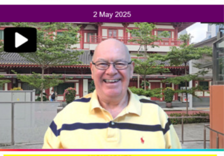
ITB International Tax Bytes *by Steve Towers*

"International tax news, explained"

2 May 2025



HIGHLIGHTS

- **UK**
  - **Proposed rule changes to transfer pricing, permanent establishments, and diverted profits tax**
- **Italy's IRAP**
  - **Does it breach EU Parent-Subsidiary Directive?**
- **Canada: transfer pricing case**
  - **Tax authorities change arguments at late stage**
- **Continuation of review of June 2024 Administrative Guidance on GloBE rules**
  - **Today: Allocation of profits and taxes in structures including Flow-through Entities (part 4)**

HAPPY FRIDAY!

Waltz is fired; **Ukraine** sells its dirt; and **Carney** starts his political career at the top!

Meanwhile, in the tax world ...

US avoids stacking; tax is elective in **Malta**; **Finland** drops rates; **UK** permanently mirrors the **OECD**; and **Canada's** tax authorities play "bait & switch"!

But at the end of the week, the most important question is this: **"Do you know where your smartphone was manufactured?"**

Have a great weekend!
Steve

THIS WEEK'S PODCAST

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

1. Tariff wars
2. GloBE news
3. June 2024 Administrative Guidance on GloBE rules: Allocation of profits and taxes in structures including Flow-Through Entities (part 4)
4. Europe
   - Belgium, ECJ, Finland, France, UK
5. Africa
   - Nigeria
6. Middle East & Central Asia
   - UAE
7. Americas
   - Canada
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 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:**
  - **June 2024 Administrative Guidance on GloBE rules: Allocation of profits and taxes in structures including Flow-through Entities (Parts 1 to 4) (ITB, 28 March; 4 & 11 April; 2 May 2025)**
  - **June 2024 Administrative Guidance on GloBE rules: Allocation of profits and taxes in structures including Flow-through Entities (Parts 1 to 4) (ITB, 28 March; 4 & 11 April; 2 May 2025)**
  - **June 2024 Administrative Guidance on GloBE rules: Allocation of Cross-border Current Taxes (Parts 1 to 5) (ITB, 15 & 22 November; 6, 13 & 20 December 2024)**
  - **June 2024 Administrative Guidance on GloBE rules: Divergences between GloBE and accounting carrying values (Parts 1 to 7) (ITB, 23 & 30 August; 6 & 13 September; 4, 11 & 18 October 2024)**
  - **June 2024 Administrative Guidance on GloBE rules: DTL recapture (Parts 1 to 4) (ITB, 28 June; 5, 12 & 19 July 2024)**
  - **December 2023 Administrative Guidance on GloBE rules: Transitional filing deadlines, and Simplified Calculation Safe Harbour (ITB, 26 April 2024)**
  - **December 2023 Administrative Guidance on GloBE rules: Allocation of blended CFC taxes (Parts 1 & 2) (ITB, 5 & 12 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, 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)**
  - **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

Alice Pirlot
"Scholactivism in Tax Law"
Intertax, Kluwer, Volume 53, Issue 5.

Laura Visscher
"Beyond Borders: Practical Frameworks to Navigate Permanent Establishments and Profit Allocations in a Home Office Setting"
International Transfer Pricing Journal, IBFD, 2025 (Vol. 32), No. 3.

Robbie Basteleurs, Benjamin Beer, and João Ochôa
"Recent and Pending Cases at the Court of Justice of the European Union on Direct Taxation: Conference in Vienna 2024: Current Trends in Direct Taxation"
EC Tax Review, Kluwer, 2025/2.

INTERNATIONAL TAX QUIZ

THIS WEEK'S NEW QUIZ

ACo (located in jurisdiction A) owns 100% of BCo (located in jurisdiction B).

The jurisdiction A corporate income tax (CIT) treats ACo as opaque.

BCo is treated as transparent for the purposes of the jurisdiction A CIT, but it is treated as opaque for the purposes of the jurisdiction B CIT.

BCo owns 100% of CCo, which is formed (and has a place of business) in jurisdiction C.

CCo is treated as transparent for the purposes of both the jurisdiction A and the jurisdiction B CITs.

Jurisdiction C does not have a CIT.

CCo has a Financial Accounting Net Income or Loss of 100.

BCo pays 10 of jurisdiction B CIT on CCo's FANIL.

ACo pays 7 of jurisdiction A CIT (after a credit for the jurisdiction B CIT) on CCo's FANIL.

What will be the allocation of CCo's FANIL of 100, BCo's CIT of 10, and ACo's CIT of 7?

Please ignore Art. 4.3.3.

Answer in next ITB email alert!

LAST WEEK'S QUESTION

XCo, YCo and ZCo are 100% subsidiaries in an MNE Group which is "within scope" of the GloBE rules.

XCo is formed in jurisdiction X, where it is treated as opaque for tax purposes.

YCo is formed in jurisdiction Y, where it is treated as opaque for tax purposes.

ZCo is formed in jurisdiction Z. ZCo is treated as transparent under the jurisdiction X and Z tax laws, but it is treated as opaque under the jurisdiction Y tax law.

YCo owns 100% of XCo, and XCo owns 100% of ZCo.

ZCo has Financial Accounting Net Income or Loss of 100, on which it incurs Z tax of 20.

Under the jurisdiction Y CFC rules, YCo incurs tax of 5 (after foreign tax credit for ZCo tax) in respect of YCo's indirect interest in ZCo.

Q1: What will be the allocation of ZCo's FANIL of 100 and tax of 20, and YCo's tax of 5? Please ignore: (i) Art. 4.3.3; (ii) Blended CFC Regime; and (iii) cross-crediting of FTCs.

Q2: Same as Q1, except that XCo owns 100% of YCo, and YCo owns 100% of ZCo.

LAST WEEK'S ANSWER

ZCo is a Flow-through Entity: Art. 10.2.1.

Q1:

ZCo is a Tax Transparent Entity, because it is fiscally transparent in the jurisdiction in which its owner is located (i.e., jurisdiction X). XCo is ZCo's Reference Entity, and it is therefore ZCo's owner for the purposes of Art. 10.2.1: para. 154.1 of Comm to Art. 10.2.1.

ZCo's FANIL of 100 will be allocated to XCo: Art. 3.5.1(b).

ZCo's tax of 20 will be allocated to XCo: Art. 4.3.2(b).

YCo's CFC tax of 5 will be allocated to ZCo: Art. 4.3.2(c). That tax of 5 will then be re-allocated to XCo: Art. 4.3.2(b).

Thus, FANIL of 100 will be allocated to XCo, and tax of 25 will be allocated to XCo.

Q2:

ZCo is a Reverse Hybrid Entity, because it is not fiscally transparent in the jurisdiction in which the owner is located (i.e., jurisdiction Y). YCo is ZCo's Reference Entity, and it is therefore ZCo's owner for the purposes of Art. 10.2.1: see para. 154.1 of Comm to Art. 10.2.1.

ZCo's FANIL of 100 will be allocated to ZCo: Art. 3.5.1(c).

ZCo's tax of 20 will be retained by ZCo.

YCo's CFC tax of 5 will be allocated to ZCo. It will not be re-allocated.

Thus, FANIL of 100 will be allocated to ZCo, and tax of 25 will be allocated to ZCo.

Do you agree?