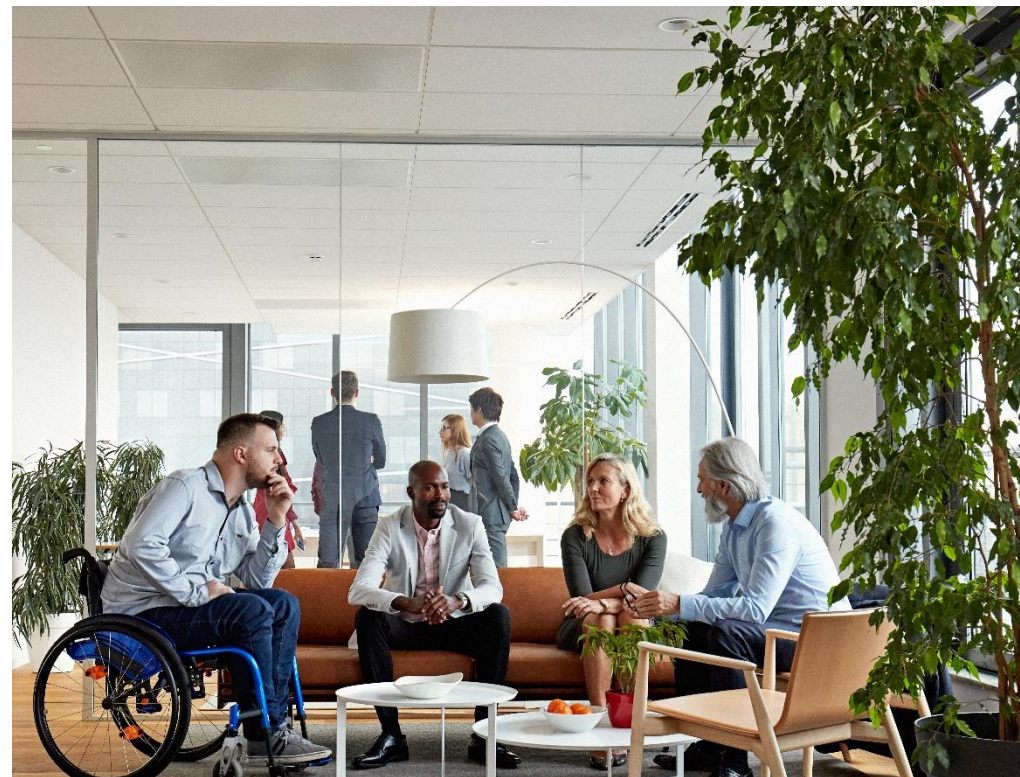
Potential tax implication of the US Supreme Court overruling the *Chevron* doctrine

The United States Supreme Court on June 28 released its [opinion](#) in *Loper Bright Enterprises v. Raimondo*, and *Relentless, Inc. v. Department of Commerce*, overturning the *Chevron* doctrine, which generally required federal courts to defer to a federal agency's reasonable interpretation of an ambiguous statute.

The *Chevron* doctrine played a critical role in allocating interpretive authority between administrative agencies and the courts and has provided a background principle against which Congress has legislated for 40 years. Federal agencies that engage in rulemaking will be impacted by the Supreme Court's decision to overturn the *Chevron* doctrine, which could lead to a significant shift in how statutes are interpreted and enforced through regulations. Specifically, courts must now decide what is the best reading of an ambiguous statute, rather than being required to defer to an agency's 'permissible' interpretation. Federal agencies' interpretations of ambiguous statutory text will not receive the same level of judicial deference (if any) with the potential for more frequent challenges to agency regulations that interpret statutory text.

The *Loper Bright* decision is likely to lead to a greater divergence of opinions among courts when they are confronted with challenges to regulatory validity. This development may pose compliance challenges or opportunities for taxpayers. At the same time, by constraining an agency's ability to interpret an ambiguous statute, the decision will likely promote regulatory stability across presidential administrations. In other words, an executive agency must adopt the 'best' interpretation of a statute, rather than choose from a range of reasonable readings, which may limit the ability of a new administration to undo the regulatory actions of its predecessors.

For more detail, see our [PwC Insight](#) on the tax and transfer pricing implications.



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Americas

United States

US requests consultations on Canada's Digital Services Tax under USMCA

The Office of the United States Trade Representative (USTR) on August 30 issued a [press release](#) announcing that the United States has requested dispute settlement consultations with Canada under the [United States-Mexico-Canada Agreement](#) (USMCA) concerning Canada's [recently enacted Digital Services Tax](#) (DST), outlined in [Bill C-59](#). This DST targets revenues from online marketplaces, targeted advertising, social media platforms, and user data.

In the [consultation request](#), the USTR asserts that Canada's DST discriminates against US companies, thereby violating commitments under the USMCA's [Cross-Border Trade in Services](#) and [Investment](#) chapters. This development could have significant implications for US companies operating in Canada, impacting trade relations and business models within the digital services sector. Specifically, the USTR has in the past imposed retaliatory tariffs on select products imported from other countries who have implemented DSTs like Canada's.

Affected companies should monitor developments closely to remain informed about the consultation process and its potential outcomes. Modeling the outcomes of how the DST may affect business operations and tax liabilities in Canada, and how potential retaliatory tariffs could impact imports from Canada, is recommended. Additionally, preparations should be made to ensure compliance with DST requirements should the tax remain in force. Further, companies should consider engagement with trade associations and legal counsel to address potential challenges ahead of any definitive outcomes.

For more details and our observations, see our [PwC Insight](#).



AsiaPac

Singapore

Singapore issues the 7th Edition Transfer Pricing Guidelines

The Inland Revenue of Authority of Singapore (IRAS) on June 14, 2024, issued revised Transfer Pricing (TP) Guidelines (Seventh Edition) (7th Edition). Notable changes in the 7th Edition include a step up in TP audits, along with stricter conditions for surcharge remission. Also, there is added emphasis on commercial rationality and substance of related party (RP) transactions, as well as adequacy of TP documentation and contemporaneous supplementary analyses in a TP audits. The MAP process has been tightened to include a more detailed evaluation step before IRAS accepts a MAP application.

In addition, IRAS has incorporated various clarifications around treatment of government assistance, capital transactions, application of working capital adjustments, the use of base reference rates arising from the global interbank offered rate (IBOR) reform for RP loans and dating requirement for simplified TP documentation. The new exemption rule for RP domestic loans entered into on or after January 1, 2025, and clarified expectation for annual review of long-term RP loans are also included. In this 7th Edition, IRAS has also increased the TP documentation exemption threshold for certain transactions, and provides pragmatic guidance around strict pass-through costs, which help to reduce compliance burden for taxpayers for relevant RP transactions.

The more stringent TP audit and tightened MAP evaluation process both signal an expectation for more controversy around RP transactions at the backdrop of increasingly complex economic landscape. Taxpayers should take this opportunity to review their current transfer pricing arrangements and evaluate appropriate mechanisms to proactively manage potential risks for their RP transactions.

For more details, see our PwC [Tax Bulletin](#).



EMEA

United Kingdom

HMRC issues Guidelines for Compliance on transfer pricing

HMRC on September 10, 2024, issued Guidelines for Compliance (GfC) on transfer pricing, a focus area of HMRC. The development of the GfC was announced by HMRC in November 2021 as part of its review of tax administration for large businesses. The GfC aim to provide HMRC's view on complex, widely misunderstood, or novel risks that can occur across tax regimes. The GfC are not intended to be technical papers focusing on interpretation of tax law but best practice guidance with regard to HMRC's expectations, offering insights into HMRC's practical application of the law and administrative approaches, to assist businesses in administering the tax compliance process.

The guidelines are aimed at all businesses that must apply transfer pricing, both those within the new UK transfer pricing documentation requirements and those who, although exempt from these requirements, must still self-assess that their transfer pricing is arm's length and retain appropriate books and records (including documentation) when filing a tax return.

For more details and observations, see our [PwC Insight](#).

The guidelines are structured into three sections reflecting the needs of different audiences:

Part 1 - Managing compliance risks for UK businesses: aimed at those within businesses who are responsible for managing UK tax risks, accounting risk, and filing tax returns, covering scoping, governance, controls, and checks and evidence.

Part 2 - Common compliance risks: aimed at transfer pricing specialists, including both advisors and in-house teams, covering best practice approaches to transfer pricing analysis and support and evidence.

Part 3 - Indicators of transfer pricing policy design risk: aimed also at transfer pricing specialists, covering common risks in transfer pricing design and implementation.



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EMEA

Sweden

Pillar Two - Proposal to the Council on Legislation

Recently, much attention has been given to the Pillar Two administrative guideline published in June 2024 as the completion of the domestic law on the top-up tax (which implemented the administrative guidelines in 2023). The Swedish Government on August 15 published draft amendments to the Swedish Top-Up Tax Act from December 2023. The draft amendments take into account the comments that have been submitted to the proposal in the memorandum that was submitted in March.

Other developments that have emerged include new regulations on disclosure information, and updates to the country-by-country (CbCR).

For more details regarding these developments, see our [blog](#).



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Nine countries sign Subject to Tax Rule MLI

The OECD/G20 Inclusive Framework (IF) on Base Erosion and Profit Shifting (BEPS) convened a signing ceremony for the Multilateral Convention to Facilitate the Implementation of the Pillar Two Subject to Tax Rule (STTR MLI). For further details on the STTR and the STTR MLI, see our previous tax policy alerts of [October 5, 2023](#) and [July 19, 2023](#).

On September 19, 2024, nine jurisdictions signed the STTR MLI and another ten jurisdictions expressed their intent to sign. The [OECD press release](#) noted that 38 additional jurisdictions 'participated' in the signing ceremony — but without making specific commitments.

For further details and observations, see our [Tax Policy Alert](#).

The Pillar Two STTR allows source countries to impose an additional tax liability on certain intra-group payments where the recipient is subject to a nominal corporate tax rate of less than 9%. The provision was specifically designed to help developing countries protect their tax base and is an integral part of the Pillar Two consensus.



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Global

Global digital trade rules: Proposal negotiated at WTO

The World Trade Organization (WTO) circulated draft text of the [E-commerce Agreement](#) under the Joint Statement Initiative (JSI) on Electronic Commerce on 26 July 2024. From a tax perspective, the JSI is important for two main reasons - it provides a commitment to prohibit imposing customs duties on electronic transmissions and it supports measures to promote e-invoicing. More broadly, the JSI outlines a comprehensive framework for digital trade covering matters such as: paperless trading and data exchanges to facilitate digital trade; consumer protection (designed to enhance consumer confidence and trust in e-commerce); personal data protection; cybersecurity; and e-payments.

The agreement focuses on streamlining global digital trade and includes a commitment not to impose customs duty on electronic transmissions by a significant number of countries. The agreement, in which over 90 WTO Members actively participated (i.e., more than half of the WTO membership) including the European Union (EU), seeks to establish the first-ever global rules governing digital trade and support digital inclusiveness and economic growth of the developing and least developed WTO participating Members.

The participants are now focused on integrating the agreed text into the WTO legal framework, a process that requires consensus among all WTO Members. The final shape of the agreement will not be known for some time and may be subject to change after future discussions. Importantly, there is no guarantee that all WTO members will adopt the draft agreement, even if amended.

For more details see our [Tax Policy Alert](#).



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