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6 May 2022



HIGHLIGHTS

- Latest developments on Pillars One & Two
 - Public comments on Extractives exclusion from Amount A in Pillar One
- UAE's public consultation document on proposed general corporate income tax
- Continuation of detailed review of GloBE model rules
 - Today: Art. 2.1 on application of IIR

HAPPY FRIDAY!

The **Fed** raises more than expectations; **Man City** snatches defeat from the jaws of victory; and **Canada** takes crime to the Moon!

Meanwhile, in the tax world...

The **US** wants its credits; **carbon capture** should not be caught; **Italy** finds a tax windfall; **Brazil** makes further cuts; **Newfair** has the magic source in Hong Kong; **India** reassesses; and **Ireland** waives goodbye to tax!

But this week's prize for best comment goes to Chris Rock on hearing that comedian Dave Chappelle was tackled on stage by an audience member: "Was that Will Smith?"

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. Other global developments
3. GloBE model rules: detailed review
4. Asia Pacific
 - Hong Kong, India, Indonesia
5. Europe
 - Ireland, Italy
6. Middle East & Central Asia
 - Oman, UAE
7. Americas
 - Brazil, Canada, US
8. Treaty news

ITB series on Pillars One & Two

- **GloBE model rules:**
 - Art. 2.1: Application of the IIR (ITB, 6 May 2022)
 - Art. 5.8: Minority-Owned Constituent Entities (ITB, 29 April 2022)
 - Art. 5.5: De minimis exclusion (ITB, 22 April 2022)
 - Art. 5.4.1: Additional Current Top-up Tax (ITB, 8 April 2022)
 - Substance-based Income Exclusion – Tangible asset carve-out (ITB, 1 April 2022)
 - Substance-based Income Exclusion – Payroll carve-out (ITB, 25 March 2022)
 - Computation of Effective Tax Rate and Top-up Tax (ITB, 18 March 2022)
 - Flow-through Entities and Hybrid Entities (ITB, 4 March 2022)
 - Computation of Adjusted Covered Taxes (Parts 1 to 3) (ITB, 11, 18 & 25 February 2022)
 - Computation of GloBE Income or Loss (Parts 1 to 4) (ITB, 7, 14, 21 & 28 January 2022)
- **Draft model rules for Amount A in Pillar One:**
 - Extractives exclusion (ITB, 22 April 2022)
 - Scope (ITB, 8 April 2022)
 - Tax base determination (ITB, 25 February 2022)
 - Nexus and revenue sourcing (ITB, 11 February 2022)
- **Inclusive Framework's final agreement on Pillars One & Two (ITB, 15 October 2021)**

WORTH READING

Anton Joseph
"Singapore Telecom Case – Reconstruction Powers in Transfer Pricing"
International Transfer Pricing Journal, IBFD, 2022 (Volume 29), No. 3 (subscription service)

Sunita Doobay and Stanley C. Ruchelman
"Adventures in Cross-Border Tax Collection: Revenue Rule vs. Cum-Ex Litigation"
Tax Notes Today International, Tax Analysts, 3 May 2022 (subscription service)

Phelippe Toledo Pires de Oliveira
"Why Is It So Difficult to Untangle the Knots in the Brazilian Tax Reform?"
International VAT Monitor, IBFD, 2022 (Volume 33), No. 3 (subscription service)

Matthias Luther and Florian S. Zawodsky
"VAT and Virtual Worlds – A German Precedent?"
Kluwer International Tax Blog, 4 May 2022 (freely available)

INTERNATIONAL TAX QUIZ

THIS WEEK'S NEW QUIZ

An MNE Group consists of the UPE and 4 other Constituent Entities: ACo 1, ACo 2, BCo and CCo.

The UPE is located in jurisdiction X, which has not implemented the GloBE rules.

The UPE owns 100% of ACo 1, which is located in jurisdiction A.

The UPE owns a 90% Ownership Interest in ACo 2, which is also located in jurisdiction A. The other 10% Ownership Interests in ACo 2 are owned by third parties.

ACo 2 owns an 85% Ownership Interest in BCo, which is located in jurisdiction B. The other 15% Ownership Interests in BCo are owned by third parties.

BCo owns a 75% Ownership Interest in CCo, which is located in jurisdiction C. The other 25% Ownership Interests in CCo are owned by ACo 1.

None of the Constituent Entities is an Investment Entity.

Jurisdictions A, B and C have implemented the GloBE rules.

In the current Fiscal Year, CCo has an amount of Top-up Tax.

Which Constituent Entity or Entities will be subject to an IIR tax in regard to CCo's Top-up Tax?

Answer in next ITB email alert!

LAST WEEK'S QUESTION

An MNE Group has 4 Constituent Entities located in jurisdiction X: ACo, BCo, CCo and DCo.

The UPE's Ownership Interest in each Constituent Entity is this:

- ACo: 100%
- BCo: 40%
- CCo: 30%
- DCo: 25%

The other Ownership Interests in BCo, CCo and DCo are owned by shareholders who are unrelated to the UPE.

The UPE holds a Controlling Interest in all 4 Entities. None of the Entities owns shares in the other Entities.

In the current Fiscal Year

- ACo has:
 - Adjusted Covered Taxes: 100
 - GloBE Income: 250
- BCo has:
 - Adjusted Covered Taxes: 25
 - GloBE Income: 100
- CCo has:
 - Adjusted Covered Taxes: 20
 - GloBE Loss: 200
- DCo has:
 - Adjusted Covered Taxes: 50
 - GloBE Income: 500
- For jurisdiction X, there is:
 - No Additional Current Top-up Tax
 - No Domestic Top-up Tax
 - No Substance-based Income Exclusion
 - No de minimis exclusion

What is the Top-up Tax, if any, for jurisdiction X for the current Fiscal Year?

LAST WEEK'S ANSWER

CCo and DCo are each Minority-Owned Constituent Entities. BCo is not, as the UPE's Ownership Interest in BCo is 40%. See the definition of "Minority-Owned Constituent Entity" in Art. 10.1.1.

Thus, Art. 5.8.2 requires separate calculations of ETR and Top-up Tax for (1) ACo and BCo; (2) CCo; and (3) DCo.

ACo and BCo:

- Adjusted Covered Taxes: 100 + 25 = 125
- Net GloBE Income: 250 + 100 = 350
- Thus, ETR = 125 / 350 = 35.7%
- Top-up Tax Percentage = nil
- Therefore, Top-up Tax = nil

CCo:

- Adjusted Covered Taxes: 20
- Net GloBE Loss: 20
- Thus, Top-up Tax = nil

DCo:

- Adjusted Covered Taxes: 50
- Net GloBE Income: 500
- Thus, ETR = 10%
- Top-up Tax Percentage = 15% – 10% = 5%
- Therefore, Top-up Tax = 500 x 5% = 25

Do you agree?



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