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Global Tax Alert

The Latest on BEPS and Beyond

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EY Tax News Update

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Highlights

The global tax landscape continues to shift, making the path forward less predictable. In particular, Pillar Two remains in turbulence. Although more than 140 jurisdictions originally agreed to the elective common approach to a 15% global minimum tax, governments are considering their options for implementation. The European Union (EU), in response to announcements by the United States (US) Administration, is currently considering various options for adjustments to the Minimum Tax framework, as we reported in the April edition. Among the many options that the EU Member States have considered in recent meetings are changes to the treatment of tax credits, potential extensions or modifications to the Undertaxed Profits Rule (UTPR) Safe Harbor, and recognizing the global intangible low-taxed income (GILTI) regime as a Qualified Income Inclusion Rule (IIR). However, the Member States have yet to agree on a joint position on content and determine a strategy for the negotiations with the US in the Inclusive Framework.

In the meantime, public comments from US Treasury officials confirm that GILTI equivalence and extended safe harbors won't fully satisfy the US. According to these officials, the Pillar Two rules shall function "side by side" with the US system, not layered on top.

Shape the future with confidence

In any case, the transitional UTPR Safe Harbor is set to expire after fiscal years that begin on or before 31 December 2025 and end before 31 December 2026. Therefore, businesses are requesting clear guidance from policymakers, while the potential for retaliatory measures, such as Section 891 of the US Internal Revenue Code (IRC), remains.

The developments of tax bill, titled the "One, Big, Beautiful Bill," in US Congress is also important this regard. Notably, proposed IRC Section 899 includes retaliatory measures targeting jurisdictions that implement UTPR, Digital Services Taxes, and Diverted Profits Taxes. And beyond that, many of the provisions that are currently under consideration could significantly reshape domestic tax policy and will impact international tax policy.

Also in the past few weeks, discussions have started in the EU on the long-term EU budget. Anticipating an expanding budget, the European Commission and the EU Presidency have collected ideas for new EU "own resources." On a list of more than 20 suggestions features the idea to channel anticipated revenues from the EU Minimum Tax Directive into the EU budget as well as introducing new taxes, such a Digital Services Tax (DST) or a common withholding tax on payments to recipients outside the EU. On 20 May 2025, the International Monetary Fund called for a step-up in European-goods investment through the EU budget, to be financed by "borrowing and more robust own resources." For many Member States, both suggestions are politically sensitive. Nonetheless, it illustrates the policymakers' dilemma in balancing public investments with revenue requirements.

In the meantime, the United Nations (UN), is facing significant funding challenges. Secretary-General Guterres has announced reforms and a review of mandates. It is not clear what this will concretely mean for the UN's mandate and work on global tax cooperation. According to its work plan, the tax negotiation committee should now be preparing for the next round of negotiations, but the committee has limited UN secretariat support resulting from the hiring freeze pending the organizational reform.

The developments covered in this edition of the Latest on BEPS and Beyond show that tax policy continues changing on multiple fronts, with a significant impact on how multinationals are taxed. Businesses must therefore plan not just for new rules, but also become resilient to prepare for potential inconsistent implementation, policy reversals and more.

BEPS 2.0

OECD

OECD updates 'Consolidated Commentary' and examples on GloBE Model Rules

On 9 May 2025, the Organisation for Economic Co-operation and Development (OECD) published an updated Consolidated Commentary to the Global Anti-Base Erosion (GloBE) Model Rules, along with revised illustrative examples.

The original Commentary and examples were released in March 2022, followed by a first consolidated version in April 2024 that reflected Administrative Guidance issued through December 2023. This latest update incorporates all additional Administrative Guidance released by the OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting (BEPS) until March 2025, consolidating existing guidance into a single document without introducing new elements.

Country developments

Denmark submits bill to Parliament to incorporate Pillar Two Administrative Guidance

On 9 April 2025, the Danish Minister of Taxation submitted a bill to Parliament to amend Denmark's Pillar Two legislation, incorporating the OECD Administrative Guidance issued in June 2024 and January 2025. Among other changes, the amendments include the deferred tax liability recapture rule, the allocation of current and deferred cross-border taxes, and the allocation of profits and taxes for Flow-Through Entities.

The bill also includes guidance on the treatment of certain deferred tax assets that arose before the application of Pillar Two, either due to specific governmental arrangements or the introduction of a new corporate income tax. Additionally, it outlines special rules for groups that are subject to joint taxation.

An important aspect of the bill is the change in the deadline for the payment of top-up taxes. The payment deadlines are extended, making the final payment due 17 months after the end of the reference year and 20 months in the transition year.

If adopted, the amendments will apply retroactively to financial years starting on or after 31 December 2023.

Hong Kong amends Pillar Two draft legislation

On 16 April 2025, Hong Kong issued amendments to the Pillar Two bill to address concerns that stakeholders had raised regarding a draft bill to implement Pillar Two. Among the proposed amendments, the previously proposed main-purpose test as a general anti-avoidance rule (GAAR) will be replaced by the sole-or-dominant test under the existing GAAR. Reference will also be made to OECD guidance on whether the outcome of an arrangement is inconsistent with the OECD rules before the GAAR could be invoked. The Hong Kong government will also clarify in its guidance that the GAAR will generally not apply to transactions entered into on or before 30 November 2021.

The amendments will also incorporate the June 2024 and January 2025 Administrative Guidance published by the OECD, as well as the adoption of local accounting standards for the Hong Kong minimum top-up tax (HKMTT) calculations.

The Hong Kong government aims to complete the legislative process within the first half of 2025. The IIR under Pillar Two and the HKMTT will be effective retroactively to groups with accounting periods starting on or after 1 January 2025. Implementation of the UTPR will be postponed.

See EY Global Tax Alert, *Hong Kong proposes favorable amendments to BEPS 2.0 Pillar Two bill*, dated 25 April 2025.

Spain released Royal Decree on Pillar Two

On 1 April 2025, the Spanish Council of Ministers approved the Royal Decree that approves the Regulation of the Global Minimum Tax to ensure a global minimum level of taxation for large multinational and national groups. The Royal Decree was published in Spanish *Official Gazette* on 2 April 2025.

The Regulation includes certain provisions from the Administrative Guidance published by the OECD in February and July 2023, such as the clarification on transferable tax credits and the substance base income exclusion.

The Regulation provides further references on the compliance obligations in connection with GloBE Information Return (GIR), generally in line with OECD standard. In addition, the Regulation includes the simplified jurisdictional framework for the initial years of the GloBE rules as per the GIR framework.

Switzerland releases public consultation on GloBE Information Return

On 30 April 2025, Switzerland published a draft amendment to its Pillar Two legislation for public consultation. Among other elements, the proposal outlines detailed requirements for submitting the GIR to the Swiss Federal Tax Administration (FTA), aligning with the OECD's latest GIR framework released in January 2025. It also addresses the mechanisms for the automatic exchange of information.

The draft amendment stipulates that the GIR may be submitted in an official Swiss language or in English by the designated Swiss Constituent Entity (one-stop-shop). Financial data must be reported in either the local currency or the currency used in the consolidated financial statements.

Additionally, the draft amendment introduces a notification obligation: if the GIR is to be filed by an Ultimate Parent Entity (UPE) or a Designated Filing Entity (DFE) located outside Switzerland, the FTA must be notified. For the Transition Year, this notification is due within 18 months after the fiscal year-end. In subsequent years, the deadline shortens to 15 months.

The public consultation remains open until 20 August 2025.

UAE incorporates Pillar Two Administrative Guidance into domestic law

On 16 April 2025, the Ministry of Finance of the United Arab Emirates (UAE) published Ministerial Decision No. (88) of 2025, which incorporates into domestic law the Commentary to the GloBE rules and all Administrative Guidance released by the OECD to date.

The Decision is effective from 1 January 2025.

Other developments

OECD

OECD Forum on Tax Administration releases Human Resources Maturity Model

On 7 May 2025, the OECD released a Human Resources (HR) Maturity Model, a self-assessment tool for tax administrations to evaluate their HR function maturity. This model is part of an OECD Forum on Tax Administration's broader initiative to develop maturity models that help tax administrations assess capabilities and identify improvements.

Understanding maturity levels enables targeted changes to enhance service delivery, reduce compliance burdens, and promote a transparent tax system. The OECD has released more than five maturity models, including those focused on analytics, digital transformation, enterprise risk management, tax debt management and compliance burden.

The emphasis on human resources highlights the critical role of skilled personnel in implementing tax policies and technologies. Effective recruitment, training and support are essential for tax administrations to meet future challenges and leverage opportunities from the rapid digitalization of the economy.

Other forums

ATAF Revises Model Tax Agreement

On 29 April 2025, the African Tax Administration Forum (ATAF) announced the launch of an initiative to revise its Model Tax Agreement. As the global tax landscape evolves, particularly with recent developments in the taxation of the digital economy and base erosion, the need to update and refine this model has become increasingly pressing.

To lead this revision, the ATAF has established a Working Party composed of tax professionals from various African revenue authorities. This committee will integrate African tax policy perspectives and address emerging global tax challenges, aligning the model with the ATAF's strategic objective of supporting member countries in securing sustainable tax revenue.

Once the model is updated, a number of African jurisdictions may revise their current tax treaties and utilize the model in future tax treaty negotiations.

Country developments

Argentina enacts Multilateral Instrument

On 28 May 2025, Law No. 27,788 was published in Argentina's *Official Gazette*, approving the Multilateral Instrument (MLI) to implement Tax-Treaty-Related Measures to Prevent Base Erosion and Profit Shifting (BEPS).

The MLI will enter into force upon the expiration of a period of three calendar months beginning on the date the instrument is submitted to the OECD.

See EY Global Tax Alert, *Argentina enacts Multilateral Instrument law*, dated 30 May 2025.

Netherlands and Belgium sign Competent Authority Agreement on arbitration process

On 10 March 2025, the Netherlands and Belgium signed a competent authority agreement to implement the arbitration process outlined in Part VI of the MLI.

The competent authority agreement entails the establishment of an arbitration process aimed at resolving disputes arising from the mutual agreement procedure between the two countries. The agreement specifies, via a reference to the entry into force date of the Convention (i.e., the BEPS MLI), that the provisions of Part VI will apply to cases presented to the competent authority of a contracting jurisdiction on or after 1 October 2019. For cases submitted before this date, the two-year period for unresolved issues to be submitted to arbitration will commence from 1 October 2019, unless the competent authorities agree otherwise.

Brazil's Federal Revenue Service updates list of low-tax jurisdictions and relevant criteria

On 13 May 2025, the Federal Revenue Service of Brazil announced the issuance of Normative Instruction RFB No. 2265. This instruction officially removes the UAE from Brazil's list of low-tax jurisdictions and excludes the Austrian tax regime for holding companies that do not engage in substantial economic activity from the list of privileged tax regimes.

The Federal Revenue Service has officially removed the UAE from its list of low-tax jurisdictions and has also excluded the Austrian tax regime applicable to holding companies that lack substantial economic activity from the list of privileged tax regimes.

In addition, the Federal Revenue Service amended Normative Instruction No. 1,037, adjusting the criteria for identifying low-tax jurisdictions and privileged tax regimes. The tax rate threshold has been lowered from 20% to 17%, aligning with the recent amendments introduced by Law No. 14,596/2023 to Law No. 9,430/96.

Chile removes United Arab Emirates from list of jurisdictions with preferential tax regimes

On 8 May 2025, the Chilean Tax Administration released Resolution Ex. SII 61-2025 announcing the withdrawal of the UAE from the list of countries considered to have a preferential tax regime for income tax purposes. Resolution Ex. SII 61-2025 establishes that the UAE only meets one of the criteria outlined in Article 41-H of the Income Tax Law, thereby disqualifying it from being classified as having a preferential tax regime.

Until December 2024, to be included in the list of countries with preferential tax regimes, a jurisdiction had to meet at least two of the following criteria: First, its effective tax rate on foreign-source income had be less than 50% of the rate specified in the relevant tax legislation. Second, the jurisdiction must not have entered into a tax information exchange agreement with Chile, or any existing agreement must not have been in force. Third, the jurisdiction could not have regulations that empowered its tax authorities to enforce transfer pricing rules that aligned with the recommendations of the OECD. Fourth, it could not meet internationally accepted standards for transparency and information exchange in tax matters. Fifth, the jurisdiction should have maintained one or more preferential tax regimes that did not comply with international standards. Lastly, it could only generate tax income within its territory, without taxing foreign-source income.

From 1 January 2025 a jurisdiction is considered as having a preferential tax regime if it meets at least two of the following criteria. First, the jurisdiction must not have entered into a tax information exchange agreement with Chile, and any existing agreement must not be in force or, if an existing agreement is in force it must contain limitations that effectively limit the information exchange. Second, the jurisdiction is not considered as compliant or largely compliant for transparency purposes and exchange of information for tax purposes following the Global Forum on Transparency and Exchange of Information for Tax Purposes ratings.

The resolution analyzed the old and current rules and concluded that the UAE cannot be considered as a preferential tax regime with retroactive effect from 1 June 2023.

Cyprus introduces defensive tax measures targeting low-tax and 'blacklisted' jurisdictions

On 10 April 2025, the Cyprus House of Representatives passed legislation introducing defensive measures against low-tax jurisdictions (LTJ), defined as those with a corporate tax rate lower than 50% of Cyprus's rate (currently 12.5%). The defensive measures against LTJ will enter into effect on 1 January 2026.

Specifically, dividend payments to associated companies in LTJ will incur a withholding tax (WHT) of 17%, and interest and royalty payments to these companies will not be deductible for corporate tax purposes. The legislation also updates existing provisions requiring WHT on payments to companies in EU "blacklisted" jurisdictions (BLJ).

A GAAR is included to counteract arrangements lacking commercial substance aimed at circumventing these measures. If relevant criteria are not met, the defensive measures will apply unless the taxpayer shows valid commercial reasoning or obtaining a tax advantage was not the only purpose of the arrangement or series of arrangements.

For tax treaties with jurisdictions classified as BLJ or LTJ that do not allow Cyprus to impose withholding tax, Cyprus will notify the other state within three years to initiate treaty renegotiation.

The amendments will take effect upon publication in the *Official Gazette*, with measures against LTJ starting on 1 January 2026.

See EY Global Tax Alerts, *Cyprus Introduces Defensive Tax Measures Targeting Low-Tax and 'Blacklisted' Jurisdictions*, dated 15 April 2025, and *Cyprus introduces documentation requirements for certain payments to nonresident companies*, dated 29 April 2025.

France updates list of noncooperative states and territories

On 7 May 2025, the French tax authorities published the updated list of noncooperative states and territories in the Official Journal. The last update was published on 17 February 2024.

The updated list removes the Bahamas, Belize and Seychelles, effective from 7 May 2025, following their removal from the EU list of noncooperative jurisdictions on 20 February 2024.

However, even if removed from said EU list, Antigua and Barbuda and the Turks and Caicos Islands remain on the list with amended grounds for their inclusion (i.e., considering the domestic criteria), as France deems that the tax information exchange agreements with these jurisdictions are not effectively applied.

The updated list includes the following jurisdictions Anguilla, Antigua and Barbuda, Turks and Caicos Islands, Vanuatu, American Samoa, American Virgin Islands, Fiji, Guam, Palau, Panama, Russia, Samoa and Trinidad and Tobago.

Gibraltar proposes enhancements to its anti-avoidance provisions

On 10 April 2025, the Government of Gibraltar published a tax amendment bill (the Bill) that seeks to update the definition of "tax avoidance" in Gibraltar's Income Tax Act 2010 (the Act) and the powers of the Commissioner of Income Tax regarding tax avoidance arrangements.

If implemented, the Bill would allow the Commissioner to counteract or disregard any tax advantage obtained from a "tax avoidance arrangement," defined as one in which (i) obtaining a tax advantage is (one of the) main purpose(s), (ii) the arrangement results in a tax advantage inconsistent with the intention of relevant tax provisions, or (iii) it undermines the Act's objectives.

Additionally, the Commissioner may refer any person to their professional or regulatory body if they believe that the person has (i) submitted or assisted in submitting a tax return that may be inaccurate while deliberately withholding this suspicion; (ii) promoted, facilitated, or advised on a tax avoidance arrangement that contradicts the spirit and purpose of the Act; or (iii) acted with a conflict of interest by providing professional services while having a financial, personal, or other interest that compromises their objectivity or duty of care.

See EY Global Tax Alert, *Gibraltar proposes enhancements to its anti-avoidance provisions*, dated 14 April 2025.

Kenya introduces requirement to submit CbC reports and APA framework in Finance Bill 2025

On 30 April 2025, the Kenyan Cabinet Secretary presented the Finance Bill 2025 to Parliament, proposing amendments to various tax laws, including the Income Tax Act, with expected implementation on 1 July 2025.

Among other, the Bill proposes to lift the exemption granted to constituent entities of a Multinational Enterprise (MNE) Group from filing a country-by-country (CbC) report where there is a competent authority agreement on exchange of information between Kenya and the ultimate parent entity of the MNE Group – e.g., the Multilateral Competent Authority Agreement on the Exchange of Country-By-Country Reports (CbC MCAA). It is noteworthy that Kenya is a signatory to this agreement and has activated a number of relationships for exchange of these reports.

In addition, the Bill proposes to introduce an advance pricing agreement (APA) framework. This will enable taxpayers to enter an arrangement with the Kenya Revenue Authority (KRA) on specific related-party transactions and thus mitigate transfer pricing controversy risks. The validity of an APA will be restricted to five consecutive years, but the KRA will have the right to revoke it through written notice of declaration in case of misrepresentation of facts.

The Bill is currently undergoing stakeholder and public comments. Once the Finance Bill, 2025 has been subjected to public participation, it will be tabled before Parliament for debate before it is signed into law by end of June 2025.

See EY Global Tax Alert, *Kenya introduces Finance Bill 2025*, dated 14 May 2025.

UK HMRC opens consultations on transfer pricing with proposals for SME exemption, ICTS and broader TP reform

On 28 April 2025, His Majesty's Revenue & Customs (HMRC) opened a 10-week consultation proposing to remove the transfer-pricing exemption for medium-sized enterprises, refine the "small-enterprise" thresholds and introduce an International Controlled Transactions Schedule (ICTS), effective for fiscal years beginning as early as 2026-27.

Further, also on 28 April, HMRC released a companion consultation on reforming United Kingdom (UK) transfer-pricing law, permanent establishments (PE) and Diverted Profits Tax (DPT), with draft legislation to exempt most UK-to-UK transactions where no tax arbitrage exists, consolidate the participation condition and modernize enforcement powers. Read together, the two papers confirm HMRC's shift to a risk-based model, reducing compliance where UK risk is low while requiring richer cross-border data to target profit-diversion risk.

The consultations also aim to reform UK TP law, align PE rules with the OECD definition, bring DPT within the scope of UK corporation tax and enhance HMRC's enforcement powers to counteract abuse.

Businesses should evaluate the implications of these proposed changes on their operations and consider participating in the consultations to address concerns regarding thresholds and reporting requirements.

See EY Global Tax Alert, *UK HMRC opens consultations on transfer pricing with proposals for SME exemption, ICTS and broader TP reform*, dated 1 May 2025.

UK HMRC launches public consultation on alternative dispute resolution

On 28 April 2025, the UK HMRC launched a public consultation aimed at modernizing and improving its approach to dispute resolution. This initiative seeks to simplify and reform HMRC's alternative dispute resolution (ADR) and statutory review processes, enhancing accessibility and user experience for taxpayers.

The consultation document outlines several key areas for improvement, including enhancing support and guidance for taxpayers during compliance interventions, simplifying and aligning processes for ADR and statutory reviews, and addressing challenges in accessing these dispute resolution methods. Suggestions for simplification include aligning the appeals processes for direct and indirect taxes, which would allow taxpayers to access ADR more easily and consistently. Additionally, the introduction of pre-decision letters and a principle-based approach to ADR could help reduce barriers to entry, making it more accessible for taxpayers who may not be aware of their options.

Stakeholders are invited to provide their feedback by 7 July 2025. Following the consultation, HMRC will analyze the responses to inform potential policy proposals for reforming the tax administration framework.

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