

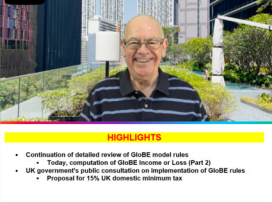
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14 January 2022



HIGHLIGHTS

- Continuation of detailed review of GloBE model rules
- Today, computation of GloBE Income or Loss (Part 2)
UK government's public consultation on implementation of GloBE rules
- Proposal for 15% UK domestic minimum tax

HAPPY FRIDAY!

Biden is angry; Johnson is apologetic; and Prince Andrew is stripped!

Meanwhile, in the tax world...

The UK goes for the minimum; the Swiss rush; Taiwan is pragmatic; Zipvit gets zip; France passes the net; and in the US, Build Back Better becomes Build Back Something!

But at the end of the week, the most important question is this: "Do you agree with Australia's decision to cancel Novak Djokovic's visa for a second time?"

Have a great weekend!

Steve

THIS WEEK'S PODCAST

(For ITB video subscribers, please log in to access the video and documents/reports)

- 1. GloBE model rules
2. UK public consultation on GloBE rules
3. Other global developments
4. Asia Pacific
- Malaysia, Taiwan
5. Europe
- ECJ, France, Switzerland
6. Americas
- Bahamas, US
7. Treaty news

ITB series on Pillars One & Two

- GloBE model rules: Computation of GloBE Income or Loss (Part 2) (ITB, 14 January 2022)
GloBE model rules: Computation of GloBE Income or Loss (Part 1) (ITB, 7 January 2022)
Inclusive Framework's final agreement on Pillars One & Two (ITB, 15 October 2021)

Pillar One

- Scope (Parts 1, 2 & 3) - ITB (22, 29 Jan & 5 Feb 2021)
Nexus - ITB (19 Feb 2021)
Revenue sourcing rules (Parts 1 & 2) - ITB (26 Feb & 5 Mar 2021)
Tax base determinations (Parts 1 & 2) - ITB (12 & 19 Mar 2021)
Profit allocation (Parts 1 & 2) - ITB (26 Mar & 9 Apr 2021)
Elimination of double taxation (Parts 1 & 2) - ITB (16 & 23 Apr 2021)
Amount B (Parts 1 & 2) - ITB (30 Apr & 7 May 2021)
Tax Certainty (Parts 1 to 4) - ITB (21, 28 May & 4, 11 Jun 2021)
Implementation and administration - ITB (18 Jun 2021)

Pillar Two

- GloBE rules
- Scope - ITB (9 Oct 2020)
- Calculating the ETR (Parts 1 & 2) - ITB (16 & 23 Oct 2020)
- Carry-forwards - ITB (30 Oct 2020)
- Carve-out, and computation of the ETR and top-up tax - ITB (6 Nov 2020)
- Income Inclusion Rule - ITB (13 Nov 2020)
- Switch-Over Rule, and Undertaxed Payments Rule (Parts 1 & 2) - ITB (20 & 27 Nov 2020)
- Associates, joint ventures and orphan entities; and Simplification options - ITB (4 Dec 2020)
Other topics
- Subject to Tax Rule - ITB (2 Oct 2020)
- Implementation and Rule Co-ordination - ITB (11 Dec 2020)
- Unresolved issues, GILTI & hub jurisdictions - ITB (18 Dec 2020)

WORTH READING

Mattias Milet and Iana Ludwin
"Affa Energy: Taxpayer Wins in Supreme Court of Canada Treaty-Shopping Appeal"
Tax Notes Today International, Tax Analysts, 5 January 2022 (subscription service)

Yariv Brauner
"Tax Treaty Negotiations: Myth and Reality"
International Tax Studies, IBFD, 2021 (Volume 4), No. 8 (subscription service)

INTERNATIONAL TAX QUIZ

THIS WEEK'S NEW QUIZ

ACo 1, a company resident in A, is a Constituent Entity within an MNE Group, for the purposes of the GloBE model rules.

ACo 1 has the following financial information for the current fiscal year:

- Profit (in P&L): EUR 30 million
Other comprehensive income: EUR 8 million, including EUR 5 million (after tax) of gain under fair value accounting in respect of property, plant and equipment (not subsequently reported through P&L). The tax expense on this fair value accounting gain is EUR 1.5 million
Income tax expense:
- In regard to Covered Taxes: EUR 9 million
- In regard to other taxes: EUR 0.8 million
Transfer of assets and liabilities in merger transaction with ACo 2 (another Constituent Entity also resident in A):
- Gain (included in P&L): EUR 3.5 million (tax-free under A tax law)
- Consideration received by ACo 1: issue of new shares in ACo 2 (consideration satisfies arm's length principle)
- ACo 2 inherits ACo 1's tax basis in assets (for A tax purposes)
Loss (included in P&L) on sale of 8% shareholding (ACo 1 held these shares for 4 years): EUR 0.7 million
Gain (included in P&L) on sale of 10% shareholding (ACo 1 acquired half of these shares 3 years ago, and it acquired the other half during this current fiscal year): EUR 2 million
Prior period error of EUR 5 million (after tax expense of EUR 2 million) - reported as reduction in opening equity at start of current fiscal year
Pensions:
- Pension liability expense in P&L: EUR 2.5 million
- Contributed to pension fund for current fiscal year: EUR 3 million
Royalties expense:
- Relates to licence of IP from BCo (Constituent Entity resident in B)
- Actual expense: EUR 3 million
- Transfer pricing adjustment by A tax authorities: EUR 1 million (i.e., EUR 2 million allowed as income tax deduction)

Based on those numbers, what is ACo 1's GloBE Income or Loss for the current fiscal year?

Answer in next ITB email alert!

LAST WEEK'S QUESTION

XCo, a company resident in X, is a Constituent Entity within an MNE Group, for the purposes of the GloBE model rules.

XCo has the following financial information for a fiscal year:

- Profit or loss: 20,000
Other comprehensive income: 3,500
Income tax expense:
- In regard to Covered Taxes: 6,000 (including 200 in respect of "dividend income minus related expenses"; see "including ..." in para. (a) of definition of "Net Taxes Expense" in Art. 10.1.1)
- In regard to other taxes: 1,500
Current and deferred tax shown as a contra to particular revenue items:
- In regard to Covered Taxes: 800
- In regard to other taxes: 700
Accrued dividend income (gross) in respect of:
- 10% shareholding held for 6 months: 400
- 5% shareholding held for 18 months: 650
- 8% shareholding held for 9 months: 1,200
Received dividend income (gross) (accrued in P&L in preceding fiscal year, received in current fiscal year):
- 12% shareholding held for 30 months: 700
Expenses relating to all dividend income: 350
Gain (included in P&L) on disposal of 12% shareholding: 1,000
Loss (included in P&L) on disposal of 10% shareholding: 600

Based on those numbers, what is XCo's GloBE Income or Loss for the fiscal year?

LAST WEEK'S ANSWER

Computation of XCo's GloBE Income or Loss:

- Start with profit (in P&L) (Art. 3.1): 20,000
Other comprehensive income: ignore - not part of "Financial Accounting Net Income or Loss" (Art. 3.1 and definition of "Other Comprehensive Income" in Art. 10.1.1)

Adjustments (Art. 3.2.1):

- Income tax expense:
- In regard to Covered Taxes: add 6,000 (including 200 in respect of "dividend income minus related expenses"; see "including ..." in para. (a) of definition of "Net Taxes Expense" in Art. 10.1.1)
- In regard to other taxes: to the extent "other taxes" are those described in para. (c), (d) or (e) of definition of "Net Taxes Expense" in Art. 10.1.1, the amount will be added; but not otherwise. I will assume that no part of the "other taxes" falls within para. (c), (d) or (e). Thus, 6,000 is added
Current and deferred tax shown as contra to particular revenue items:
- In regard to Covered Taxes: add 800 (first part of definition of "Net Taxes Expense" in Art. 10.1.1)
- In regard to other taxes: same as above. Thus, 800 is added
Accrued dividend income (gross) in respect of:
- 10% shareholding held for 6 months: deduct 400 (not "Short-term Portfolio Shareholding", as shareholding is 10% - thus, "Excluded Dividend")
- 5% shareholding held for 18 months: deduct 650 (not "Short-term Portfolio Shareholding", as held for 18 months - thus, "Excluded Dividend")
- 8% shareholding held for 9 months: no adjustment ("Short-term Portfolio Shareholding") Thus, 1,050 is deducted
Received dividend income (gross) (accrued in P&L in preceding fiscal year, received in current fiscal year) in respect of 12% shareholding held for 30 months: definition of "Excluded Dividends" in Art. 10.1.1 says "received or accrued". However, it does not make sense to deduct this dividend, which is not included in this year's profit to begin with. Commentary needs to clarify! I will assume that the correct answer is that the dividend is not included in this year's "Excluded Dividends". Thus, no adjustment.
Expenses relating to all dividend income: Art. 3.2 does not require an adjustment for all or part of these expenses. Thus, no adjustment.
Gain (included in P&L) on disposal of 12% shareholding: 1,000. This satisfies Art. 10.1.1 definition of "Excluded Equity Gain or Loss". Thus, 1,000 is deducted
Loss (included in P&L) on disposal of 10% shareholding: 600. This satisfies Art. 10.1.1 definition of "Excluded Equity Gain or Loss". Thus, 600 is added

Based on the above, XCo's GloBE Income or Loss = 20,000 + 6,000 + 800 - 1,050 - 1,000 + 600 = 25,350



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