Time is ticking!

The OECD’s Pillar Two is nearly upon us. The time to start preparing and adopting an action plan for Pillar Two, the new global minimum tax framework, is now.

We have put together a guide for EMEA multinational enterprises (MNEs), including Middle East MNEs..

In Brief

Many jurisdictions will have local Pillar Two legislation enacted and effective for January 1, 2024. While local legislation is still being finalized in many countries (including Middle East countries), Pillar Two generally applies to MNEs with revenue of at least EUR 750m, and requires companies to evaluate their tax profile through a data intensive calculation process — a significant operational challenge that may result in tax expense increases for some companies. Readiness for the increased tax compliance complexity is top of mind for many companies and proper preparation can ease the burden.

Based upon existing organizational structures and supply chains, in-scope MNEs could face increases in their global effective tax rate (ETR), cash tax outlays, and compliance burden. Earnings in jurisdictions where the MNE's ETR (as determined under the Pillar Two rules) is below the 15% minimum rate will be subject to an additional Top-up Tax.

Due to the broad design of the charging provisions, the Pillar Two rules will ultimately apply to the profits of all entities in all jurisdictions in which a MNE operates, irrespective of whether each jurisdiction implements the rules. This is especially relevant in the case of Middle East headquartered MNEs - which will still be subject to Pillar Two prior to the rules being implemented by Middle East countries, where those MNEs have operations in a jurisdiction that has implemented the rules.

In addition, other countries that enact Pillar Two may be able to impose additional tax on foreign-headquartered MNEs if the tax imposed by the foreign jurisdiction is less than 15%. In this regard, although the foreign nominal corporate income tax rate may be above 15%, certain credits (including the R&D tax credit), as well as other deductions and incentives, could cause the effective tax rate on these foreign operations to fall below 15% for Pillar Two purposes.

In respect of jurisdictions in the Middle East, while the majority are yet to publicly announce how and when they will implement the Pillar Two rules, certain jurisdictions have taken steps towards implementation. Notably, Qatar has recently amended its existing income tax law to include a foundation for the Pillar Two rules, including a domestic minimum tax. The UAE's recent amendments to the Federal Corporate Law to introduce a definition for Top-up Tax and MNEs paves the way for the UAE to implement the Pillar Two rules, noting that the UAE's Ministry of Finance has indicated that the UAE is looking to implement Pillar Two measures in 2025. Lastly, Kuwait's recent decision to become a member of the OECD Inclusive Framework on BEPS is a positive sign towards the country's intent to adopt the Pillar Two Rules in the near future.

The Pillar Two rules contemplate three different mechanisms for assessing tax on a MNE's income, and MNEs will have to comply with the filing requirements for each applicable rule.

Act Now!

Alongside our EMEA colleagues, we have prepared this [Pillar Two Guide] for EMEA MNEs, intended to provide an illustrative step-by-step approach to prepare for Pillar Two, including upcoming disclosure, provision, and compliance requirements.

Creating and adopting a plan for Pillar Two readiness will require agility and flexibility, and any plan should be viewed dynamically with many interconnected activities requiring coordination across the entire organization. This guide should be adjusted, customized, and prioritized based on current-state Pillar Two readiness and unique organizational challenges.

Act now! You may have a disclosure requirement in respect of Pillar Two in your FY23 annual financial statements. In addition, depending on how Pillar Two applies to your group, there may be a requirement to recognise the impact in your FY24 annual and quarterly financial statements (starting in Q1 2024).

In addition, for many MNEs, compliance with new annual tax filings will be necessary for the 2024 tax year. Filing of Pillar Two tax returns, including the GloBE Information Return (GIR) by each constituent entity or a designated filing entity, is required starting 30 June 2026 for calendar-year taxpayers. A QDMTT local tax return filing will likely also be needed in jurisdictions where a QDMTT is in place and may need to be filed before 30 June 2026.

Execution

Avoid a last minute and costly rush to establish your processes and calculations for Pillar Two in the coming year. Taking the following actions on time should put you on a strong footing:

1. Develop your detailed process steps for forecasting Pillar Two Tax in Q1, Adjusted Effective Tax rate, and 2024 budgets.

2. Implement technology or workpaper strategy and develop an approach and supporting technology or data collection and mapping.

3. Develop processes and controls documentation for how you scoped and calculated your Pillar Two liability (or lack thereof) and for how you are and will continue to monitor legislative activity globally.

4. Perform mock closes / dry runs of Pillar Two calculations for your Constituent Entities in implementing jurisdictions and document key technical positions.

Discuss these action items with your auditor before year-end to ensure alignment. Get their input on the operational, data, system, process, and computational frameworks you've established. Your plan will evolve, but starting strong in Q1 is crucial for managing the workload of Pillar Two in 2024. Stay ahead of the game and set yourself up for success!

Please reach out to us in case of any questions

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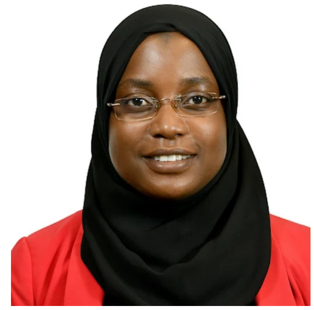

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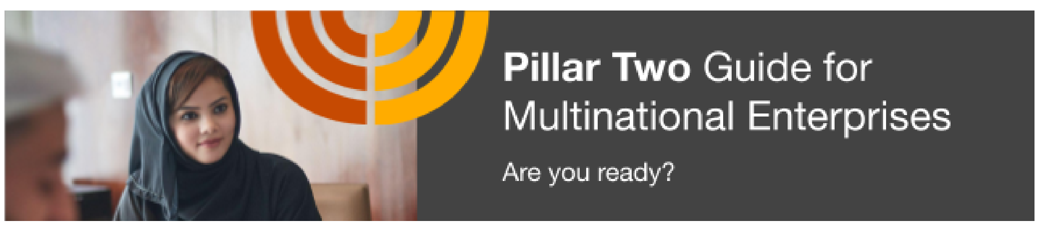

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