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25 March 2022



**HIGHLIGHTS**

- **Latest on Pillars One & Two**
  - design of **Amount B** in **Pillar One**
  - whether **GloBE** rules will likely cause expansion of **CFC** regimes
- Introduction of windfall profits taxes on energy companies in Europe
- Continuation of detailed review of **GloBE** model rules
  - Today: **Substance-based Income Exclusion** – in particular: payroll carve-out

**HAPPY FRIDAY!**

Ash Barty serves a surprise; Antarctica endures a heatwave; and Ukraine continues to punch above its weight!

Meanwhile, in the tax world...

**Amount B** is centre-stage; the **OECD** goes crypto; **China** further cuts; the **EU** chases windfall profits; **Australia** plays games; and the **UK** gets ready to **GAHC!**

But at the end of the week, the most important question is this: "Will Barty's retirement last longer than Brady's?"

Have a great weekend!  
Steve

**THIS WEEK'S PODCAST**

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

1. Pillars One & Two
2. Crypto-assets & CRS
3. Trade & other global developments
4. GloBE model rules: detailed review
5. Asia Pacific
  - Australia, China, Singapore
6. Europe
  - EU, Greece, Italy, UK
7. Americas
  - Peru
8. Treaty news

**ITB series on Pillars One & Two**

- **GloBE** model rules: **Substance-based Income Exclusion** – Payroll carve-out (ITB, 25 March 2022)
- **GloBE** model rules: **Computation of Effective Tax Rate and Top-up Tax** (ITB, 18 March 2022)
- **GloBE** model rules: **Flow-through Entities and Hybrid Entities** (ITB, 4 March 2022)
- **GloBE** model rules: **Computation of Adjusted Covered Taxes (Part 3)** (ITB, 25 February 2022)
- **GloBE** model rules: **Computation of Adjusted Covered Taxes (Part 2)** (ITB, 18 February 2022)
- **GloBE** model rules: **Computation of Adjusted Covered Taxes (Part 1)** (ITB, 11 February 2022)
- **GloBE** model rules: **Computation of GloBE Income or Loss (Part 4)** (ITB, 28 January 2022)
- **GloBE** model rules: **Computation of GloBE Income or Loss (Part 3)** (ITB, 21 January 2022)
- **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)
- **Draft** model rules for **Amount A** in **Pillar One**: Tax base determination (ITB, 25 February 2022)
- **Draft** model rules for **Amount A** in **Pillar One**: Nexus and revenue sourcing (ITB, 11 February 2022)
- **Inclusive Framework's** final agreement on **Pillars One & Two** (ITB, 15 October 2021)

**WORTH READING**

- Gorka Echevarria Zubeldia  
"Can There Ever Be a Fixed Establishment without Human Resources? – EC's *Titanium Case*"  
International VAT Monitor, IBFD, 2022 (Volume 33), No. 2 (subscription service)
- Arijit Ghosh, Ashish Sodhani, Parul Jain and Vibhore Batwara  
"Most Favoured Nation Clauses in India's Tax Treaties – A Continuing Saga"  
Tax Notes Today International, Tax Analysts, 8 March 2022 (subscription service)
- Maarten de Wilde  
"On an animal farm and 'equality, however' according to the Pillar 2 Commentary"  
Kluwer International Tax Blog, 15 March 2022 (freely available)

**INTERNATIONAL TAX QUIZ**

**THIS WEEK'S NEW QUIZ**

An MNE Group has 2 Constituent Entities (ACo & BCo) located in a jurisdiction.  
ACo is a service company which provides services to BCo and other Constituent Entities in other jurisdictions.  
BCo carries on a manufacturing business.

For the 2028 Fiscal Year:

- **ACo**
  - incurs employee compensation expenditure of 20,000, and employer social security contributions of 5,000
  - of these amounts, 2,000 is capitalised to Eligible Tangible Assets
- **BCo**
  - incurs employee compensation expenditure of 3,000, and 10,000 of service fees paid to ACo
  - of these amounts, 4,000 is capitalised to Eligible Tangible Assets, and 5,000 is capitalised to inventory

What is the Group's payroll carve-out for the jurisdiction in 2028?

Answer in next ITB email alert!

**LAST WEEK'S QUESTION**

An MNE Group has 4 Constituent Entities which are located in a jurisdiction. For the current Fiscal Year:

- ACo has GloBE Income of 9,400 and Adjusted Covered Taxes of 400
- BCo has a GloBE Loss of 2,000 and Adjusted Covered Taxes of 40
- CCo has GloBE Income of 2,200, Adjusted Covered Taxes of 200, and a Substance-based Income Exclusion of 3,000
- DCo has a GloBE Loss of 1,100, Adjusted Covered Taxes of 160, and a Substance-based Income Exclusion of 1,300
- The Group does not have any Additional Current Top-up Tax in regard to the jurisdiction
- The jurisdiction has not introduced a domestic minimum top-up tax

Q1: What is the Group's ETR and Top-up Tax (if any) for the jurisdiction?  
Q2: If the Group has Top-up Tax for the jurisdiction, what is the allocation of that Top-up Tax amongst the 4 Constituent Entities?

**LAST WEEK'S ANSWER**

Q1:

Calculate ETR:

- Sum of Adjusted Covered Taxes: 400 + 40 + 200 + 160 = 800 (Art. 5.1.1)
- Net GloBE Income: 9,400 – 2,000 + 2,200 – 1,100 = 8,500 (Art. 5.1.2)
- ETR = 800 / 8,500 = 9.4118% (rounded to fourth decimal place: Commentary on Art. 5.1.1)

Calculate Top-up Tax Percentage:

- Top-up Tax Percentage = 15% - 9.4118% = 5.5882%

Calculate Excess Profit:

- Substance-based Income Exclusion: 3,000 + 1,300 = 4,300
- Excess Profit = 8,500 – 4,300 = 4,200 (Art. 5.2.2)

Calculate Jurisdictional Top-up Tax:

- Jurisdictional Top-up Tax = (5.5882% x 4,200) – 0 – 0 = 234.7044 (Art. 5.2.3)

Q2:

Calculate Aggregate GloBE Income for all Constituent Entities which have GloBE Income:

- Aggregate GloBE Income: 9,400 + 2,200 = 11,600 (Art. 5.2.4)

Allocation of Top-up Tax (Art. 5.2.4):

- ACo: 9,400 / 11,600 x 234.7044 = 190.1915
- BCo: nil (GloBE Loss)
- CCo: 2,200 / 11,600 x 234.7044 = 44.5129
- DCo: nil (GloBE Loss)

Do you agree?



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