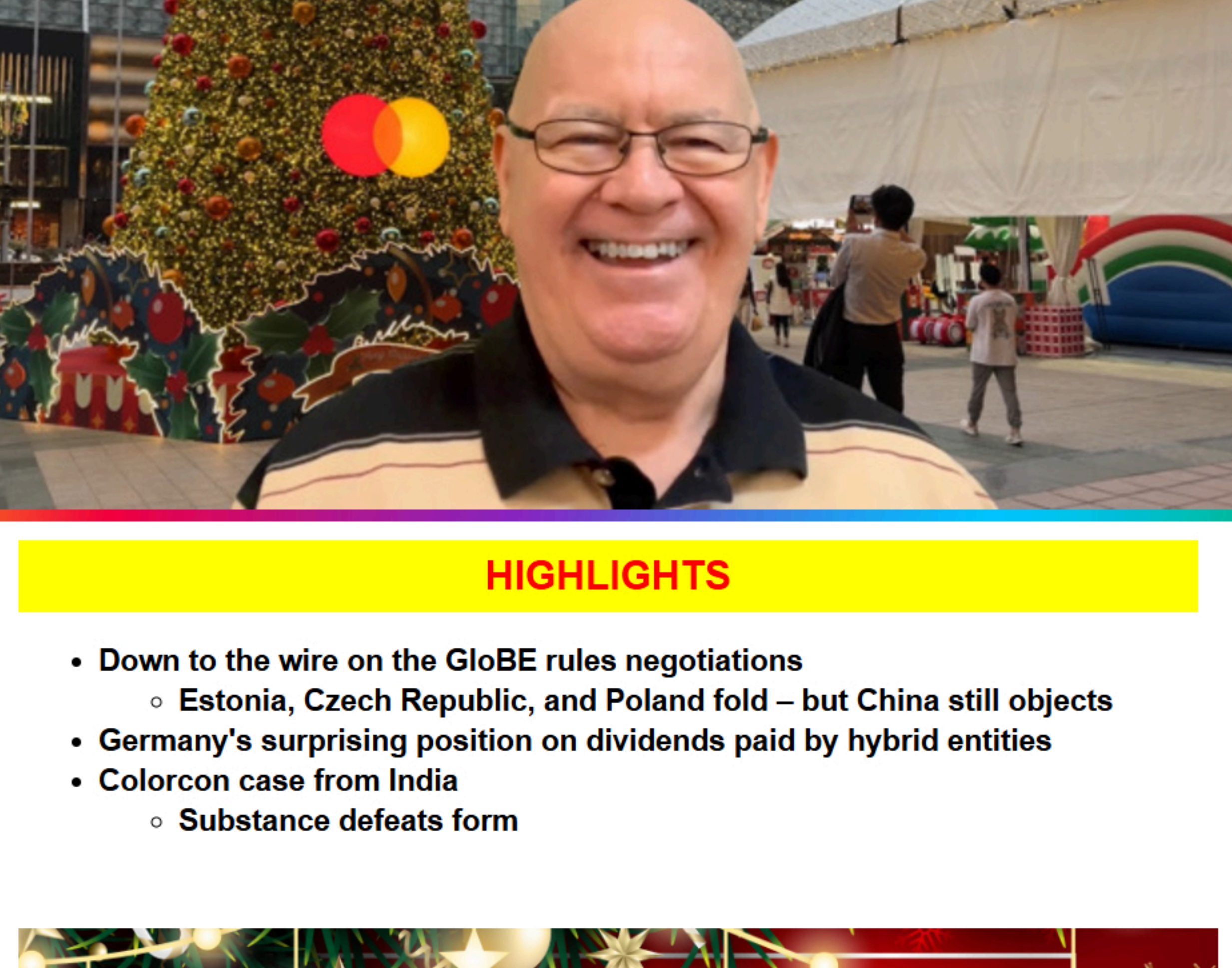


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**19 December 2025**


## HIGHLIGHTS

- **Down to the wire on the GloBE rules negotiations**
  - Estonia, Czech Republic, and Poland fold – but China still objects
- **Germany's surprising position on dividends paid by hybrid entities**
- **Colorcon case from India**
  - Substance defeats form



## 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. Asia Pacific
  - Australia, India, Malaysia, Thailand
4. Europe
  - EU, France, Germany, Italy, Netherlands, Switzerland, UK
5. Americas
  - Costa Rica, US
6. 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)

## INTERNATIONAL TAX QUIZ

### LAST WEEK'S QUESTION

ACo is a large company which is resident in country A.

Mr B, the CEO of ACo, is resident in country B. Mr B generally works from his home office in country B, in order for his family to live in country B. ACo does not have any major clients in country B, and Mr B does not commonly meet country B clients.

Mr B communicates with his team (none of whom is based in country B) via telephone and online. Mr B visits ACo's head office once a month for a 2-day board of directors meeting. He has an office in ACo's head office, which he uses during that monthly visit.

The A/B double tax treaty is identical to the 2017 OECD model treaty. The A/B treaty was signed and entered into force in 2018.

Based on this limited information, does Mr B's home office constitute a "fixed place of business" PE under Art. 5(1) of the A/B treaty?

### LAST WEEK'S ANSWER

As the A/B treaty is identical to the 2017 OECD model treaty, and it was signed and entered into force in 2018, we must first consult paras 18 & 19 in the 2017 Comm.

Para 18: "Where ... a home office is used on a continuous basis for carrying on business activities for an enterprise and it is clear from the facts and circumstances that the enterprise has required the individual to use that location to carry on the enterprise's business (e.g. by not providing an office to an employee in circumstances where the nature of the employment clearly requires an office), the home office may be considered to be at the disposal of the enterprise."

The question indicates that Mr B generally works from home "in order for his family to live in country B". Also, the question indicates that Mr B has an office in ACo's head office in country A, which he uses during the monthly visit. Presumably, the office (or, at least, an office) would be available to him at ACo's head office if he were there at other times.

Thus, it appears that ACo has not required Mr B to work from home – which suggests there is no PE. However, earlier in para 18, there is this statement: "Whether or not a home office constitutes a location at the disposal of the enterprise will depend on the facts and circumstances of each case." Does this statement allow an argument that the continued presence of the CEO (i.e., ACo's most important employee) at the home office is sufficient to constitute a PE?

Does the 2025 Update provide clarity?

Mr B satisfies the "at least 50% of total working time" test (para. 44.10).

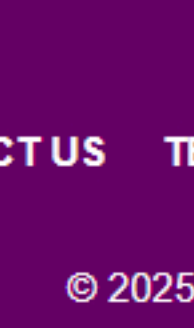
There is no "commercial reason" for Mr B to work from home.

Para. 44.19: "Where there is no commercial reason for undertaking the activities related to the business of the enterprise of a Contracting State from a home or other relevant place located in the other Contracting State, that place would not be a place of business of the enterprise unless other facts and circumstances indicated otherwise."

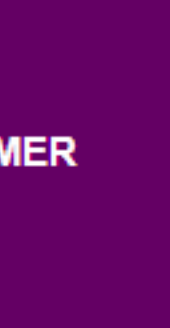
Does the continued presence of the CEO (i.e., ACo's most important employee) at the home office constitute sufficient other facts and circumstances to indicate otherwise?

Final answer: For both the 2017 Comm and the 2025 Update, Mr B appears not to satisfy the objective tests – which suggests that the home office would not constitute a PE. However, in both cases, there is a reference to "other facts and circumstances", which might allow the country B tax authority to argue that the continued presence of ACo's CEO is sufficient to cause there to be a PE.

What do you think?

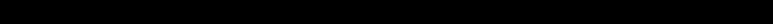

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