

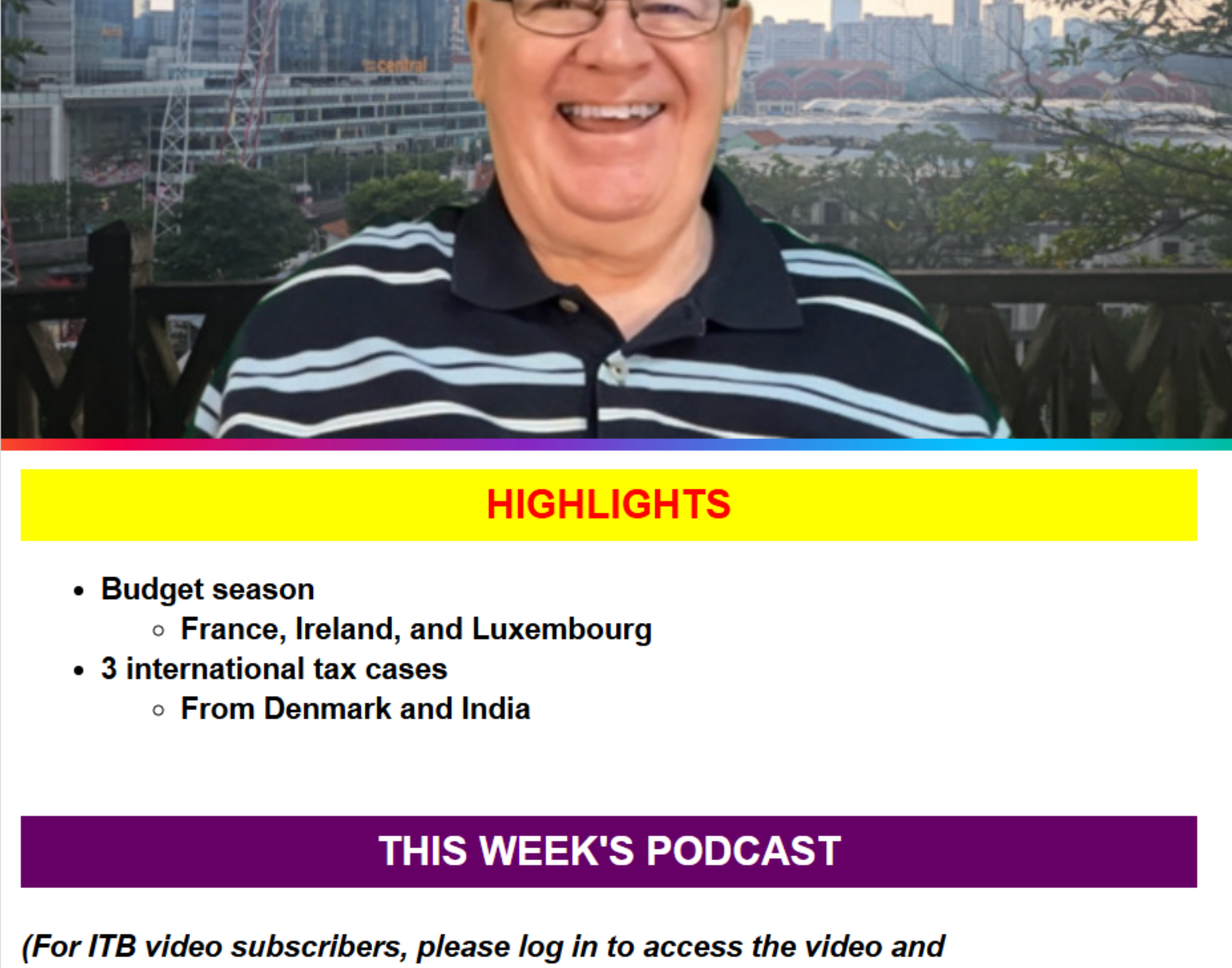
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9 October 2026



HIGHLIGHTS

- **Budget season**
 - France, Ireland, and Luxembourg
- **3 international tax cases**
 - From Denmark and India

THIS WEEK'S PODCAST

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

1. Asia Pacific
 - India, Malaysia, Singapore
2. Europe
 - Denmark, EU, Finland, France, Greece, Hungary, Ireland, Luxembourg, Poland, Slovak Republic
3. Middle East & Central Asia
 - UAE
4. Americas
 - Argentina

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:**
 - **September 2026 Administrative Guidance on GloBE rules: Explicitly Conditional Taxes; Use of local financial accounting standard under a QDMTT in case of mismatching fiscal periods (ITB, 25 September 2026)**
 - **Simplified ETR Safe Harbour (Parts 1 to 10) (ITB, 13 & 27 February; 6, 13, 20 & 27 March; 17 & 24 April; 15 & 22 May 2026)**
 - **Substance-based Tax Incentive Safe Harbour (ITB, 30 January 2026)**
 - **UPE Safe Harbour (ITB, 23 January 2026)**
 - **Side-by-Side Safe Harbour (ITB, 16 January 2026)**
 - **Side-by-Side Package: Overview (ITB, 9 January 2026)**
 - **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 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

Reuven S. Avi-Yonah and Jeffery M. Kadet
"Is Cost Sharing Valid Under *Loper Bright*?"
Tax Notes Today International, Tax Analysts, 17 September 2026.

Katerina Pantazatou
"Revisiting Permanent Establishment: The 2025 OECD Commentary Update on Homeworking"
Intertax, Kluwer, 2026 (Vol. 54), Issue 11.

Alejandro Ces and Alex Yam
"Managing Transfer Pricing Adjustments Across APAC"
Tax Notes Today International, Tax Analysts, 25 September 2026.

INTERNATIONAL TAX QUIZ

THIS WEEK'S NEW QUIZ

XCO is a company which is resident in country X. Mr A is the 100% shareholder in XCO, and he is XCO's only employee and director. Mr A is resident in country Y.

XCO enters into a secondment agreement with YCO, which is a large company resident in country Y. XCO and YCO are unrelated and deal with each other at arm's length. Under the agreement, XCO seconds Mr A to YCO to work at YCO's office in country Y in the role of chief compliance officer, for an indefinite period. Mr A does not become YCO's employee (in legal form). However, YCO's senior executives control and take responsibility for Mr A's day to day activities, and Mr A (in many respects) acts as if he is YCO's employee. For tax purposes, country Y applies the "economic employer" approach.

Under the secondment agreement, YCO pays XCO \$50,000 per month. Mr A's salary from XCO is \$10,000 per month.

The income tax rates (for both companies and individuals) in country Y are significantly higher than the corresponding rates in country X.

The country Y domestic tax law contains an anti-avoidance provision in regard to schemes to divert personal services income. The country Y tax authorities use that provision to levy income tax on Mr A on the \$50,000 per month which is paid to XCO (and they do not levy tax on the \$10,000 per month salary which is paid to Mr A). The country Y tax law does not contain any CFC or similar rules.

The country X tax authorities levy income tax on XCO on that same \$50,000 per month which is paid to XCO.

Thus, there is double tax on the \$50,000 per month (country X taxes XCO, and country Y taxes Mr A).

The X/Y treaty is identical to the 2014 OECD model treaty (with Art. 23B). Can the X/Y treaty remove the double taxation?

Answer in next ITB email alert!

LAST WEEK'S QUESTION

ACO is a company which is resident in country A. ACO carries on a dredging business. ACO was interested in bidding for a dredging contract in regard to a harbour in country B. As ACO had no office or employees in country B, ACO engaged a third party consulting firm resident in country B (BCO) to study, and prepare a report on, the density of the sediment in the country B harbour. Based on that report, ACO prepared and submitted its bid (to the harbour authority) for the dredging contract. As ACO's bid was the lowest price, it won the contract. According to ACO's budget, it expected to derive a small profit from the project.

The performance of the dredging contract was expected to take 3 months. ACO identified a team of senior, skilled employees in its country A headquarters to lead the dredging project "on the ground" in country B. Those employees relocated to country B for the duration of the contract. Those employees hired additional employees in country B to supplement the project team. The necessary dredging equipment was hired (by the relocated employees in country B) from third party providers in country B.

After the dredging work commenced, it became obvious that the BCO report was deficient in many respects. The report grossly underestimated the density of sediment in the harbour. As a result, ACO was required to perform a significant amount of additional work to complete the contract. It took 2 years for the work to be completed. Instead of achieving the budgeted profit, the dredging contract caused ACO to suffer a significant loss (due to unbudgeted salaries and hiring charges, and penalties levied by the harbour authority in accordance with the contract).

ACO could not seek redress from BCO, as BCO had become insolvent, and its directors and employees could not be found.

What will be ACO's tax treatment in countries A and B, under the A/B treaty (which is identical to the 2014 OECD model treaty, with Art. 23A)?

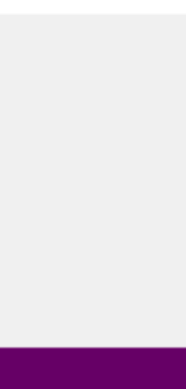
LAST WEEK'S ANSWER

B tax :

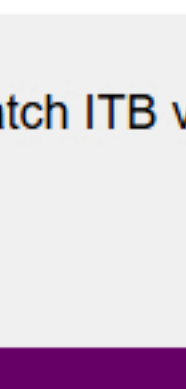
1. ACO has a PE in B, at the dredging site in the harbour: Art. 5(1) & (3), A/B treaty.
2. B is permitted to tax the profits attributable to ACO's PE: Art. 7(1).
3. Determining the profits attributable to ACO's PE (in accordance with 2010 OECD Art. 7 report):
1. Merely because ACO has derived a global loss on the contract does not mean that a profit cannot be attributable to the PE.
2. The PE and HQ are assumed to be separate and independent enterprises: Art. 7(2).
3. Functions allocated to HQ: decision-making in regard to the bid.
4. Functions allocated to PE: recruitment of B employees, hiring of equipment, and performance of dredging contract.
5. Significant risks allocated to HQ: risk involved in engaging BCO for report on sediment, risk in bidding too low.
6. Significant risks allocated to PE: risk in performing contract in inefficient manner.
7. Significant assets allocated to HQ: technical knowhow in regard to bidding for contract, technical knowhow / skills of HQ employees relocated to B.
8. Significant assets allocated to PE: technical knowhow / skills of PE employees who were relocated from HQ.
9. A likely characterisation of the PE is a service provider, due to the fact that its role was limited to performing a contract which was won by the HQ.
10. The key issue to determine is to what extent the loss incurred on the contract was due to the low bid price (which, in turn, was caused by the incorrect report from BCO), or alternatively was due to the inefficient performance of the contract by the PE employees.
11. If it is clear that the loss was wholly or substantially due to the low bid price, then (to that extent) the loss should be allocated to the HQ. That would mean that a profit should be attributed to the PE, to reward it for the efficient performance of the contract (within the context of a low bid price).

A tax:

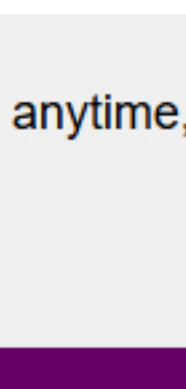
1. If a profit is attributed to the PE, that profit should be exempt from A tax: Art. 23A(1).



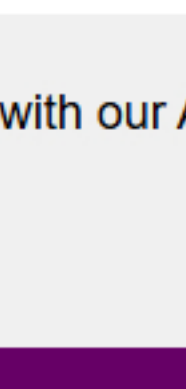
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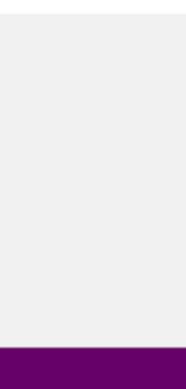
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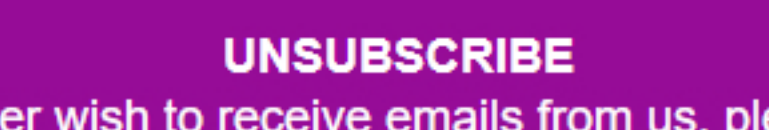
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