

Want to learn more about ITB? Sign up for a free trial by emailing us

Free Trial

Check out our suite of subscription plans: individual (standard), student, university faculty, young professional, and enterprise

Subscribe

13 May 2022



HIGHLIGHTS

- **Draft model rules on Regulated Financial Services exclusion from scope for Amount A in Pillar One**
 - released for public comment
- **EU's draft Directive on DEBRA**
 - **Debt-Equity Bias Reduction Allowance**
- **Continuation of detailed review of GloBE model rules**
 - Today: Art. 2.2 (allocation of Top-up Tax under IIR) and Art. 2.3 (IIR offset mechanism)

HAPPY FRIDAY!

Bongbong wins; iPod loses; and Bitcoin plummets!

Meanwhile, in the tax world...

It's all or nothing for the **financial sector**; **CFC tax** and **QDMTT**: which goes first?; the **IRS** doesn't defer **FDII** advice; **Lufthansa** collects the money and pays the price; **Greece** leaves 10% behind; **Switzerland** is all at sea; and **DEBRA** does Brussels!

But at the end of the week, the most important question is this: "Which was the better invention: **iPod** or **Bitcoin**?"

Have a great weekend!

Steve

THIS WEEK'S PODCAST

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

1. Pillar One
2. Pillar Two
3. EU: DEBRA
4. GloBE model rules: detailed review
5. Asia Pacific
 - India, Thailand
6. Europe
 - Belarus, Germany, Greece, Russia, Switzerland
7. Americas
 - US
8. Treaty news

ITB series on Pillars One & Two

- **GloBE model rules:**
 - **Art. 2.2: Allocation of Top-up Tax under the IIR & Art. 2.3: IIR Offset Mechanism (ITB, 13 May 2022)**
 - **Art. 2.1: Application of the IIR (ITB, 6 May 2022)**
 - **Computation of Effective Tax Rate and Top-up Tax (Parts 1 to 6) (ITB, 18 & 25 March; 1, 8, 22 & 29 April 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:**
 - **Regulated Financial Services exclusion from scope (ITB, 13 May 2022)**
 - **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

Lee Hadnum
"Pillar Two of the OECD Two-Pillar Solution: The Rise of Deferred Tax"
Tax Management International Journal, Bloomberg BNA, 2022 (Volume 55), No. 5 (subscription service)

Brian J. Arnold
"The Ordering of Residence and Source Country Taxes and the OECD Pillar Two Global Minimum Tax"
Bulletin for International Taxation, IBFD, 2022 (Volume 76), No. 5 (subscription service)

Gaetano Manzi, Nupur Jalan, and Jose Maria Vargas-Machuca Reyes
"The Legal Status of the OECD Commentary: A Comparative Analysis on the Status Quo and Future Considerations Through the MLI and the Two-Pillars Solution Implementation"
Tax Management International Journal, Bloomberg BNA, 2022 (Volume 55), No. 5 (subscription service)

INTERNATIONAL TAX QUIZ

THIS WEEK'S NEW QUIZ

An MNE Group consists of a UPE (located in U), XCo 1 (located in X), XCo 2 (also located in X), YCo (located in Y), ZCo (located in Z), and UCo (located in U).

The Ownership Interests are owned as follows:

- XCo 1: 100% owned by UPE
- XCo 2: 60% owned by XCo 1, 10% owned by UPE, and 30% owned by third parties
- YCo: 60% owned by XCo 2, 30% owned by UPE, and 10% owned by third parties
- ZCo: 100% owned by YCo
- UCo: 100% owned by YCo

All shares in all companies are common shares, which carry an equal right to profit distributions and capital.

None of the Constituent Entities is an Investment Entity or a Flow-through Entity.

All of the jurisdictions have implemented the GloBE rules.

For the current Fiscal Year:

- ZCo has Top-up Tax of 1,000, and GloBE Income of 25,000
- UCo has Top-up Tax of 3,000, and GloBE Income of 10,000

Based on these facts, what are the amounts of IIR tax imposed on UPE, XCo 1, XCo 2 and YCo for the current Fiscal Year?

Answer in next ITB email alert!

LAST WEEK'S QUESTION

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, under Art. 2.1, in regard to CCo's Top-up Tax?

LAST WEEK'S ANSWER

Each of ACo 1 and ACo 2 is an Intermediate Parent Entity (IPE). Neither ACo 1 nor ACo 2 owns a Controlling Interest in the other – therefore, Art. 2.1.3(b) is not applicable.

BCo is a Partially-Owned Parent Entity (POPE). More than 20% of its Ownership Interests are held directly or indirectly by persons that are not Constituent Entities: (i) 15% Ownership Interests directly held by third parties, and (ii) 8.5% Ownership Interests indirectly held by third parties through ACo 2.

Therefore:

1. UPE: No IIR tax, because jurisdiction X has not implemented the GloBE rules – therefore, Art. 2.1.3(a) is not applicable.
2. ACo 1: IIR tax is imposed on ACo 1, equal to its Allocable Share of CCo's Top-up Tax: Art. 2.1.2. Under Art. 2.2, its Allocable Share is 25%.
3. ACo 2: IIR tax is imposed on ACo 2, equal to its Allocable Share of CCo's Top-up Tax: Art. 2.1.2. Under Art. 2.2, its Allocable Share is prima facie 63.75% (but see below).
4. BCo: IIR tax is imposed on BCo, equal to its Allocable Share of CCo's Top-up Tax: Art. 2.1.4. Under Art. 2.2, its Allocable Share is 75%.
5. Double taxation between ACo 2 and BCo is relieved by Art. 2.3: ACo 2's 63.75% Allocable Share is reduced to nil.
6. Thus, final IIR tax liabilities: ACo 1 (Allocable Share = 25%) and BCo (Allocable Share = 75%).

Do you agree?



Tax Quiz Archives



Email Alert Archives



AskSteve



Referral Program



What is ITB?

If you have a friend or colleague who you think might find this email alert interesting, please forward it to them.

Watch ITB video podcasts anytime, anywhere with our App!



UNSUBSCRIBE

If you no longer wish to receive emails from us, please click [here](#)