

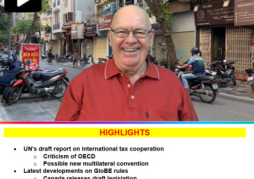
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11 August 2023



HIGHLIGHTS

- UN's draft report on international tax cooperation
 - Criticism of OECD
 - Possible new multilateral convention
- Latest developments on GloBE rules
 - Canada releases draft legislation
 - Bermuda proposes introduction of corporate income tax
- Continuation of detailed review of July 2023 Administrative Guidance on GloBE rules
 - Today: Tax credits (part 2)

HAPPY FRIDAY!

China deflates; Germany's trains run late; and Lauren James reacts like Beckham!

Meanwhile, in the tax world...

UN criticises, but offers little; GloBE marches on in Canada and Bermuda; Australia cracks down; New Zealand taxes gifts, without a gift tax; Egis Road wins its claim; Italy targets banks; and Russia withholds from 38 "unfriendly States"

But at the end of the week, the most important point to note is this: Don't wear a rainbow Swatch in Malaysia!

Have a great weekend!

Steve

THIS WEEK'S PODCAST

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

1. UN Secretary-General's draft report
2. GloBE rules
3. July 2023 Administrative Guidance on GloBE rules: Tax credits (part 2)
4. Asia Pacific
 - Australia, New Zealand, Philippines
5. Europe
 - Italy, Russia
6. Treaty news

ITB series on Pillar One

- Consultation document on Amount B in Pillar One (ITB, 28 July 2023)
- Draft MLC provisions for commitments on DSTs and other relevant similar measures (ITB, 8 January 2023)
- Consultation document on Amount B in Pillar One (ITB, 16 December 2022)
- Progress Report on Amount A in Pillar One (ITB, 22 July 2022)
- Draft model rules for Amount A in Pillar One:
 - Tax certainty (ITB, 19 June 2022)
 - Regulated Financial Services exclusion from scope (ITB, 13 May 2022)
 - Extractives exclusion from scope (ITB, 22 April 2022)
 - Scope (ITB, 8 April 2022)
 - Tax base determinations (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)

ITB series on Pillar Two

- GloBE Implementation Framework:
 - GloBE Information Return (ITB, 28 July 2023)
 - Tax Certainty for the GloBE rules (ITB, 13 January 2023)
 - GloBE Information Return (ITB, 13 January 2023)
 - Guidance on Safe Harbours and Penalty Relief (ITB, 8 January 2023)
- GloBE model rules:
 - July 2023 Administrative Guidance on GloBE rules: Tax credits (Parts 1 & 2) (ITB, 4 & 11 August 2023)
 - July 2023 Administrative Guidance on GloBE rules: overview (ITB, 28 July 2023)
 - Administrative Guidance on GloBE rules: Transition (Parts 1 to 3) (ITB, 16 & 23 June; 14 July 2023)
 - Administrative Guidance on GloBE rules: Income & taxes (Parts 1 to 8) (ITB, 31 March; 14, 21 & 28 April; 5, 12 May; 2 & 9 June 2023)
 - Administrative Guidance on GloBE rules: Scope (Parts 1 to 3) (ITB, 10, 17 & 24 March 2023)
 - Administrative Guidance on GloBE rules: Allocation of taxes arising under Blended CFC Tax Regimes (ITB, 3 March 2023)
 - Administrative Guidance on GloBE rules: GDMTTs (Parts 1 & 2) (ITB, 10 & 24 February 2023)
 - Art. 7.4 on ETR computation for Investment Entities (ITB, 2 December 2022)
 - Corporate Restructurings and Holding Structures (Parts 1 to 7) (ITB, 23 & 30 September; 7, 14 & 21 October; 11 & 18 November 2022)
 - Scope (Parts 1 & 2) (ITB, 24 June; 1 July 2022)
 - Charging Provisions (Parts 1 to 5) (ITB, 6, 13 & 20 May; 10 & 17 June 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 9) (ITB, 11, 18 & 25 February; 29 July; 5, 12, 19 & 26 August; 16 September 2022)
 - Computation of GloBE Income or Loss (Parts 1 to 4) (ITB, 7, 14, 21 & 28 January 2022)
- Subject to Tax Rule (STTR):
 - Subject to Tax Rule (STTR): overview (ITB, 28 July 2023)

WORTH READING

Robert Gouder

"India, Carbon Pricing, and the Reparations You Didn't See Coming"
Tax Notes Today International, Tax Analysts, 8 August 2023 (subscription service).

Stefano Schiarvello, Raimondo Rossi, and Camilla Rati

"Italian Tax Authorities Issue Public Ruling on Imported Hybrid Mismatches"
European Taxation, IBFD, 2023 (Vol. 63), No. 8 (subscription service).

Ryan Finley

"The Commensurate With Income Standard's Ambiguity in Context"
Tax Notes Today International, Tax Analysts, 7 August 2023 (subscription service).

INTERNATIONAL TAX QUIZ

THIS WEEK'S NEW QUIZ

ACo, a company located in jurisdiction X, is a Constituent Entity in the A MNE Group, which is "within scope" of the GloBE rules.

ACo makes energy-saving investments in jurisdiction X, which entitles ACo to a EUR 100 tax credit.

The tax credit entitles the holder to a credit of EUR 100 against its corporate income tax liabilities for the current tax year (year 1) and for any of the 3 subsequent tax years. The credit can be claimed in whole or in part in any of those 4 years (provided the aggregate does not exceed EUR 100).

The tax credit is not refundable. However, it is transferable (once only) to a related or unrelated party. If it is transferred, jurisdiction X law has no requirements regarding the price (if any) for the transfer.

As ACo does not have sufficient tax capacity in year 1 to use the tax credit, ACo transfers it in year 1 to BCo, for a price of EUR 90.

BCo, a company located in jurisdiction X, is a Constituent Entity in the B MNE Group, which is "within scope" of the GloBE rules.

ACo and BCo are not related.

BCo uses EUR 60 of the tax credit in year 2, and the remaining EUR 40 of the tax credit in year 3, against its jurisdiction X corporate income tax liabilities.

The jurisdiction X tax year and the Fiscal Year (for GloBE purposes) for ACo and BCo (respectively), is the calendar year.

Based on this information, what is the GloBE treatment of ACo and BCo in respect of the tax credit?

Answer in next ITB email alert!

LAST WEEK'S QUESTION

From the archive (May 2022)...

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

The Ownership Interests are directly 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?

LAST WEEK'S ANSWER

1. XCo 1 is an Intermediate Parent Entity (IPE) (100% directly owned by UPE).

No Top-up Tax will be imposed on XCo 1, due to the fact that a Qualified IIR applies to UPE: Art. 2.1.3(a).

2. YCo is a Partially-Owned Parent Entity (POPE) (26% directly or indirectly owned by third parties).

In regard to ZCo: YCo's Allocable Share is 100%: Art. 2.2. Thus, Top-up Tax of 1,000 is imposed on YCo: Art. 2.1.4.

In regard to UCo: YCo's Allocable Share is 100%: Art. 2.2. Thus, Top-up Tax of 3,000 is imposed on YCo: Art. 2.1.4. Note that the fact that UCo is located in U (same as UPE) has no impact on the application of Art. 2.1 to YCo: see Art. 2.1.6.

3. XCo 2 is a POPE (30% directly owned by third parties).

Art. 2.1.5 does not apply to exclude XCo 2 from IIR tax, as XCo 2 does not wholly own YCo.

In regard to ZCo: XCo 2's Allocable Share is 60%: Art. 2.2. Prima facie, Top-up Tax of 600 is imposed on XCo 2. However, Art. 2.3.1 reduces that Top-up Tax to nil.

In regard to UCo: XCo 2's Allocable Share is 60%: Art. 2.2. Prima facie, Top-up Tax of 1,800 is imposed on XCo 2. However, Art. 2.3.1 reduces that Top-up Tax to nil.

4. UPE:

In regard to ZCo: UPE's Allocable Share is 72% (i.e., 30% owned directly in YCo, plus 42% owned indirectly in YCo through XCo 1 and XCo 2): Art. 2.2. Prima facie, Top-up Tax of 720 is imposed on UPE. However, Art. 2.3.1 reduces that Top-up Tax to nil, due to the fact that all 72% is owned through YCo, which applies a Qualified IIR.

In regard to UCo: As UCo is located in U (same as UPE), Art. 2.1.6 provides an exclusion. Note: the Commentary allows jurisdictions to delete Art. 2.1.6 when they transpose the GloBE rules into domestic law.

5. Summary:

ZCo: Top-up Tax imposed on YCo: 1,000.

UCo: Top-up Tax imposed on YCo: 3,000.

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