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Global Tax Alert

The Latest on BEPS and Beyond

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EY Tax News Update: Global Edition

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Highlights

Last week, high-level policymakers met in Washington, DC for the [annual spring meetings](#) of the International Monetary Fund (IMF or Fund) and the World Bank Group. The IMF predicted a "rocky recovery" for the global economy, marked by financial sector turmoil and high inflation. The Fund predicts that public-debt ratios will continue to rise, and, combined with high interest costs, this could well lead to fiscal interventions.

Signs of this are already being felt by corporate taxpayers. Countries in the north of the European Union (EU) are considering increasing corporate tax rates or extending excess profit taxes to sectors beyond the energy sector. In the south, we have seen increased audit activity.

At their 12-13 April meeting in Washington, [G20 Finance Ministers](#) also stressed the need for "coordinated efforts toward effective implementation and wider adoption of the two-pillar international tax package." They also discussed additional measures to increase tax transparency.

As discussed in this edition, EU Member States are making progress in shaping their legislation to transpose the EU's Minimum Tax Directive. We also report on developments outside the EU where some governments appear to favor introducing the rules by 2025. G20 members have not clarified which countries they are referring to in their "wider adoption" of Pillar Two statement.

Additional measures to improve tax transparency also appear to be in the works. The EU is expected to soon complete the eighth revision of the Directive on Administrative Cooperation (DAC8). In addition, EU Member States are making progress in the transposition of the Public Country-by-Country Report (PCBCR) Directive that we also reported on in the previous edition. Down Under, the Australia government published an [exposure draft for far-reaching PCBCR rules](#).

On the rocky road to recovery, companies and investors will clearly be facing many new tax regulations. This new edition of the *Latest on BEPS and Beyond* is here to help navigate through the latest proposals and developments of the past month.

BEPS 2.0

IASB

IASB approves amendments to IAS 12 in connection to Pillar Two

On 11 April 2022, the International Accounting Standards Board (IASB) [approved](#) to finalize amendments to IAS 12 (Income Taxes). The amendments will temporarily relieve companies from having to account for deferred taxes arising from the implementation of Pillar Two. In addition, targeted disclosure requirements will be imposed on affected companies to help users of financial statements better understand a company's exposure to Pillar Two income taxes. This will provide investors with relevant information before and after the legislation comes into effect, enhancing transparency in financial reporting.

The IASB has indicated that final amendments to IAS 12 will likely be issued by the end of May 2023.

Country developments

Barbados releases 2023-2024 Budget Proposal, yet to finalize position on Pillar Two

On 14 March 2023, Barbados released its Budget [proposal](#) for the fiscal year 2023-2024. Among other items, the Hon'ble Prime Minister stated that Barbados is still finalizing its position on Pillar Two and the government will address the way forward within six months.

Canada commits to implement Pillar Two

On 28 March 2023, Canada released its [2023 Budget](#) which, inter alia, reaffirms Canada's commitment to implement the BEPS 2.0 project. As for Pillar Two, Canada intends to apply an Income Inclusion Rule (IIR) and a Domestic Minimum Top-up Tax (DMTT) for fiscal years starting on or after 31 December 2023. The undertaxed profits rule (UTPR) would be effective for fiscal years starting on or after 31 December 2024.

The government intends to release draft legislative proposals for the IIR and DMTT for public consultation in the coming months; a draft legislative proposal for UTPR will follow at a later time. The draft implementing legislation will closely follow the Organisation for Economic Co-operation and Development (OECD) Model Rules, the Commentary on the model rules, and the Administrative Guidance, including safe harbors.

See EY Global Tax Alert, [Canada Federal budget 2023/24: A made-in-Canada plan](#), dated 4 April 2023.

Germany Federal Ministry of Finance publishes draft BEPS 2.0 Pillar Two implementation bill

On 20 March 2023, the German Ministry of Finance published a [discussion draft](#) on the implementation of the EU Minimum Corporate Taxation Directive (the Directive). The discussion draft is closely aligned with the requirements of the Directive as well as the OECD Model Rules.

Germany aims to ensure that, from 2024 onward, a top-up tax in accordance with the rules agreed to at an international level will be introduced. The draft law includes an IIR, a Qualified Domestic Minimum Top-up Tax (QDMTT) (both applicable from 2024), and the Undertaxed Profit Rule applicable from 2025.

The discussion draft also includes a transitional country-by-country reporting (CbCR) safe harbor and two permanent safe harbors: (i) the Non-Material Constituent Entity safe harbor; and (ii) the QDMTT safe harbor.

Interested parties may submit comments until 21 April 2023.

See EY Global Tax Alert, [Germany Federal Ministry of Finance publishes draft BEPS 2.0 Pillar Two implementation bill](#), dated 22 March 2023.

Ireland launches consultation on Pillar Two draft legislation

On 31 March 2023, the Ireland's Department of Finance released the [Feedback Statement](#) (FBS) regarding Ireland's implementation of Pillar Two. According to the FBS, Ireland's transposition of the EU Minimum Corporate Taxation Directive will involve four key elements to the transposition intends to introduce four key elements into domestic law: (i) IIR; (ii) UTPR; (iii) a QDTT; and (iv) administration (e.g., filing, payments). The possible draft approaches appear to follow the construct of the OECD Model Rules.

In addition, the FBS notes that it is considered appropriate to introduce a QDTT as part of the implementation process and outlines two possible approaches in this regard, while noting that the more efficient approach may be to prepare a shorter provision(s) that would reference the detailed provisions relating to the IIR with any necessary modifications rather than preparing a separate stand-alone section in the legislation in respect of the QDTT.

See EY Global Tax Alert, [Ireland launches consultation on EU Minimum Tax Directive and proposed legislative approach](#), dated 5 April 2023.

Japan enacts Pillar Two legislation

On 28 March 2023, Japan [enacted](#) the implementation of the IIR into domestic law. The IIR will apply to fiscal years beginning on or after 1 April 2024. The final legislation also includes transitional safe harbors, but additional details have yet to be provided. The UTPR and a DMTT are being considered for legislation in the 2024 tax reform, at the earliest.

See EY Global Tax Alert, [Japan enacts 2023 tax reform bill including legislation to implement IIR to align with OECD BEPS 2.0 Pillar Two](#), dated 30 March 2023.

Liechtenstein opens public consultation on draft legislation for Pillar Two

On 29 March 2023 Liechtenstein released a [public consultation](#) on draft legislation to implement Pillar Two into domestic law. The proposed rules include an IIR, an UTPR and a DMTT. The document also includes a reference to the CbC Safe Harbour and Administrative Guidance from the OECD released in February 2023. The document is subject to public consultation until 2 June 2023.

Analogous to the implementation deadlines in the EU Directive, the IIR and DMTT will apply from 1 January 2024 and the UTPR from 1 January 2025. The public consultation document and the draft legislation is expected to be discussed in Liechtenstein's Parliament in September 2023.

UK publishes draft legislation for Pillar Two

On 23 March 2023, the revised [draft legislation](#) on implementing Pillar Two in the United Kingdom (UK) through the new multinational top-up tax was published as part of Finance (No 2) Bill 2023 (Bill). The Bill will be debated in the House of Commons, and expected to be fully enacted later this year once the Bill receives Royal Assent (the timing of this is currently unknown).

The draft legislation includes the IIR (Multinational Top-Up Tax or MTUT) and a QDMTT (Domestic Top-Up Tax or DTUT), but not the UTPR for the moment. Both MTUT and DTUT would have effect for accounting periods beginning on or after 31 December 2023. The draft legislation also includes the transitional safe harbor, for both the MTUT and DTUT, which includes the de minimis test, simplified effective tax rate and routine profits tests.

See EY Global Tax Alert, [UK publishes legislation for multinational top-up tax and domestic top-up tax](#), dated 27 March 2023.

Vietnam proposes amendment to Corporate Income Tax Law including Pillar Two implementation

On 17 March 2023, the Vietnamese Ministry of Finance drafted a [proposal](#) to the Government to amend the Corporate Income Tax (CIT) Law. Among the other items, the document proposes to amend relevant policies to reserve Vietnam taxing rights and supplement principles to apply tax incentives to in-scope companies in the context of Pillar Two implementation. However, no specific details were mentioned in the proposal.

The current plan is for the Government to submit the CIT law amendments to the National Assembly for approval by May 2025. At this moment, it is not clear how the government intends to introduce Pillar Two into domestic law.

BEPS and other developments

OECD

Zimbabwe joins Global Forum on Transparency and Exchange of Information for Tax Purposes

On 11 April 2023, Zimbabwe [joined](#) the Global Forum on Transparency and Exchange of Information for Tax Purposes (Global Forum), becoming the 167th member. The Global Forum is a leading multilateral body that ensures countries comply with the exchange of information on request standard and automatic exchange of information standard. They achieve these objectives through a rigorous monitoring and peer review process.

Global Forum publishes peer review reports on transparency and exchange of information on request

On 28 March 2023, the Global Forum on Transparency and Exchange of Information for Tax Purposes (the Global Forum) published seven new peer review reports related to six of its members (Albania, the Czech Republic, Mexico, Nigeria, Saint Lucia and Togo) and one nonmember (Nicaragua), which had previously been deemed of relevance to its work on exchange of information on request (EOIR).

These reports evaluate jurisdictions against the updated standard, which requires beneficial ownership information of all relevant legal entities and arrangements, in line with the definition used by the Financial Action Task Force Recommendations. The assessment results in one of four distinct overall ratings (a rating is allocated to a jurisdiction once it has undergone a full peer review): (i) compliant; (ii) largely compliant; (iii) partially compliant; or (iv) noncompliant.

Five jurisdictions - Albania, the Czech Republic, Mexico, Nigeria and Saint Lucia - received an overall "largely compliant" rating for this peer review. Nicaragua was rated as "noncompliant." The main issue identified related to bank secrecy laws; improvements were also recommended for the retention of accounting records and the availability of beneficial ownership information, as well as for effective supervision and enforcement of sources.

In addition, for the first time, Togo's legal and regulatory framework for EOIR was reviewed. The review found that the framework was broadly in line with the standard, particularly in terms of the availability of beneficial ownership information. However, some improvements were recommended, particularly with regard to updating beneficial ownership information for bank accounts.

Slovenia deposits MLI notification

On 23 March 2023, Slovenia issued a [notification](#) to add the entry into force of its covered tax agreement (CTA) with Morocco and update its Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS (MLI) position accordingly. The MLI entered into force for Slovenia on 1 July 2018, while Morocco has not yet deposited its MLI ratification instrument with the OECD.

The MLI will therefore only modify the Slovenia-Morocco treaty after completion of the relevant procedures in Morocco.

Vietnam joins the Convention on Mutual Administrative Assistance in Tax Matters

On 22 March 2023, Vietnam joined the Convention on Mutual Administrative Assistance in Tax Matters as amended by the 2010 Protocol, bringing to 147 the total Members of the Convention. As a new Member, Viet Nam is committed to fighting international offshore tax avoidance and evasion by rapidly expanding its network of information-exchange partners.

The Convention will allow Viet Nam to swiftly implement the transparency measures of the OECD/G20 Base Erosion and Profit Shifting (BEPS) project, in particular the automatic exchange of CbCR under Action 13.

OECD releases fifth annual peer review report on BEPS Action 6 relating to the prevention of treaty abuse

On 21 March 2023, the OECD released the [fifth annual peer review report](#) (the Report) on the implementation of BEPS Action 6 relating to the prevention of treaty abuse. The Report covers 141 jurisdictions that were members of the Inclusive Framework on 31 May 2022.

As of 31 May 2022, more than 975 bilateral agreements between members of the Inclusive Framework complied with the minimum standard. An additional 76 agreements not subject to review (i.e., agreements between Inclusive Framework members and nonmembers) also complied with the minimum standard, bringing the total number of compliant agreements concluded by members of the Inclusive Framework to more than 1,050 agreements, which represents a significant increase from 2021.

Overall, the Report demonstrates progress in implementing BEPS Action 6.

See EY Global Tax Alert, [OECD releases fifth annual peer review report on BEPS Action 6 relating to the prevention of treaty abuse](#), dated 5 April 2023.

Other developments

UN held 26th Session of the Committee of Experts on International Cooperation in Tax Matters

From 27 to 30 March 2023, the United Nations (UN) Tax Committee had its 26th session on International Cooperation in Tax Matters. The Committee discussed various topics, including digital transformation of tax administrations, taxing the digital economy (including the evolution of tax treaty instrument), environmental taxes, wealth taxes, extractive industries taxation and transfer pricing.

Significantly, the session resulted in the approval of a general “subject to tax” rule to be added to the UN Model Tax Convention. Addressing challenges presented by the digitalized and globalized economy, the Committee focused on two workstreams: (i) exploring options for a multilateral approach to implementing Article 12B of the UN Model Tax Convention, which relates to Automated Digital Services; and (ii) examining the function and feasibility of applying physical presence tests, such as those under “permanent establishment” rules, in the context of an increasingly digitized global economy.

Furthermore, the Committee presented a progress report on its transfer pricing work and introduced papers for initial review in three workstreams: (i) transfer pricing during COVID-19; (ii) transfer pricing compliance assurance; and (iii) transfer pricing of carbon offsets and credits. In addition, the Committee sought feedback and guidance on its efforts towards industry/sector guidance for primary products, the pharmaceutical industry, and dispute avoidance and resolution.

Country developments

Australia releases draft legislation on Public CbCR

On 6 April 2023, the Australian government released [Exposure Draft](#) legislation and [Exposure Draft Explanatory Materials](#) for consultation regarding multinational tax transparency reporting. The proposed legislation requires certain large multinational enterprises to publish selected tax information on an Australian government website in an approved form.

The CbC reporting parent must publish the names of each entity in the CbC reporting group and a description of the group's approach to tax. For each jurisdiction in which the CbC reporting group operates, the CbC reporting parent must publish selected tax information including number of employees, revenue from related and unrelated parties, profit and loss before income tax, a list of tangible and intangible assets, income tax paid (on cash basis), income tax accrued (current year) and the effective tax rate.

The reporting obligations apply to income years commencing on or after 1 July 2023. The consultation process will run until 28 April 2023.

See EY Global Tax Alert, [Australian Treasury releases Exposure Draft Bill – Multinational tax transparency public country-by-country reporting](#), dated 12 April 2023.

Australian Treasury releases Exposure Draft legislation proposing new anti-avoidance measures targeting certain payments for intangible assets

On 31 March 2023, the Australian Treasury released an [Exposure Draft](#) and [Exposure Draft Explanatory Materials](#) for consultation regarding a proposed new anti-avoidance measure that targets significant global entities (SGEs) (broadly global groups with total revenue of at least AU\$1 billion (approximately US\$664 million)) that make certain payments to associated entities with respect to intangible assets.

The measure is intended to prevent SGEs from entering into arrangements that allow an associate to derive income from exploiting intangible assets in a low corporate tax jurisdiction (i.e., corporate tax rate less than 15%) while claiming deductions for related payments made to the associate in Australia. Under the proposed measure, no deduction may

be claimed for such payments. The proposed measure also can apply to payments subject to patent box regimes but only those that provide tax concessions without requiring sufficient economic substance – the Minister must make a legislative instrument to designate the foreign country’s income tax laws’ status as a “preferential patent box regime.”

The Exposure Draft also includes several important defined terms that determine the scope of the proposed measure. These terms include “tax preferential patent box regime,” “intangible assets” and “exploit an intangible asset.”

The amendments are proposed to apply to payments made on or after 1 July 2023, and comments on the Exposure Draft are due by 28 April 2023.

See EY Global Tax Alert, [Australian Treasury releases Exposure Draft Bill to deny deductions for payments by significant global entities to low-tax jurisdictions relating to intangible assets](#), dated 4 April 2023.

Australian Treasury releases Exposure Drafts to amend thin capitalization rules and require tax disclosures in financial reports

On 16 March 2023, the Australian Treasury released two Exposure Draft Bills for consultation, proposing changes to the country’s [thin capitalization rules](#) and [tax transparency](#) disclosure requirements for public companies.

The proposed thin capitalization amendments would limit the debt deductions of multinational enterprises to 30% of tax earnings before interest, taxes, depreciation, and amortization (EBITDA) and remove deductions for interest expenses incurred to derive non-assessable income for certain foreign entity distributions.

The proposed tax transparency measures would require Australian public companies to disclose information on the number of subsidiaries and their country of tax domicile. Alongside their general reporting obligations, directors, chief executive officers and chief financial officers are required to declare that, in their opinion, the consolidated entity statement is true and correct.

Submissions were accepted by the Treasury until 13 April 2023.

See EY Global Tax Alert, [Australian Treasury releases Exposure Draft Bills on thin cap changes and tax transparency disclosure of information](#), dated 17 March 2023.

Chile releases public consultation on the MAP guidance

On 14 March 2023, the Internal Revenue Service of Chile released a [public consultation](#) on the Mutual Agreement Procedure (MAP) guidance. Among other items, the consultation document states that if the relevant treaty does not specify a deadline for submitting a MAP request, the taxpayer may do so at any time. However, if a deadline is specified, the computation of the time period begins on the day following the notification of the administrative act that the taxpayer considers to be noncompliant with the treaty.

The document also clarifies certain cases under the Tax Code that must be completed within three years after notification or tax payment. Accordingly, the document notes that this three-year time limit does not apply to treaties with specific computation periods.

The public consultation period finished on 28 March, so the Chilean Tax Authority will likely publish the final version of the Circular Letter containing this MAP guidance shortly.

Greece publishes list of jurisdictions for automatic exchange of information on CbCR for 2023

On 6 April 2023, the Minister of Finance of Greece published the updated [list](#) (FEK B’ 1676/20.3.2023 - Decision A. 1043/2023) of jurisdictions for the automatic exchange of information on CbCR (CbC MCAA) concerning fiscal year 2021 (year of exchange 2023). Compared to fiscal 2020 (year of exchange 2022), Greece added Israel, Maldives and Barbados to the list of reciprocal exchange of information. In addition, Greece moved Costa Rica to the list of jurisdictions with which it exchanges information on a nonreciprocal basis and added Oman and Republic of Tunisia to this list as well.

Greece updates list of non-cooperative jurisdictions for 2021

On 20 March 2023, the Greek Government published in its *Official Gazette* (FEK B’ 1676/20.3.2023) [Decision A. 1028/2023](#) to update the domestic list of non-cooperative jurisdictions for fiscal year 2021.

Compared to fiscal year 2020, Algeria, Belarus, Congo and Vietnam have been added, while Oman has been removed. The list now includes 46 jurisdictions. The updated list includes the following jurisdictions for the fiscal year 2021:

Algeria, Anguilla, Antigua and Barbuda, Barbados, Belarus, Benin, Botswana, Burkina Faso, Cambodia, Chad, Republic of Congo, Cote d'Ivoire, Djibouti, Dominica, Eswatini (until 30 June 2021), Gabon, Ghana, Guatemala, Guinea, Guyana, Haiti, Honduras, Jordan (until 30 November 2021), Kazakhstan, Kingdom of Lesotho, Liberia, Madagascar, Maldives, Mali, Mauritania, Namibia (until 31 March 2021), Niger, Palau, Panama, Papua New Guinea, Paraguay (until 31 October 2021), Philippines, Rwanda, Seychelles, Sint Maarten, Tanzania, Thailand, Togo, Trinidad and Tobago, Vanuatu and Vietnam

Greece releases updated list of preferential tax regimes for 2021

On 13 March 2023, the Greek Government published in its *Official Gazette* (FEK B' 1539/13.3.2023) [Decision A. 1027/2023](#) updating the domestic list of jurisdictions with a preferential tax regime for fiscal year 2021.

Greece includes a jurisdiction in this list if the corporate income tax rate is equal to or lower than 60% of the corporate income tax rate applicable to tax residents and permanent establishments in Greece.

Compared to the list for fiscal year 2020, Sri Lanka is removed from the list bringing the number of jurisdictions down to 41. The updated list includes the following jurisdictions:

Albania, Andorra, Anguilla, Bahamas, Bahrain, Barbados, Belize, Bermuda, Bonaire, Bosnia-Herzegovina, Bulgaria, British Virgin Islands, Cayman Islands, Cyprus, Gibraltar, Guernsey, Hungary, Ireland, Isle of Man, Jersey, Kosovo, Kyrgyzstan, Liechtenstein, Macau, Marshall Islands, Monaco, Mongolia, Montenegro, North Macedonia, Paraguay, Qatar, Maldives, Republic of Moldova, Saba, Saudi Arabia, Timor-Leste, St. Eustatius, Turkmenistan, Turks and Caicos Islands, United Arab Emirates and Vanuatu

Kenyan Cabinet approves Multilateral Instrument

On 21 March 2023, the Kenyan Cabinet [approved](#) the Multilateral Instrument (MLI) for ratification. The next step is to forward the MLI to the Attorney General. Once the Attorney General approves the treaty, it is submitted to Parliament for ratification. The ratification process involves the tabling of the treaty before both the National Assembly and the Senate. The treaty is then debated and approved by both houses. Once the internal ratification process is completed, Kenya will deposit its ratification instrument with the OECD.

In November 2019, Kenya signed the MLI and submitted its provisional [MLI position](#), listing its reservations and notifications as well as the 14 tax treaties it wishes to be covered by the MLI. A definitive list of reservations and notifications will need to be provided once the internal ratification process is completed and the instrument of ratification is deposited with the OECD.

Lithuania publishes draft legislation on implementing the Public CbCR Directive

On 7 March 2023, the Ministry of Finance of the Republic of Lithuania (MoF) issued [draft amendments](#) to the Law on Company Financial Statements with the aim of implementing the Public CbCR Directive (the Directive) into domestic law.

The rules are generally in line with the Directive and foresee a reporting obligation for legal entities established in Lithuania and branches located in Lithuania of legal entities established outside the country. Affected taxpayers need to prepare an information report (the Report), submit it to the Register of Legal Entities and make it publicly available within 12 months after the end of the financial year in which the Report was prepared.

Following the above, on 27 March 2023, the MoF released [draft procedural rules](#) regarding the information that needs to be included in the Report. The rules also indicate that information should be provided separately for each Member State, and where relevant, aggregated at Member State level. In addition, Lithuania has made use of the option to allow multinational groups to defer publication of commercially sensitive information for up to five years. This option should not apply for information related to jurisdictions included in Annexes I and II of the EU list of non-cooperative jurisdictions.

The government and the Minister of Finance should adopt the amendments by 30 April 2023 and, if adopted, the amendments will come into force on 22 June 2023. The first financial year of reporting will be the year starting on or after 22 June 2024.

Inland Revenue Authority of Singapore updates e-Tax guide with new examples of tax avoidance arrangements

On 31 March 2023, the Inland Revenue Authority of Singapore (IRAS) has added two new examples of tax avoidance arrangements to its [e-Tax guide](#) on the general anti-avoidance provision under the *Income Tax Act*.

The examples are: (i) setting up of a conduit entity to obtain a treaty benefit for the purpose of avoiding withholding tax; and (ii) assignment of debt to an offshore jurisdiction for the main purpose of obtaining a tax advantage.

The guide notes that the list of tax avoidance arrangements is not exhaustive and includes information on the surcharge to be imposed on the tax or additional tax arising from IRAS adjustments if an arrangement falls within the General Anti-Avoidance provision.

South Africa amends tax dispute resolution legislation

On 10 March 2023, the South African Government introduced [new dispute resolution rules](#) under the Tax Administration Act (Act No. 28 of 2011). These rules, which replace the old rules published in 2014, elaborate on the processes and procedures to be followed when lodging an objection and appeal, using alternative dispute resolution (ADR), or when a matter is before the Tax Board or Tax Court.

One significant change under the new rules gives taxpayers 80 business days (rather than 30 days) to object to an assessment, from either the date of assessment or the date on which reasons for the assessment were delivered (if requested by the taxpayer). Further, the new rules require taxpayers to submit documents substantiating their grounds for objection. Previously, taxpayers merely had to specify which documents substantiated their grounds for objection.

Further, the new rules require that the facilitator of the ADR be acceptable to both parties and have appropriate tax experience. The facilitator must also deliver a preliminary report to both the taxpayer and the South African Revenue Service within five days of the meeting and a final report within 10 days of end of the ADR process.

The new rules became effective on 10 March 2023 and will apply to new proceedings and ongoing proceedings that were instituted (but not concluded) before enactment of the new rules.

Spanish Supreme Court provisionally suspends DAC6 notification obligations for intermediaries under legal professional privilege

On 27 February 2023, the Spanish Supreme Court issued an [order](#) taking precautionary measures that affect regulations on tax filing obligations to provide information on reportable cross-border mechanisms (DAC6 filing requirements). The Asociación Española de Asesores Fiscales (AEDAF), one of the largest Spanish associations of tax advisors, had requested these precautionary measures in the light of a recent Court of Justice of the European Union (CJEU) ruling that concluded the obligation on intermediaries to fulfill the reporting obligation would breach the legal professional privilege and infringe on the right to confidentiality between lawyers and their clients, as granted by the Charter of Fundamental Rights of the European Union.

Considering the CJEU ruling, the Spanish Supreme Court suspended application of the relevant notification obligation as stated in the Spanish regulations that requires an intermediary under legal professional privilege to notify other intermediaries involved in the cross-border mechanism and the relevant taxpayer.

Uruguay's Tax Authority clarifies substance requirements under new source criteria for corporate income tax purposes

On 15 March 2023, the Tax Authority of Uruguay published [Resolution 488/023](#) further clarifying the requirements that taxpayers should meet to be considered qualified entities under the new source criteria for CIT purposes. The Resolution includes measures clarifying (i) whether the substance requirement test applies for certain types of income, (ii) the concept of "necessary strategic decisions" and (iii) when a holding and real estate company is deemed to be a qualified entity under the Resolution.

The Resolution also specifies the information that must be included in the annual affidavit and the invoices of third-party service providers. Furthermore, it highlights that all supporting documents for substance requirements must be kept for the same period for which the tax statute of limitations applies (i.e., generally five years).

The resolution is effective as of 15 March 2023.

UAE Ministry of Finance issues Small Business Relief for corporate income tax

On 6 April 2023, The Ministry of Finance in the UAE has issued [Ministerial Decision No. 73 of 2023](#) on Small Business Relief to support small businesses in reducing their corporate tax burden and compliance costs.

The Small Business Relief can be claimed by resident persons whose revenue in the relevant tax period and previous tax periods is below AED 3 million (approximately US\$816,000) for each tax period. The revenue threshold will apply to Tax Periods starting on or after 1 June 2023 and will only continue to apply to subsequent Tax Periods that end before or on 31 December 2026. The revenue can be determined based on the applicable accounting standards accepted in the UAE.

Businesses that do not elect to apply for Small Business Relief in a tax period can carry forward any incurred Tax Losses and any disallowed Net Interest Expenditure from such tax periods, for use in future tax periods where Small Business Relief is not elected.

Finally, the Ministerial Decision specifies that the artificial splitting of business or business activity will be considered an arrangement to obtain a Corporate Tax advantage under the general anti-abuse rules of the Corporate Tax Law. This will be applicable if the total revenue of the entire business or business activity exceeds AED3 million in any tax period, and such persons have elected to apply for Small Business Relief.

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