

The Latest on BEPS and Beyond

October 2024

EY Tax News Update

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Highlights

In the past month, new branches have been added to the ever-growing tree of global tax rules.

On 19 September 2024, the Organisation for Economic Co-operation and Development (OECD)/G20 Inclusive Framework on Base Erosion and Profit Shifting (BEPS) (Inclusive Framework) held its first [signing ceremony](#) for the multilateral convention implementing the Subject to Tax Rule (STTR), part of the Pillar Two project. Despite this milestone, only a limited number of jurisdictions - nine, to be precise - have signed the agreement, with several others expressing their intentions to join later. The slow pace of signatories raises questions about whether the STTR will become a global norm, particularly in terms of its impact on low-tax jurisdictions and developing countries that are central to its design.

Strikingly, other treaty-related aspects of Pillar Two have generated little news recently. Specifically, there have been no updates regarding the switch-over rule, the "consideration of the merits and possible convention for the implementation of the Global Anti-Base Erosion (GloBE) rules" [announced in 2021](#), or the option of introducing a dispute resolution mechanism in a GloBE convention suggested in [the 2023 consultation](#). These areas remain as uncertainties that could affect the overall effectiveness and acceptance of Pillar Two.

On 26 September 2024, the OECD/G20 Inclusive Framework on BEPS released the [Model Competent Authority Agreement for Amount B](#). According to the OECD, jurisdictions can use the agreement to implement what it calls a “practical tool designed to be particularly beneficial for jurisdictions with limited resources and data availability.” However, like the STTR, it remains to be seen how quickly countries will adopt Amount B, as key [jurisdictions](#) and many businesses find that it provides insufficient certainty.

The adoption of the rules may also be influenced by the ongoing tax work of the United Nations (UN). Some developing nations may consider the alternative STTR under discussion in the UN Committee of Tax Experts (Experts). Also, with a meeting in Geneva from 15 to 18 October 2024, the Experts will be discussing a potential new model article on the taxation of cross-border services ([Article XX](#)). The provisions developed by the Experts may inform the future negotiations on the substantive provisions of the UN’s Framework Convention on Tax Cooperation.

This Framework Convention is another critical piece of the puzzle. Although the ad hoc group tasked with defining the negotiation mandate concluded its work in August, consensus was elusive, as European Union (EU) countries abstained, and the United States (US) and the United Kingdom (UK) voted against the mandate. Despite this, a majority vote is sufficient to push the process forward. The UN General Assembly is expected to adopt the resolution by the end of 2024. Negotiations will then start shortly, with the aim to adopt the text of the Convention by 2027, again based on a majority vote. Yet, the practical impact of the Framework Convention hinges on subsequent signature and ratification by countries. The hesitancy of the US and European states to engage casts doubt on their eventual participation, with the ultimate measure of success being the list of signatories.

Although these developments could reshape international tax law, much depends on how the geopolitical landscape will affect consensus building within the multilateral frameworks and how tax treaties will be adopted. The *Latest on BEPS and Beyond* will continue to follow these evolving dynamics closely.

BEPS 2.0

OECD

OECD releases Amount B Model Competent Authority Agreement

On 26 September 2024, the OECD/G20 Inclusive Framework on BEPS published a [Model Competent Authority Agreement](#) (Model CAA) to facilitate the implementation of Amount B of Pillar One. Amount B is designed to provide a simplified and streamlined approach to pricing baseline marketing and distribution activities.

The Model CAA is intended for jurisdictions with a bilateral tax treaty in place, enabling them to implement their political commitment to the outcomes of Amount B. Jurisdictions can use the Model CAA to ensure that results determined under Amount B in one jurisdiction are automatically accepted by another jurisdiction. Additionally, the MCAA may be customized through bilateral negotiations and provides a mechanism for Contracting States to agree on amendments.

Although the Model CAA is optional, its absence does not prevent the implementation of Amount B. Jurisdictions may adopt unilateral measures or other methods suited to their legal and administrative systems to meet the requirements of Amount B.

The Model CAA applies primarily to Covered Jurisdictions as defined in the June 2024 Amount B guidance, but the OECD notes that it can also serve as a model for negotiations with jurisdictions not classified as Covered Jurisdictions.

One notable aspect of the Model CAA is the inclusion of a notification requirement for downward adjustments made to the profits of an enterprise in relation to a transaction in scope of Amount B, aimed at preventing potential double non-taxation. Moreover, the Model CAA allows jurisdictions to fix an upper bound for the operating expenses to net revenue-scoping criterion, which was left to be determined by jurisdictions within a 20% to 30% range according to the February 2024 OECD Report on Amount B.

OECD holds STTR MLI signing ceremony

On 19 September 2024, the OECD held a signing ceremony for the STTR Multilateral Instrument (MLI). The STTR is a treaty-based rule designed to provide for a minimum level of taxation on specified intragroup payments that are taxed below 9% in the payee's jurisdiction.

[Fifty-seven members](#) of the Inclusive Framework attended the signing ceremony of the STTR MLI. During the signing ceremony, nine jurisdictions signed the STTR MLI: Barbados, Belize, Benin, Cabo Verde, Democratic Republic of Congo, Indonesia, Romania, San Marino and Turkiye.

In addition, 10 jurisdictions have expressed their intent to sign the STTR MLI as soon as their internal processes are finalized: Belgium, Bulgaria, Costa Rica, Mongolia, Portugal, Senegal, Seychelles, Thailand, Ukraine and Uzbekistan.

See EY Global Tax Alert, [OECD holds signing ceremony for the STTR MLI](#), dated 25 September 2024.

European Union

European Commission refers Cyprus, Poland, Portugal, and Spain to CJEU for late Pillar Two transposition

On 3 October 2024, according to a [Press Release](#), the European Commission (Commission) decided to refer Cyprus, Poland, Portugal, and Spain to the Court of Justice of the European Union (CJEU) for failing to notify measures for the transposition into national law of the Minimum Tax Directive.

This follows the Commission's decision to initiate infringement proceedings by sending letters of formal notice to nine Member States that did not meet the 31 December 2023 deadline to transpose the Minimum Tax Directive into national law (Cyprus, Estonia, Greece, Latvia, Lithuania, Malta, Poland, Portugal and Spain). Out of the nine defaulting Member States, Cyprus, Poland, Portugal and Spain failed the two-month deadline to take the necessary measures addressed by the Commission in a "reasoned opinion" issued in May.

The Commission recognizes that tax authorities are making significant efforts to finalize their Pillar Two national implementing legislation, but as these countries have not notified the Commission of their transposition measures, the Commission took the formal step of referring these Member States to the CJEU for lack of transposition of the relevant EU provisions.

If the concerned Member States transpose the required rules and notify the Commission, the Commission could retract the case from the CJEU. However, because the closure of the case is at the CJEU's discretion, Member States might still face financial penalties for the period of noncompliance.

Country developments

Brazil introduces QDMTT legislation

On 3 October 2024, the Brazilian government published a [Provisional Measure](#) to implement Pillar Two rules. The Provisional Measure introduces a Qualified Domestic Minimum Top-up Tax (QDMTT) but does not include the Income Inclusion Rule (IIR) or the Undertaxed Profits Rule (UTPR). It remains unclear whether Brazil plans to implement the IIR or UTPR in the future.

The QDMTT is largely aligned with the GloBE Model Rules, and it is scheduled to take effect for fiscal years starting on or after 1 January 2025.

This Provisional Measure has immediate effects and power of law, and still needs to be approved by the Congress within 60 calendar days from publication (although extendable by another 60 calendar days) to be enacted as law. Failure to approve within this period results in the expiration of the Provisional Measure.

See EY Global Tax Alert, [Brazilian Government publishes Provisional Measure introducing OECD Pillar Two rules](#), dated 4 October 2024.

Bulgaria seeks input on amendments to Pillar Two legislation

On 18 September 2024, the Bulgarian Ministry of Finance released [draft legislation](#) for public consultation, proposing amendments to the existing Pillar Two rules in Bulgaria. The draft legislation seeks to incorporate some provisions from the different Administrative Guidance released in 2023.

The draft legislation includes the introduction of excess negative carry-forward rules, treatment of transferable tax credits, and clarifications on the Substance-Based Income Exclusion (SBIE). The draft legislation also outlines rules for allocating taxes under a blended controlled foreign corporation (CFC) regime and introduces anti-arbitrage rules for the Transitional Country-by-Country Reporting (CbCR) Safe Harbor.

The consultation period is open for feedback until 18 October 2024. If enacted, the new legislation will generally take effect on 1 January 2025.

Netherlands releases amendments to Pillar Two legislation

On 17 September 2024, the Dutch government released the [2025 budget](#), which includes draft legislation proposing amendments to the Pillar Two legislation. The draft legislation aims to incorporate some provisions from various Administrative Guidance documents released in 2023. Key changes include provisions for the treatment of marketable transferable tax credits, anti-arbitrage measures for the transitional CbCR Safe Harbor, and alignment with the QDMTT Safe Harbor. The draft legislation also introduces rules for currency conversion, excess negative tax carry-forward, and the SBIE.

Most of the amendments will apply to fiscal years beginning on or after 31 December 2023, while the anti-arbitrage provisions will take effect from 31 December 2024 for arrangements entered into or changed after 15 December 2022.

Lithuania intends to fully implement the EU Minimum Tax Directive

On 19 September 2024, Lithuania's Ministry of Finance released [draft legislation](#) for public consultation to amend its existing Pillar Two legislation. Currently, Lithuania has partially implemented the EU Minimum Tax Directive, focusing on filing obligations and administrative matters.

The draft legislation aims to fully implement the EU Minimum Tax Directive and introduces a QDMTT, an IIR and the UTPR. If approved, these provisions will apply to fiscal years starting on or after 1 January 2025.

The public consultation was open until 7 October 2024.

Poland submits Pillar Two legislation to Parliament

On 25 September 2024, the Polish government introduced [draft legislation](#) to Parliament aimed at implementing the EU Minimum Tax Directive. This legislation includes the IIR, UTPR and a QDMTT.

The draft legislation is expected to take effect from 1 January 2025. However, in-scope groups may choose to voluntarily apply the QDMTT and IIR for fiscal years starting on or after 1 January 2024.

The draft will undergo parliamentary review and discussion. If approved, it will require the President's signature to become law.

Puerto Rico launches public consultation for the implementation of a QDMTT

On 25 September 2024, Puerto Rico's Treasury Department opened a [public consultation](#) to discuss the potential introduction of a QDMTT. The proposed QDMTT is expected to align with the GloBE Model Rules. However, the government is also considering an alternative minimum tax as an option.

The consultation document makes it clear that Puerto Rico is not currently considering the implementation of an IIR or a UTPR.

In terms of legislative approach, Puerto Rico is exploring whether the QDMTT should be enacted by directly referencing the GloBE Model Rules. Additionally, the government is assessing whether the QDMTT should be applied retroactively for Fiscal Year 2024.

The public consultation was open until 10 October 2024.

BEPS and other developments

OECD

MLI developments

On 2 October 2024, [Germany](#) notified the OECD Depository of the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS (MLI) on the completion of its internal procedures for the entry into effect of the MLI provisions with respect to its Covered Tax Agreements (CTAs) with Croatia, France, Greece, Hungary, Malta, Slovak Republic and Spain.

On 24 and 30 September 2024, [Azerbaijan](#) and [Mongolia](#), respectively, deposited their instruments of ratification for the MLI on BEPS with the OECD. Azerbaijan amended its list of CTAs excluding Turkiye. Mongolia maintained its initial list of 26 CTAs in its definitive list, and updated its list of reservations and notifications (MLI positions) by withdrawing its reservations relevant to the Mutual Agreement Procedure (MAP) and adding a notification acknowledging that all its CTAs include a provision allowing them to address treaty disputes to the relevant competent authorities irrespective of remedies provided by domestic law. The BEPS Convention for Mongolia and Azerbaijan will enter into force on 1 January 2025.

On 24 September 2024, the OECD [announced](#) that the Democratic Republic of Congo signed on 19 September the MLI on BEPS becoming the 104th jurisdiction to join. At the time of signature, the Democratic Republic of Congo [designated](#) two tax treaties - with South Africa and Belgium - as CTAs and provided a preliminary list of MLI positions. The definitive MLI positions for the Democratic Republic of Congo will be provided when its respective instrument of ratification, acceptance or approval of the MLI is deposited.

United Nations

29th Session of the UN Committee of Experts on International Cooperation in Tax Matters

The [29th Session of the UN Committee of Experts](#) on International Cooperation in Tax Matters will be held from 15 to 18 October 2024. This session is the second-to-last meeting for the current Committee members, who are on track to complete their work plan for the 2021-2025 period. The [agenda](#) includes a range of topics such as procedural issues for the Committee, taxation's role in achieving the sustainable development goals, and updates to the UN Model Double Taxation Convention.

The session will also cover discussions on transfer pricing, taxation of extractive industries, environmental taxation, and taxation issues related to the digitalized and globalized economy. Other areas of focus will be the taxation of crypto-assets, digitalization's impact on tax administration, increasing tax transparency, wealth and solidarity taxes, indirect and health taxes, and the relationship between tax, trade and investment agreements. Capacity-building and other relevant matters will also be addressed.

The UN has released most of the papers that will be discussed during the session, and the remaining papers are anticipated to be made available soon.

UN reports on second session of Ad Hoc Committee to draft Terms of Reference for UN Framework Convention on International Tax Cooperation

On 27 September 2024, the UN published a [Report](#) detailing the outcomes of the second session of the Ad Hoc Committee, which is tasked with drafting the Terms of Reference (ToR) for the UN Framework Convention on International Tax Cooperation. This session, held from 29 July to 16 August 2024, focused on the substantive and procedural aspects of the Framework Convention.

During the session, the Ad Hoc Committee adopted the Draft ToR for the Framework Convention. The adoption followed a recorded vote, with 110 in favor, eight against and 44 abstentions. EU Member States abstained, and the US voted against. Annex I of the report includes the full text of the draft ToR as approved by the Ad Hoc Committee.

The UN General Assembly will consider the draft ToR during its current 79th Session, under the agenda item, "Promotion of inclusive and effective international tax cooperation at the United Nations."

European Union

EU Ministers revise list of noncooperative jurisdictions for tax purposes

On 8 October 2024, the Council of the European Union (the Council) held an Economic and Financial Affairs Council (ECOFIN) meeting in which Finance Ministers approved the [Council Conclusions](#) on the EU list of noncooperative jurisdictions for tax purposes set out in Annex I (EU List).

In this update, the Council decided to remove Antigua and Barbuda from the EU List. The revised EU List now includes 11 jurisdictions: American Samoa, Anguilla, Fiji, Guam, Palau, Panama, Russia, Samoa, Trinidad and Tobago, the US Virgin Islands, and Vanuatu.

Antigua and Barbuda has now been included in the state of play overview set out in Annex II, which reflects the jurisdictions that are monitored on their cooperation with the EU with respect to commitments taken by these cooperative jurisdictions to implement tax good governance principles (state of play overview). It will remain on this overview while the outcome of OECD Global Forum's supplementary review of Antigua and Barbuda is pending.

With respect to the state of play overview, the Council also removed Armenia and Malaysia, and gave Vietnam more time to comply with its commitment on CbCR. As a result, the revised state of play overview now comprises nine jurisdictions: Antigua and Barbuda, Belize, British Virgin Islands, Costa Rica, Curaçao, Eswatini, Seychelles, Turkiye, and Vietnam.

The Council will continue to review and update the EU List biannually, with the next update due in February 2025.

See EU Global Tax Alert, [EU Ministers revise list of noncooperative jurisdictions for tax purposes](#), dated 11 October 2024.

Country developments

Australian Tax Office issues draft Practical Compliance Guidance on debt deduction creation rules and restructures

On 9 October 2024, the Australian Taxation Office (ATO) published the draft [Practical Compliance Guideline](#) (PCG) 2024/D3 which provides details of Australia's compliance approach to reviewing arrangements that have been restructured in response to Australia's new debt deduction creation rules. Australia's debt deduction creation rules apply for income years commencing on or after 1 July 2024 and can apply to deny debt deductions on certain related party financing arrangements.

The draft PCG outlines the ATO's compliance approach with a series of low-risk and high-risk factors and a four-colored risk-assessment framework (white, yellow, green and red zones). The colors denote varying levels of scrutiny to indicate when the ATO is likely to have cause to devote compliance resources to further examine restructures by taxpayers.

As part of this further examination, the Commissioner of Taxation may either apply the specific debt deduction creation rules anti-avoidance rule or cancel all or part of a tax benefit if a taxpayer is considered to have restructured to avoid the application of the debt deduction creation rules in a manner that preserves tax benefits going forward.

When finalized, the PCG will apply to restructures entered into on or after 22 June 2023 (the date the Act was introduced as a Bill into Parliament). The draft PCG is open for comments until 8 November 2024.

See EY Global Tax Alert: [Australian Tax Office issues draft Practical Compliance Guidance on debt deduction creation rules and restructures](#), dated 11 October 2024.

Australian public CbCR Bill progress update

On 2 August 2024, the Senate Economics Legislation Committee's (SELC) issued a report recommending that Parliament passes a Bill that includes the proposed Australian public CbCR measures. The Bill was introduced in Parliament on 5 June 2024 and is currently before the Senate.

Australia's public CbCR requires certain Australian groups and Australian and foreign-owned multinational enterprises (MNEs) to prepare certain information on a country-by-country (CbC) basis for public release by the ATO.

New disclosures apply in respect of financial reporting periods commencing on or after 1 July 2024 to certain groups that have more than AU\$1b in revenue, subject to a de minimis Australian income exemption and scope to apply for certain other exemptions.

See EY Global Tax Alert, [Australian public country-by-country reporting Bill progress update](#), dated 5 August 2024.

ATO issues ruling on hybrid mismatches

On 3 July 2024, the Commissioner of Taxation of Australia issued [Taxation Determination \(TD\) 2024/4](#), which addresses the application of the "liable entity" and "hybrid payer" definitions within the hybrid mismatch rules.

TD 2024/4 establishes that the concept of a "liable entity" in a country can be determined based on hypothetical income or profits that fall within the tax base of that country. This means that even if an entity has not actually derived any income or profits, or if the income or profits derived are not within the tax base of the country, the entity can still be considered a liable entity for the purposes of the hybrid mismatch rules.

In addition, TD 2024/4 specifies that for the definition of a "hybrid payer," a "non-including country" can be a jurisdiction other than the one where the payee of a payment is located or resides. This expands the scope of consideration for determining whether there is a hybrid payer, which is relevant for identifying and neutralizing hybrid mismatch arrangements that exploit differences in tax treatment across different jurisdictions.

The TD provides guidance on these interpretations through examples that demonstrate how the definitions apply in various scenarios.

The TD became effective immediately upon its release and applies both before and after its date of issue, subject to specific terms of settlement of disputes agreed upon before its release.

Canada Revenue Agency releases new reporting requirements for digital platform operators

On 10 September 2024, the Canada Revenue Agency (CRA) [set forth](#) new requirements for digital platform operators, aiming to foster greater transparency and ensure tax compliance.

Digital platforms operating in Canada are now obligated to gather and disclose information about reportable sellers to the CRA. A reporting platform operator is defined as any digital platform that enables sales or services within Canada, regardless of the operator's location or place of incorporation. Operators are exempt if their business model neither allows for profit-making of sellers nor involves reportable sellers. Reportable sellers are those registered on a platform, based in Canada or a country with similar rules, who conduct sales or services to customers in these areas.

The information to be reported encompasses seller identification and transactional data, such as name, address, date of birth, tax identification number and payment details. Reporting platform operators must verify the accuracy of this data by 31 December of the reporting year, with a grace period for the initial year. The first information return is due by 31 January 2025, for the 2024 calendar year, with subsequent annual deadlines on the same date. To file returns, operators must secure a business number and information returns program account, with distinct filing procedures for Canadian residents and nonresidents.

Cyprus releases updated FAQs on transfer pricing rules

On 24 September 2024, the Cyprus Tax Authority released a new set of Frequently Asked Questions (FAQs), providing further clarification on various aspects of the transfer pricing legislation that has been in effect since 1 January 2022. The latest update addresses 19 new questions, offering detailed guidance on several key areas.

One significant update relates to interest-free payables. For the fiscal years 2022 and 2023, these are excluded from Local File threshold assessments and the Summary Information Table (SIT).

The FAQs also clarify the methodology for calculating the safe harbor interest rate, which is based on 10-year government bond yields, and specify certain reporting requirements for Cyprus tax-resident companies in the SIT. Other topics covered include:

- ▶ The person responsible for submitting the SIT
- ▶ The definition of the Tax Identification Number (TIN)
- ▶ The obligation to report controlled transactions, regardless of whether they exceed the applicable threshold

Additionally, the FAQs expand on the use of safe harbor rates, the requirement to disclose TINs for nonresident companies, and the quality assurance audit process for the Cyprus Local File. Comprehensive details are provided regarding the content of the Master File and Cyprus Local File, as well as the quality assurance audit confirmation submission accompanying the SIT.

The FAQs conclude with options for managing transactions below the reporting threshold and clarify the appropriate category for reporting rental income in the SIT.

Chile's Chamber of Deputies approves Tax Compliance Bill

On 25 September 2024, the Chamber of Deputies of Chile [approved](#) the [Tax Compliance Bill](#) (the Bill), after approving the amendments introduced by the Senate. As a key component of the Economic Growth Pact and a government priority, the Bill seeks to enforce tax compliance.

Among the 24 measures, it emphasizes the enforcement of tax laws to combat avoidance, recommending amendments to the General Anti-Avoidance Rules (GAAR), clarifying that avoidance occurs when acts, legal transactions, or schemes – through abuse or simulation – circumvent the taxable event. Furthermore, the Bill modifies the “specialty principle,” stipulating that GAAR may apply even if Special Anti-Avoidance Rules (SAARs) are applicable, or when specific acts or legal transactions are executed with the intention of avoiding the application of SAARs. The Bill also expands the definition of “abuse.”

The next step for the Bill to become law is promulgation and publication of its text in the *Official Gazette* by the President of Chile.

See EY Global Tax Alert, [Chilean Congress approves comprehensive tax compliance bill](#), dated 14 October 2024.

Dominican Republic Tax Authority Clarifies CbCR requirements for US-owned entities

In September 2024, the Dominican Republic's Directorate General of Internal Taxes published Ruling [No. GLN 3989XXX](#) (issued on 5 May 2024) on the CbCR obligations for local entities under US ownership.

The ruling stipulates that MNEs with a Dominican Constituent Entity must file a CbC report for the 2022 reporting year, as there is no active Competent Authority Agreement (CAA) covering CbCR between the Dominican Republic and the US, and consequently, US parent entities cannot claim the filing exemption.

Italian tax authority defines digital platform and seller for DAC7 compliance

On 3 October 2024, the Italian tax authority has issued [Law Principle 3/2024](#) clarifying the definitions of "Platform" and "Seller" under the new tax reporting requirements for digital platforms, as per Legislative Decree No. 32, implementing EU Directive 2021/514 (DAC7).

The Law Principle defines a "platform" as any software, including websites or parts thereof and applications, that allows sellers to connect with other users to carry out relevant activities. The interpretation clarifies that a "platform" does not necessarily require direct contact between seller-users and other website users, nor is the configuration of a "platform" excluded when relevant activities are conducted "indirectly" by sellers through the platform or its operator.

A "seller" is defined as a platform user, whether an individual or entity, registered on the platform during the reporting period and engaged in relevant activities. The term "registered on the platform" broadly includes all cases where the seller's data is acquired by the platform, allowing for subsequent communication. This includes instances in which the user has not created a specific account or profile but has entered into a contractual relationship with the platform operator.

Italy officially releases Public CbCR legislation

On 12 September 2024, the Italian Government published (in the *Official Gazette* No. 214) the Legislative Decree (Decree) enacting Public CbCR legislation in Italy, requiring large MNEs to publicly divulge income-tax-related information for each Member State jurisdiction, as well as for jurisdictions included in the EU list of noncooperative jurisdictions. Data regarding other jurisdictions may also be included.

The reporting obligations introduced by the Decree apply to: (i) Italian parents of groups with consolidated revenue exceeding €750m for each of the last two consecutive financial years; (ii) Italian companies that exceed the revenue threshold on a stand-alone basis; (iii) Italian companies that do not exceed the revenue threshold but belong to consolidated groups not established in a Member State that does meet the threshold; and, under certain circumstances (iv) Italian permanent establishments.

The Report must be filed with the Company Registrar within 12 months from the financial year-end and include confirmation of its publication on the company's website where it must be publicly accessible for five years. The law outlines reporting exemptions and imposes administrative penalties for non-compliance.

These requirements apply to financial years starting on or after 22 June 2024.

See EY Global Tax Alert, [Italy officially releases Public CbCR legislation](#), dated 24 September 2024.

Kuwait enacts law on the exchange of information for tax purposes

On 14 July 2024, Kuwait's Council of Ministers issued Decree-Law No. 6 of 2024, establishing a domestic legal framework for the exchange of tax information for tax purposes.

In Chapter One, the law defines key terms. In Chapter Two, the law mandates that the Competent Authority collect tax information. It also indicates that entities must comply with information requests within 21 days and that financial institutions must submit annual reports - or nonreporting declarations - by 31 May of the year following the calendar year to which they relate, with possible extensions. All due-diligence procedures and requirements stipulated in the law and its executive regulations should be kept for a specific period of time following the date of submission of the Information. In Chapter Three, the law introduces penalties and additional measures for noncompliance.

The law will come into force the day after its publication in the *Official Gazette*; the Competent Authority issued the relevant executive regulations on 25 September 2024.

Netherlands budget proposals; key legislative developments for 2025

On 17 September 2024, the Dutch Government released its budget proposals, which include measures in the area of international corporate tax.

The budget suggests increasing the maximum interest deduction from 20% to 25% of fiscal earnings before interest, tax, depreciation and amortization (EBITDA) for the earnings-stripping rule, effective 1 January 2025, in line with the EU Anti-Tax Avoidance Directive (ATAD1). This rule limits interest deductibility to prevent excessive interest payments from eroding the tax base. Furthermore, the proposals aim to abolish the €1m allowance for real estate entities under the earnings-stripping rule, also effective 1 January 2025. This change targets strategies in which real estate entities split investments across multiple legal entities to utilize the €1m allowance individually, thereby reducing the rule's effectiveness.

Additionally, the Dutch Government plans to codify the EU's General Anti-Abuse Rule (GAAR) into the Dutch Corporate Income Tax Act without intending to make substantive changes to the current anti-abuse practices under the existing *fraus legis* doctrine. This codification, effective from 1 January 2025, is in response to a request from the European Commission to align with ATAD1.

The budget also proposes a clarification regarding the branch exemption for disregarded permanent establishments (PEs), effective 1 January 2025. This clarification ensures that the Dutch branch exemption will apply to profits of disregarded PEs that are subject to profit-based tax in the state where the PE is located, addressing potential double taxation issues arising from the implementation of the ATAD2 directive.

The rules are pending parliamentary review and are subject to potential amendments.

See EY Global Tax Alert, [Netherlands budget proposals; key legislative developments for 2025](#), dated 17 September 2024.

Peru adopts legislative decree to align with OECD BEPS standards on APAs

On 24 September 2024, Peru's Legislative Decree No. 1662 (the Decree) was published in the [Official Gazette](#). The Decree aims to reinforce tax compliance and adhere to international standards set by the OECD BEPS project.

Since joining the Inclusive Framework on BEPS in 2017, Peru has committed to implementing the minimum standards of BEPS Action 14, which aims to improve dispute resolution related to double taxation and tax avoidance. The Decree specifically amends the Income Tax Law to permit, in certain scenarios, the retroactive application of bilateral advance pricing agreements (APAs).

The National Superintendency of Customs and Tax Administration may now enter into APAs with taxpayers and foreign authorities, with the possibility of extending their effects to previous fiscal years under defined conditions.

Spanish Minister of Finance launches public consultation on the draft legislation implementing DAC8 into domestic law

On 19 September 2024, the Spanish Minister of Finance launched a public consultation on the draft legislation implementing DAC8 into domestic law. This bill will introduce a new due diligence, record-keeping, and reporting requirements for crypto-asset service providers. Additionally, individuals and entities considered crypto-assets users and controlling entities of crypto-asset users would be required to comply with identification and tax residency due diligence requirements.

The draft legislation outlines specific penalties for noncompliance, including fines of €200 for providers failing to exercise due diligence and €300 for users and controlling entities providing inaccurate information.

The draft legislation is expected to be effective from 1 January 2026. The deadline for stakeholders to provide their input was 9 October 2024.

Switzerland updates list of jurisdictions for the automatic exchange of CbC information

On 1 September 2024, the Directorate of Public International Law of Switzerland published the updated [list](#) (RO 2024 502) of jurisdictions for the Exchange of CbC Reports under the Multilateral Competent Authority Agreement (CbC MCAA). Compared to the previous update, Switzerland added Albania and Ukraine to the list, with the reciprocal exchange of information commencing on 1 January 2024.

The updated list came into effect on 1 September 2024, superseding the earlier version released on 1 June 2024.

Trinidad and Tobago provides international tax compliance update in its Budget Statement

On 30 September 2024, the Trinidad and Tobago Ministry of Finance release the [Budget Statement](#), including updates on Transfer Pricing and International Tax Compliance.

Transfer Pricing

Trinidad and Tobago is actively developing a comprehensive transfer pricing regime centered around the arm's-length principle. Trinidad and Tobago has engaged stakeholders has conducted consultations to inform the draft transfer pricing legislation. Furthermore, Trinidad and Tobago recently enacted the *BEPS Inclusive Framework (Country-by-Country) Reporting Act, 2024*, which mandates detailed reporting by multinationals on their global operations. The forthcoming legislation, aligned with BEPS Action 13, is set to be presented to Parliament.

International tax compliance

Trinidad and Tobago is working toward being delisted from the EU list of noncooperative jurisdictions, and has developed a strategic plan in that respect, including:

- ▶ The Second Round Peer Review on exchange of information on request to evaluate the country's information exchange practices and result in a compliance rating
- ▶ Steps to sign the Multilateral Convention on Mutual Administrative Assistance in Tax Matters in 2024

- ▶ Efforts toward signing the Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information to facilitate Automatic Exchange of Information and pursuing a Qualified Competent Authority Agreement with jurisdictions within the Inclusive Framework
- ▶ A preliminary assessment by the Forum on Harmful Tax Practices in November 2024, following the enactment of the Special Economic Zones Act, which replaces the Free Zone Regime in accordance with OECD BEPS Action 5 on Harmful Tax Practices

Turkiye extends deadline for CbCR notifications

On 19 September 2024, Turkiye announced the extension of the deadline for MNEs to submit CbCR notifications. As per [Presidential Decision No.8956](#), CbCR notifications are now due by the sixth month after the end of the reporting fiscal year, shifting from the prior end-of-June annual deadline. The deadline to file the full CbC report remains within 12 months following the fiscal year end.

HMRC releases Transfer Pricing Guidelines for Compliance

On 10 September 2024, His Majesty's Revenue and Customs (HMRC) released the [Transfer Pricing Guidelines for Compliance](#) (Guidelines), designed to provide clarity on compliance expectations, highlight areas needing greater scrutiny, and establish best practices for transfer pricing. They also provide advice on maintaining real-time information and records, increase awareness of common risks associated with transfer pricing documentation, and identify potential risk indicators in policy design.

Applicable to businesses subject to master and local file documentation requirements, those exempt but must still support an arm's-length return, and businesses falling within the scope of transfer pricing rules for the first time, the guidelines should be used alongside the International Manual, which details transfer pricing principles, documentation requirements, and UK legislation.

The guidelines may be updated in the future to address additional areas of compliance risk. They should be read in the context of any legislative changes, including potential relaxations of transfer pricing rules, following HMRC's 2023 consultation on UK international tax legislation reforms.

Uruguay and United States approved exchange of information agreement

On 19 September 2024, Uruguay ratified the US-Uruguay exchange of information agreement ([Agreement](#)).

The Agreement was signed on 24 October 2023, and stipulates that the parties will provide information that is foreseeably relevant to the determination, assessment and collection of covered taxes.

The Agreement will enter into force one month from the date on which the US receives written notification from Uruguay stating that Uruguay has completed the internal ratification procedures. The Agreement has been approved by Law No. 20,351 in the Uruguayan Parliament and enacted by the Executive Power.

See EY Global Tax Alert, [Uruguay and United States approved exchange-of-information agreement](#), dated 7 October 2024.

For additional information with respect to this Alert, please contact the following:

Ernst & Young LLP (United States), Global Tax Desk Network, New York

- ▶ Ana Mingramm ana.mingramm@ey.com
- ▶ Jose A. (Jano) Bustos joseantonio.bustos@ey.com
- ▶ Roberto Aviles Gutierrez roberto.aviles.gutierrez1@ey.com

Ernst & Young Belastingadviseurs LLP, Rotterdam

- ▶ Marlies de Ruiten marlies.de.ruiten@nl.ey.com
- ▶ Maikel Evers maikel.evers@nl.ey.com
- ▶ Mahi Anastasiou mahi.anastasiou@nl.ey.com

Ernst & Young Belastingadviseurs LLP, Amsterdam

- ▶ David Corredor-Velásquez david.corredor.velasquez@nl.ey.com
- ▶ Konstantina Tsilimigka konstantina.tsilimigka@nl.ey.com

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