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3 October 2025


HIGHLIGHTS

- **3M transfer pricing "blocked income" case from US**
 - Loper Bright has major impact
- **HMTX Industries case, also from US**
 - Tariffs imposed on Chinese imports by first Trump Administration are declared valid
- **Bunge transfer pricing case from Spain**
 - Functional analysis of cash pool participants is necessary

HAPPY FRIDAY!

The **US** government is closed for business, but **Taylor Swift** lives the life of a showgirl!

Meanwhile, in the tax world...

The **Dutch** are too administrative; **3 German States** want to jump off the globe; **3M's** appeal was well timed; and "modify" is unlimited in the **Federal Circuit**!

But at the end of the week, the most important statement was made by the US Eighth Circuit: **"Statutes trump regulations"**!

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. Other global developments
4. Asia Pacific
 - Australia, Singapore, Sri Lanka, Taiwan
5. Europe
 - EU, Finland, Spain, UK
6. Africa
 - Zambia
7. Middle East & Central Asia
 - UAE
8. Americas
 - US
9. 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:**
 - **January 2025 Administrative Guidance on GloBE rules: Application of Article 9.1 to deferred tax assets arising from tax benefits provided by General Government** (Parts 1 & 2) (ITB, 30 May & 13 June 2025)
 - **June 2024 Administrative Guidance on GloBE rules: Treatment of Securitisation Vehicles** (ITB, 23 May 2025)
 - **June 2024 Administrative Guidance on GloBE rules: Allocation of profits and taxes in structures including Flow-through Entities** (Parts 1 to 5) (ITB, 28 March; 4 & 11 April; 2 & 9 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

Doron Narotzki

"The US Case Against the Digital Services Tax"

Tax Notes Today International, Tax Analysts, 29 September 2025.

Andreas Riedl and Marcus Münch

"How to Apply the TNMM: Arm's Length Results outside the EBIT-IQR?"

International Transfer Pricing Journal, IBFD, 2025 (Vol. 32), No. 5.

Ruth Mason

"State Aid Enforcement after Apple"

Tax Notes Today International, Tax Analysts, 30 September 2025.

INTERNATIONAL TAX QUIZ

THIS WEEK'S NEW QUIZ

X Co is a Constituent Entity of an MNE Group which is "within scope" of the GloBE rules.

Y Co is unrelated to X Co.

Y Co has 10,000 ordinary shares on issue that carry an equal right to profit distributions and capital. X Co acquires 200 common shares in Y Co on 1 July in Year 1 and acquires an additional 100 common shares in Y Co on 31 March in Year 2. Y Co has only one class of shares and distributes a dividend of EUR 0.10 per share on 31 December of Year 2.

What is the treatment, under the GloBE rules, of the dividend received by X Co?

Answer in next ITB email alert on 17 October 2025!

LAST WEEK'S QUESTION

XCo, a company located in jurisdiction X, is the UPE of an MNE Group which is "within scope" of the GloBE rules.

XCo directly owns 100% of YCo, 55% of ZCo, and 100% of ACo, respectively located in jurisdictions Y, Z, and A. These 4 companies are the only companies in the MNE Group.

YCo directly owns 40% of ZCo. The remaining 5% ownership interests of ZCo are owned by minority shareholders.

Jurisdictions Y and A have implemented the GloBE rules (IIR and UTPR). Jurisdictions X and Z have not implemented the GloBE rules. In particular, jurisdiction Z has not implemented a QDMTT.

ZCo has Top-up Tax of 1,000.

Based on this information, what is the IIR or UTPR tax liability of: (1) XCo; (2) YCo; and (3) ACo?

LAST WEEK'S ANSWER

Assumptions: (i) None of the companies is an Investment Entity (definition in Art. 10.1.1). (ii) The MNE Group is not in the initial phase of its international activity (see Art. 9.3).

XCo's IIR or UTPR tax liability is nil, as jurisdiction X has not implemented the GloBE rules.

YCo is an Intermediate Parent Entity (definition in Art. 10.1.1).

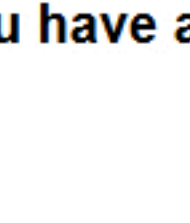
YCo is liable to pay an IIR tax equal to its Allocable Share of ZCo's Top-Up Tax (Art. 2.1.2). YCo's Allocable Share is 400 (Art. 2.2).

The UTPR is able to apply, because all of XCo's 95% direct and indirect Ownership Interests in ZCo are not owned by one or more Parent Entities that are required to apply a Qualified IIR (Art. 2.5.2). The UTPR Top-Up Tax Amount is 600 (Art. 2.5.3).

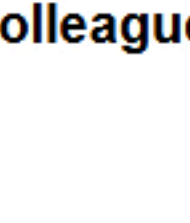
Jurisdictions Y and A are UTPR Jurisdictions (definition in Art. 10.1.1). The 600 of UTPR Top-Up Tax Amount is allocated between jurisdictions Y and A based on their relative number of employees and tangible assets (Art. 2.6.1).

Thus, final answer: (1) Nil; (2) YCo: 400 + allocated share of 600; (3) ACo: allocated share of 600.

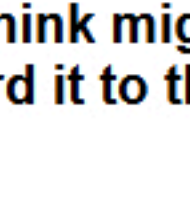
Do you agree?



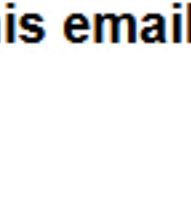
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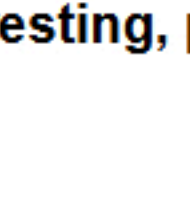
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