

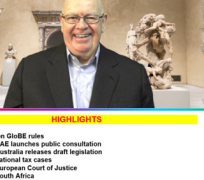
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22 March 2024



HIGHLIGHTS

- Latest on GloBE rules
 - UAE launches public consultation
 - Australia releases draft legislation
- 3 international tax cases
 - European Court of Justice
 - South Africa
 - Australia
- Continuation of detailed review of December 2023 Administrative Guidance on GloBE rules
 - Today: (1) measuring revenue for purposes of revenue threshold, and (2) Fiscal Year mismatches

HAPPY FRIDAY!

The US bites Apple; Japan and Korea blossom; and Texas tries to defend its border!

Meanwhile, in the tax world ...

The UAE asks all the right questions; Mylan pushes down a victory; Emiliou targets Lexel; ABD internalises a win; and India takes 20 years to trigger an MFN clause!

But at the end of the week, the most important news is this: Google DeepMind has made an AI tool which can improve football corner-kick tactics!

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 news
2. Other global developments
3. December 2023 Administrative Guidance on GloBE rules: Additional guidance on application of GloBE rules
4. Asia Pacific
 - Australia
5. Europe
 - ECJ, EU
6. Africa
 - South Africa
7. Treaty news

ITB series on Pillar One

- Report on Amount B in Pillar One (ITB, 23 February 2024)
- 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, 6 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, 10 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, 6 January 2023)
- GloBE model rules:
 - December 2023 Administrative Guidance on GloBE rules: Additional guidance on application of GloBE rules (ITB, 22 March 2024)
 - December 2023 Administrative Guidance on GloBE rules: Transitional Co-CR Safe Harbour (Parts 1 to 4) (ITB, 19 January; 16 February; 1 & 8 March 2024)
 - GloBE rules commence operation in 2024 (ITB, 12 January 2024)
 - December 2023 Administrative Guidance on GloBE rules: overview (ITB, 22 December 2023)
 - July 2023 Administrative Guidance on GloBE rules: Transitional UTPR Safe Harbour & Summary of Safe Harbours (ITB, 8 December 2023)
 - July 2023 Administrative Guidance on GloBE rules: QDMTT Safe Harbour (Parts 1 & 2) (ITB, 10 & 17 November 2023)
 - July 2023 Administrative Guidance on GloBE rules: QDMTTs (Parts 1 to 6) (ITB, 15, 22 & 29 September; 6 & 27 October; 3 November 2023)
 - July 2023 Administrative Guidance on GloBE rules: Substance-based Income Exclusion (Parts 1 & 2) (ITB, 18 & 25 August 2023)
 - July 2023 Administrative Guidance on GloBE rules: Tax credits (Parts 1 to 3) (ITB, 4, 11 & 18 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: QDMTTs (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)
 - Changing 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):
 - STTR (Part 4) (ITB, 15 December 2023)
 - STTR (Parts 1 to 3) (ITB, 6 & 20 October; 3 November 2023)
 - Subject to Tax Rule (STTR): overview (ITB, 28 July 2023)

WORTH READING

Richard S. Collier and Ian F. Dykes
"UK Tax Authorities Release New Guidance on the Risk Framework"
Tax Notes International, Tax Analysts, 11 March 2024.

Gorka Echevarria Zubeldia
"European Union – Navigating the VAT Landscape: Unwrapping the Complexities of Gifts in Deco Professe – Editors"
International VAT Monitor, IBFD, 2024 (Vol. 35), No. 2.

Lee A. Sheppard
"Transfer Pricing of U.S. Outbound Interest: Implicit Support"
Tax Notes International, Tax Analysts, 18 March 2024.

INTERNATIONAL TAX QUIZ

THIS WEEK'S NEW QUIZ

The X MNE Group, which manufactures and sells consumer goods, has the following (simplified) profit and loss statement for a Fiscal Year (all in EUR millions):

1. Sales (net of discounts, returns and allowances of 40): 600
2. Cost of Goods Sold: (400)
3. Selling, General and Administrative Expenses: (160)
4. Gains from investments – realised: 20
5. Gains from investments – unrealised: 30
6. Losses from investments – realised: (25)
7. Losses from investments – unrealised: (40)
8. Interest income (on surplus cash): 5
9. Interest expense: (20)

Based on this limited information, what is the X MNE Group's annual revenue for the purposes of Art. 1.1.1 of the GloBE rules?

Answer in next ITB email alert on 5 April 2024!

LAST WEEK'S QUESTION

Can a Qualified Refundable Tax Credit of EUR 100 cause a larger increase in Top-up Tax under the GloBE rules, than a Non-Qualified Refundable Tax Credit (which is not transferable) of EUR 100?

LAST WEEK'S ANSWER

Note: I will assume that the tax credits are not subject to corporate income tax!

In most situations, a Qualified Refundable Tax Credit (QRTC) of EUR 100 will cause a smaller increase in Top-up Tax than a Non-Qualified Refundable Tax Credit (which is not transferable) (NQRTC) of EUR 100 ...

Example A, assume: (1) GloBE Income (GI) = 1,000; (2) SBIE = 200; and Adjusted Covered Taxes (ACT) (before credit) = 120.

Therefore, before considering the credits: (1) ETR = 12%; (2) TUT% = 3%; (3) Excess Profit (EP) = 1,000 – 200 = 800; and (4) TUT = 800 x 3% = 24.

If QRTC = 100, then: (1) GI = 1,100; (2) ETR = 120 / 1,100 = 10.9091%; (3) TUT% = 4.0909%; (4) EP = 1,100 – 200 = 900; and (5) TUT = 900 x 4.0909% = 36.8181.

Alternatively, if NQRTC = 100, then: (1) GI = 1,000; (2) ACT = 120 – 100 = 20; (3) ETR = 20 / 1,000 = 2%; (4) TUT% = 13%; (5) EP = 800; and (6) TUT = 800 x 13% = 104.

However, in some situations, a QRTC of EUR 100 will cause a larger increase in TUT than a NQRTC of EUR 100 ...

Example B, assume: GI = 1,000; (2) SBIE = 980; (3) ACT (before credit) = 120.

Therefore, before considering the credits: (1) ETR = 12%; (2) TUT% = 3%; (3) EP = 1,000 – 980 = 20; and (4) TUT = 20 x 3% = 0.6.

If QRTC = 100, then: (1) GI = 1,100; (2) ETR = 120 / 1,100 = 10.9091%; (3) TUT% = 4.0909%; (4) EP = 1,100 – 980 = 120; and (5) TUT = 120 x 4.0909% = 4.9091.

Alternatively, if NQRTC = 100, then: (1) GI = 1,000; (2) ACT = 120 – 100 = 20; (3) ETR = 20 / 1,000 = 2%; (4) TUT% = 13%; (5) EP = 20; and (6) TUT = 20 x 13% = 2.6.

As you can see, the proportion that SBIE is to GI is the key factor.

Do you agree?



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