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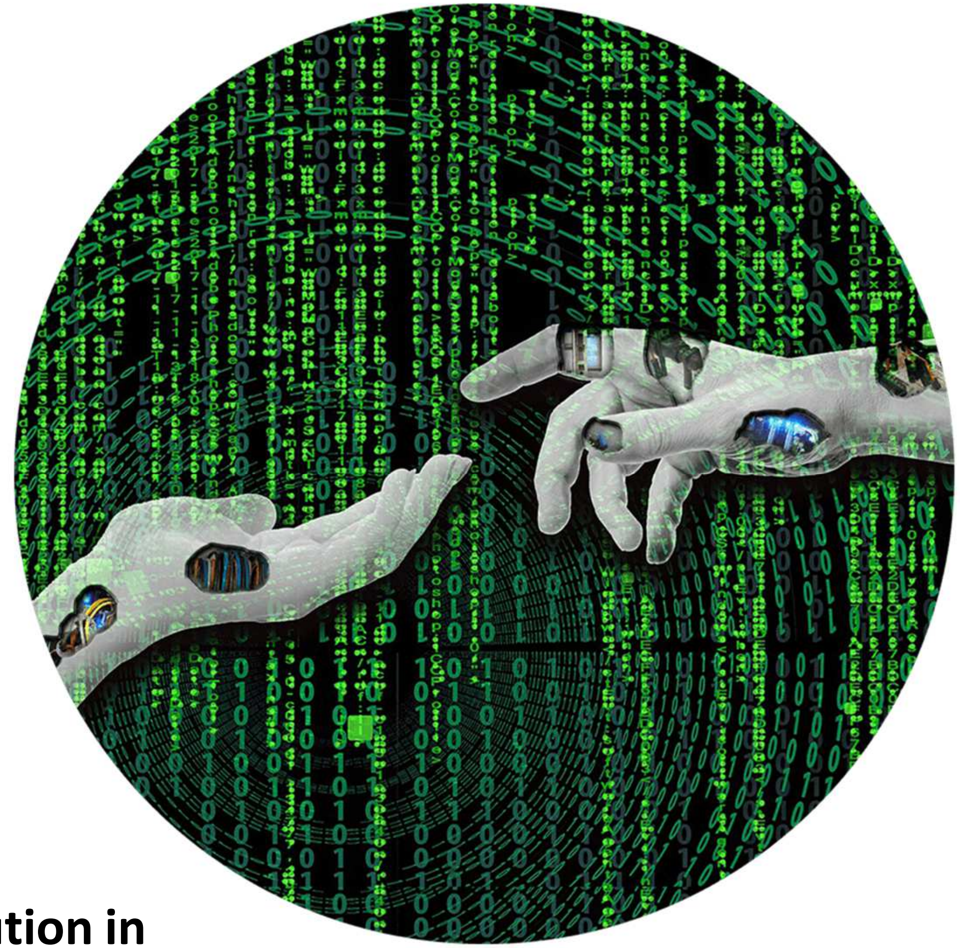

Impact of OECD Two-pillar solution in Asia Pacific: Latest developments and what to expect

The Dbriefs Corporate Income Tax series

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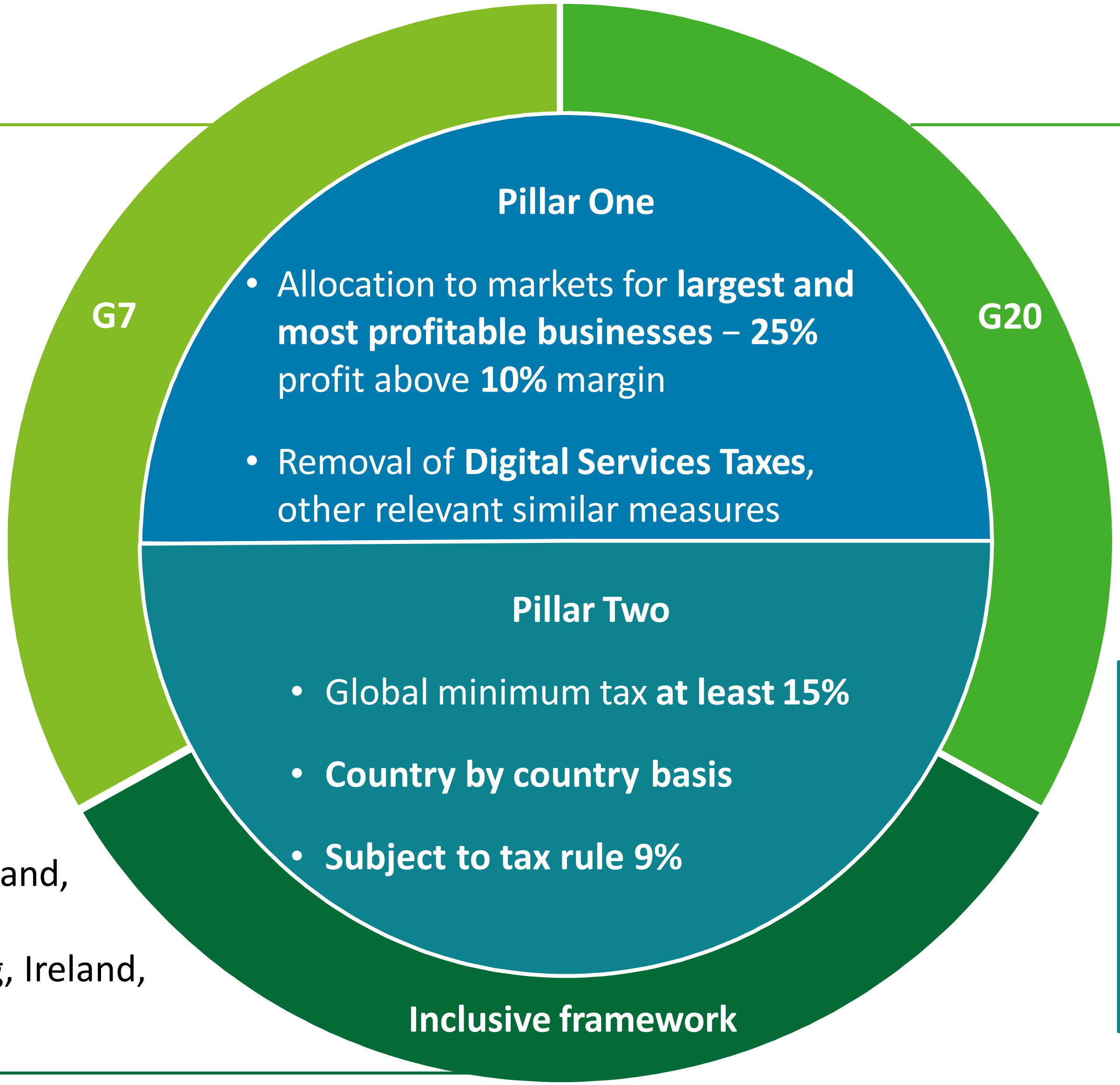
Agenda

- Brief introduction to Pillar One and Pillar Two
- Impact discussions
  - Withdrawal of Digital Services Taxes (DSTs)
  - Incentive regimes
  - Interactions with domestic laws and impact on minimum tax
  - Key outstanding issues/co-ordination issues
- Questions and answers

Pillar One and Two – G7, G20, and OECD inclusive framework

- **G7 political agreement**
  - 5 June 2021

- **G20 endorsement**
  - October 2021



- **OECD inclusive framework statement**
  - 8 October 2021
    - Agreed by 136 countries including: G7, G20, Switzerland, Bermuda, Channel Islands, Singapore, UAE, Hong Kong, Ireland, Hungary, Estonia

- **Four OECD inclusive framework countries not yet signed up**
  - Kenya
  - Nigeria
  - Sri Lanka
  - Pakistan

Pillar One

Key elements

Amount A

New taxing right

– A share of residual profit allocated to market countries using a formulaic approach

Largest and most profitable businesses

Amount B

Fixed "baseline" return

– For marketing and distribution functions based on the arm's length principle

All businesses

Tax certainty

Tax certainty

– Through effective dispute prevention and resolution mechanisms

All businesses

Pillar Two – global minimum tax

Key elements

All rules operate as a "top up" to a minimum rate

Priority rule

Subject to tax rule (STTR)

– Source country taxation of specific types of **intra-group payments**

– Gross level taxation (not a tax on net profits)

Threshold?
9% rate

Main rule

Income inclusion rule (IIR)

– **Large multinational groups** pay a **minimum level of tax in each country** in which they operate

– Includes the **switch-over rule** to bring overseas permanent establishments within scope of IIR

Backstop rule

Undertaxed payments rule (UTPR)
(backstop)

Group revenues of €750 million+15%

Polling question 1

Have you considered how your organization will obtain the data for Pillar Two calculations?

- Existing systems expected to easily provide data
- Obtaining data will require manual processes
- Existing systems will provide some data, with additional processes expected to be required
- Unclear, and expect this to be a significant challenge
- Don’t know/not applicable

Digital Services Taxes (DSTs)

- **India** has introduced various digital tax measures including
  - **SEP**: revenue related to the Significant Economic Presence
  - **GST**: GST on sale of online goods/provision of service
  - **Equalisation Levy**: Levy on online sale of goods owned by or provision of services provided by the ecommerce operator; or online sale of goods or provision of services facilitated by the e-commerce operator
- **Indonesia** has enacted provisions where foreign e-commerce players with a "significant economic presence" in Indonesia can be deemed as having a PE in Indonesia
- Throughout the rest of Asia Pacific, there are several other challenges related to the taxation of digital businesses which organisations must navigate, including
  - Digital or server permanent establishments
  - Withholding tax on e-commerce and other digital transactions
  - Tax registration requirements

Incentive regimes

- **Asia-Pacific countries offer tax incentives aimed at drawing in foreign investment across multiple industries**

- **Tax holidays and special economic zones** – 14 jurisdictions across the region offer tax holidays for certain industries, with the bulk in the manufacturing and power generation industries
- Entities in SEZs in at least 9 countries can enjoy concessional tax rates

- **Industry and activity-based tax incentives** – at least 7 jurisdictions offer activity based or industry-based low tax rate incentives of about 5% to 10%

- **R&D incentives and enhanced deductions** – several jurisdictions across the region offer R&D incentives or enhanced deductions for certain industries (non-refundable tax credits, refundable tax credits, enhanced or accelerated deductions or grants) – lead to higher ETR

Polling question 2

How soon will your organization undertake re-organization/structural changes to align with the OECD changes?

- Already underway
- Within one year
- After the end of 2022
- Not likely

Interactions with domestic laws

- Interaction with existing Controlled Foreign Company rules and other domestic laws
- Complications related to simultaneous operations of Amount A and existing tax treaty

- Interactions with GILTI
- Considerations from technical perspective for co-existence of GILTI and GLOBE

- Domestic minimum taxes

- Possible Multilateral Convention (MLC)
- A MLI will be developed to facilitate the implementation of the STTR

Key outstanding/co-ordination issues

Timing differences	• Deferred tax versus a carry forward mechanism • If deferred tax is adopted, it is anticipated to be modified to focus on mechanical current year movements
Pre-regime losses	• Potential availability of historical losses, but recomputed on a GloBE basis?
Various specific industry matters	• For example, investment funds, taxation of portfolio dividends, regulatory capital deductions

Question and answers

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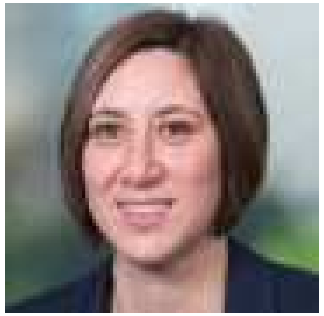

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