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16 October 2026



HIGHLIGHTS

- **It's still Budget season**
 - Algeria, Denmark, and Malaysia
- **3 international tax cases**
 - India, EFTA Court, and Netherlands
- **EU removes Panama and Vietnam from its black list**

THIS WEEK'S PODCAST

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

1. Asia Pacific
 - China, Hong Kong, India, Malaysia, Singapore, Thailand
2. Europe
 - Cyprus, Denmark, EFTA, EU, Netherlands, Norway
3. Africa
 - Algeria, Kenya, Mauritius
4. 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:**
 - **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 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

Vladimir Starkov

["Challenges in Delineating Controlled Transactions With Agentic AI"](#)
Tax Notes Today International, Tax Analysts, 5 October 2026.

Bence Péter Komár

["The VAT Commissionaire Fiction in the CJEU's Case Law"](#)
Intertax, Kluwer, 2026 (Vol. 54), Issue 12.

Mindy Herzfeld

["The K-Shaped Global Minimum Tax"](#)
Tax Notes Today International, Tax Analysts, 5 October 2026.

INTERNATIONAL TAX QUIZ

THIS WEEK'S NEW QUIZ

ACO, a company which is resident in country A, owns the global copyright to a film.

ACO sells that global copyright to BCO, a company which is resident in country B.

The sale contract states that the consideration has 2 components: (i) a lump sum of \$10 million (payable upfront), and (ii) a royalty of 3% of annual revenue which is derived by BCO from commercial exploitation of the copyright (payable annually for 10 years).

2 years later, BCO discovers that ACO is deriving revenue from the copyright from third parties in country A. BCO sues ACO, in a country A court, for breach of copyright. The court awards damages to BCO of \$2 million.

The A/B treaty is identical to the 2011 UN model treaty, and it is not covered by the MLI.

What is the treatment, under the treaty, for the 3 payments?

Answer in next ITB email alert!

LAST WEEK'S QUESTION

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?

LAST WEEK'S ANSWER

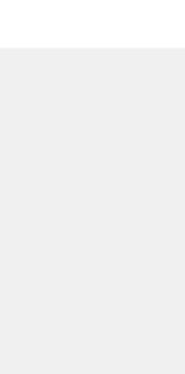
This is a "conflict of attribution of income" case: under domestic law, X attributes the \$50,000 income to XCO, and Y attributes the \$50,000 income to Mr A, resulting in economic double taxation.

This type of case is controversial – it is discussed in depth in: J.Wheeler, "The Missing Keystone of Income Tax Treaties", IBFD, World Tax Journal, 2011 (Volume 3), No. 2. It was also one of the main subjects at the 2007 IFA Congress – see, in particular, the general report (also written by Wheeler) in Cahiers de droit fiscal international, Volume 92b.

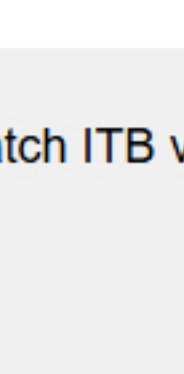
The better view is that the X/Y treaty cannot resolve the economic double taxation, for these reasons:

1. In accordance with the domestic law income attributions: (i) X would view the treaty as applicable (Art. 7 would apply to the \$50,000 income derived by XCO), but (ii) Y would view the treaty as not applicable (the \$50,000 income is derived by a resident of Y from a source in Y – in Y's view, there is no connection with X).
2. The OECD model treaty and Commentary deal with one form of "conflict of attribution of income" case – i.e., involving partnerships and other types of fiscal transparency. However, this present case is not due to fiscal transparency.
3. It could be argued that the OECD Commentary provides some limited support for Y's view. The 2017 Commentary on Art. 1 states (at paragraph 79): "... to the extent that the application of a general anti-abuse rule or a judicial doctrine such as 'substance over form' or 'economic substance' results in a recharacterization of income or in a redetermination of the taxpayer who is considered to derive such income, the provisions of the Convention will be applied taking into account these changes." However, the particular anti-avoidance provision in this case is probably not a "general anti-abuse rule", and thus this statement can be argued to be not applicable.
4. The facts in this case are taken from an Australian case, Russell v Commissioner of Taxation. The Federal Court held that the economic double taxation cannot be resolved by the treaty. However, there is some other case law (e.g., the Padmore case in the UK) which would support a different view: see Wheeler's article cited above.
5. Art. 9 of the X/Y treaty does not apply, for several reasons, including: (i) Mr A does not carry on an enterprise; and (ii) the anti-avoidance provision in Y is not based on the arm's length principle.
6. For completeness, it should be noted that Mr A's presence would not cause XCO to have a PE in Y.

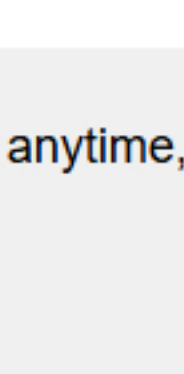
Do you agree?



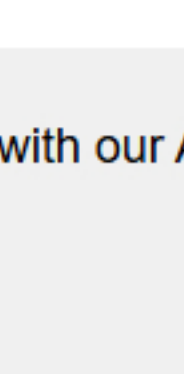
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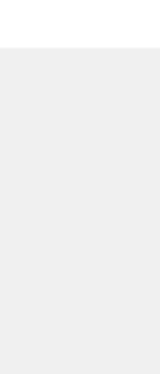
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