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5 April 2024



HIGHLIGHTS

- **GloBE rules implemented in New Zealand, Greece, and Liechtenstein**
- **Major new legislation**
 - Australia enacts debt creation and thin capitalization rules
 - Japan enacts 2024 tax reform
 - Germany enacts Growth Opportunities Act
- **Continuation of detailed review of December 2023 Administrative Guidance on GloBE rules**
 - Today: Allocation of blended CFC taxes (part 1)

HAPPY FRIDAY!

The **US** is eclipsed; **No Labels** drops out; and **Rishi** flip flops!

Meanwhile, in the tax world ...

New Zealand outsources legislative drafting to the **OECD**; **Japan** is up to date; the **Netherlands** is unconcerned about innovation; interest is more difficult to invest in **Australia** and **Germany**; **Malaysia's** ESR lacks substance; **Prudential** is indicted too late; and **El Salvador** takes a contrarian position!

But at the end of the week, the most important question is this: "Does the Moon need its own time zone?"

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: Allocation of blended CFC taxes (Part 1)
4. Asia Pacific
 - Australia, China, Hong Kong, Japan, Laos, Malaysia, Singapore
5. Europe
 - France, Germany, Sweden, UK
6. Middle East & Central Asia
 - UAE
7. Americas
 - Ecuador, El Salvador, US
8. 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 DDTs 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 2023)
- **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: Allocation of blended CFC taxes (Part 1)** (ITB, 5 April 2024)
 - **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 CbCR 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, 19, 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)
 - **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):**
 - **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

Melani Dewi Astuti
"The Implementation of Global Minimum Tax in ASEAN Countries"
Tax Notes International, Tax Analysts, 1 April 2024.

Sunny Kishore Bilaney and Shyam Sunder Nori
"Interplay between Pillar Two and Transfer Pricing Rules"
International Transfer Pricing Journal, IBFD, 2024 (Vol. 31), No. 3.

Stijn Blaauwman and Jasper Korving
"The Tax Base in BEFIT and Pillar Two: Harmony, Dissonance, or Off-Key?"
Intertax, Kluwer, 2024 (Vol. 52), Issue 5.

Richard Krever, Kerrie Sadiq, and Na Li
"Australia Treaty Override: Restricting Nondiscrimination Articles"
Tax Notes International, Tax Analysts, 25 March 2024.

INTERNATIONAL TAX QUIZ

THIS WEEK'S NEW QUIZ

An MNE Group's UPE, which is located in jurisdiction U, is subject to the jurisdiction U CFC rules. Those CFC rules qualify as a Blended CFC Tax Regime, as defined in the February 2023 AG. Under the CFC rules, the foreign effective tax rate must be 13.125% in order to generate sufficient foreign tax credits (ignoring any foreign tax credit limitation) to prevent the imposition of a tax charge.

In the 2025 Fiscal Year, UPE has a tax charge of 50 under the CFC rules. UPE directly owns shares in 4 CFCs. For the 2025 Fiscal Year, the CFCs have this information:

1. XCo 1 (located in jurisdiction X) (100% owned by UPE)
 - GloBE Income: 200
 - Covered Tax: 12
 - Attributable Income: 60
 - Constituent Entity for GloBE purposes
2. XCo 2 (located in jurisdiction X) (80% owned by UPE; 20% owned by third parties)
 - GloBE Income: Nil
 - Covered Tax: 10
 - Attributable Income: 70 (at 100% level)
 - Constituent Entity for GloBE purposes
3. XCo 3 (located in jurisdiction X) (25% owned by UPE; 75% owned by third parties)
 - GloBE Income: 150
 - Covered Tax: 30
 - Attributable Income: 100 (at 100% level)
 - Constituent Entity for GloBE purposes
4. YCo (located in jurisdiction Y) (100% owned by UPE)
 - GloBE Income: 150
 - Covered Tax: 15
 - Attributable Income: 50
 - Constituent Entity for GloBE purposes

Jurisdictions X and Y do not impose QDMTTs.

Based on this information, what will be the allocation of CFC tax under Art. 4.3.2(c)? Please ignore any possible cap under Art. 4.3.3.

Answer in next ITB email alert!

LAST WEEK'S QUESTION

X MNE Group, which manufactures and sells consumer goods, includes the following items in its consolidated 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: (100)
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. Extraordinary or non-recurring items – income / gains: 35
9. Extraordinary or non-recurring items – expenses / losses: (30)
10. Interest income (on surplus cash): 5
11. Interest expense: (20)

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

LAST WEEK'S ANSWER

Section 3.1 of December 2023 AG provides guidance on the computation of annual revenue for the purposes of Art. 1.1.1.

Treatment of each item:

Item (1) Sales (net of discounts, returns and allowances of 40): 600 added.

Item (2) COGS: no impact.

Item (3) SGA Expenses: no impact.

Items (4) to (7) Gains and losses from investments – realised and unrealised gains are added, but losses are deducted "to the extent of gross gains from investments" (para. 10.4 in Comm to Art. 1.1). As there is an overall loss of (10), items (4) to (7) have no net impact on computation.

Item (8) Extraordinary or non-recurring items – income / gains: 35 added (para. 10.4 in Comm to Art. 1.1).

Item (9) Extraordinary or non-recurring items - expenses / losses: para. 10.4 in Comm to Art. 1.1 does not state that such expenses or losses should be deducted. Thus, no impact.

Item (10) Interest income (on surplus cash): no impact (see Example 1 in para. 10.6 in Comm to Art. 1.1).

Item (11) Interest expense: no impact.

Thus, annual revenue = 600 + 35 = 635.

Do you agree?



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