税务快讯

双支柱方案得到全球性支持

因我不同
成就不凡
始于 1845

2021 年 7 月 1 日，130 个税收管辖区就 OECD/G20 主导的税基侵蚀和利润转移包容性框架 （以下简称“包容性框架”）的国际税收改革方案达成一致。 改革方案包括两个支柱，每个支柱都针对一个特定问题。

- 支柱一针对规模最大的跨国集团公司（将从全球合并收入至少为 200 亿欧元的公司开始实施），将要求它们在其客户和用户所在地纳税。这一目标将通过使用特定公式根据客户/用户群的相对规模在内的许多因素在每个税收管辖区之间分配一定比例的利润来实现。 这样做将有效地降低跨国集团公司为税务考量而选择将部分利润记入某些特定税收管辖区并相应地在该地缴纳税款的能力。

- 支柱二：引入了至少 15% 的最低有效税率，该税率将适用于年收入为 7.5 亿欧元或以上的跨国集团公司，并以该跨国公司在每个税收辖区的有效税率来衡量。 支柱二要求集团公司就每个税收管辖区内的利润缴纳一定最低金额的税款， 因此，它旨在显著减少为跨国公司提供低税率优惠的税收管辖区之间的税收竞争。

支柱一和支柱二的规定都计划于 2022 年起草，其中大部分规定将于 2023 年生效。有关这些规定的更多细节预计将于 今年 10 月发布。

全球性共识

包容性框架 139 个税收管辖区中，代表全球经济总量 90%的 130 个税收管辖区对支柱一和支柱二的方案达成共识，这一事件意义极其重大。 中国

和印度这两个经济大国也表达了支持。该共识为进一步的国际税务合作和改革奠定了基础。

可以预见的是某些税收管辖区，尤其是可能受到该共识影响最大的税率相对较低的税收管辖区可能不会同意这些措施。目前有 9 个税收管辖区不同意提议的措施，包括爱尔兰和匈牙利。

虽然有些税收管辖区未能同意相关措施，但预计这将不太会影响该共识的整体有效性。 这是因为这些措施通常会规定在大型跨国集团的总部辖区或其客户和用户所在的辖区征税，因此世界上大多数经济体的参与可能足以使得这些规则能有效实施。

具体实施的时间表与方法

该共识约定，支柱一和支柱二的主要措施将于 2023 年生效。这是一个乐观的时间表，比许多评论媒体所预料的要快。

支柱一尤其需要在执行前起草并商定一项新的多边公约。 虽然起草此类公约可以相对较快，但在实践中，此类公约在每个税收管辖区内依照其国内法的程序得到批准可能需要数年时间。例如，许多国家尚未批准用于执行经合组织先前税基侵蚀和利润转移项目中某些最低标准的多边公约。因此，各方可能需要做出重大政治努力，才能达到商定的时间表。

支柱二下全球最低税率的主要措施可以在没有多边公约的情况下实施，因为它们基本上以与受控外国企业规定类似的方式运作，或者是不允许某些对境外付款的税前扣除，这些属于税收管辖区的国内法管辖范围。因此，虽然可以在稍后阶段起草一项多边公约来涵盖这些主要措施，但在最初执行支柱二时可以不需要这些多边公约。

支柱二中以税收协定为基础的“应予征税规则”允许税收管辖地在某些情况下不给予税收协定下的优惠，从而影响税收协定的运作，因此，此项规则的执行需要一项多边公约。与支柱一的实施一样，这也需要各方做出重大的政治努力才能在商定的时间表内完成。

支柱一 - 针对规模最大的集团公司

在共识下，支柱一最初只涉及收入至少 200 亿欧元的跨国集团，但七年之后，经过审查，该门槛可能会被降至 100 亿欧元。因此，只有世界上最大的那些集团公司才会被涵盖在这一规则的范围内。

支柱一将适用于利润率至少为 10% 的集团公司，并将在“终端市场税收管辖区”中再分配超过该利润率的 20% - 30% 的超额利润。这些“终端市场税收管辖区”是货物或服务的消费地，基本上代表了跨国集团公司的客户和用户所在地。

虽然支柱一很重要，因为它将为客户和用户所在的税收管辖区提供征税权，但仅将超额利润的 20% - 30% 重新分配仍意味着大部分剩余利润（超过 10% 利润率的部分）将不受影响。

支柱二 - 全球最低税率至少为 15%

支柱二的共识约定了全球最低税率为不低于 15%。但是最终税率仍可能高于 15%。特别是美国谈判代表虽然将 15%税率设定为最低税率的门槛，但暗示其倾向于适用更高的税率。近期，一些发展中国家也呼吁将税率提高至 15%以上。

2021 年初，全球最低税率被预计可能在 10% 至 12.5% 之间。 最低税率增加到不低于 15% 具有深远的影响，它可能适用于更多的群体。 较高的税率不仅会使集团公司的税务成本更高，而且还意味着集团公司可能无法利用某些税收优惠。 例如，香港通常提供 8.25% 的优惠税率，但新提出的 15% 的全球最低税率远比之前预计的全球最低税率更接近香港 16.5% 的标准利得税税率，这意味着税收优惠的巨大激励措施所带来的大部分好处可能会丧失。

德勤总结

支柱一和支柱二将对国际税收制度产生重大影响，其随后也可能对国内税收制度产生连带影响。鉴于这些措施可能在 2023 年就将实施，我们鼓励跨国集团公司及时跟踪和评估这些措施对本集团的影响，以便及早根据需要调整运营。

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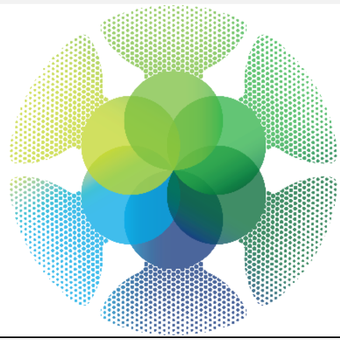

Tax Newsflash

Global Endorsement on Pillar One and Pillar Two

MAKING AN IMPACT THAT MATTERS since 1845

On 1 July 2021, 130 countries and jurisdictions, constituting the vast majority of the OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting (IF), agreed on an international tax reform package. The measures agreed include two pillars, each of which addresses a separate concern.

- Pillar One targets the largest groups of multi-national companies (MNCs) focussing initially on those with at least EUR20 billion of consolidated revenue and will require them to pay tax in the locations where their customers and users are located. It will achieve this by using a formulaic approach to allocate a percentage of profits between each jurisdiction based on a number of factors including the relative size of the customer / user base. In doing so it will effectively reduce the ability of MNCs to choose where they book some of their profits for tax purposes and accordingly where they pay certain amounts of tax.

- Pillar Two introduces a minimum effective tax rate of at least 15% which will be applied on a jurisdiction-by-jurisdiction basis to MNCs with revenue of EUR750 million or more. Pillar Two intends to require a minimum amount of tax to be paid in respect of the profits that a group has in each jurisdiction. It therefore aims to significantly reduce tax competition between jurisdictions that may otherwise offer MNCs the benefit of low rates of corporation tax.

The rules for both pillars are intended to be drafted in 2022, with the majority of those rules becoming effective in 2023. Further details on the operation of these rules are anticipated to be released in October.

Global agreement

The agreement of 130 out of the 139 countries and jurisdictions in the IF to both Pillar One and Pillar Two, which collectively represent 90% of the global economy, is extremely significant. The agreement paves the way for a level of international tax cooperation and reform that is generationally important.

It was anticipated that certain jurisdictions, in particular those with relatively low rates of tax, that are also likely to be the most impacted, would not agree to the measures. In total, 9 jurisdictions did not agree to the proposed measures, including Ireland and Hungary.

The failure of these jurisdictions to agree to the measures is unlikely to impact their effectiveness overall. This is because the measures will generally provide for tax to be collected in either the headquarters' jurisdictions of large multi-national groups or in the jurisdictions in which their customers and users are based. This means that the participation of a majority of the world's economies is likely to be sufficient to effectively implement the rules.

Timeline and method of implementation

The agreement provides for the primary measures in Pillar One and Pillar Two to be effective in 2023. This is an ambitious timeline and is sooner than many commentators had anticipated.

Pillar One in particular would require a new multi-lateral instrument to be drafted and agreed before it is implemented. While the drafting of such an instrument can be achieved relatively quickly, in practice ratifying such an instrument domestically in each jurisdiction may take several years. For example, a significant number of countries are yet to ratify the multi-lateral instrument that was used to implement certain minimum standards in the OECD's previous Base Erosion and Profits Shifting project. Accordingly, a significant political effort may be necessary to meet the agreed upon timelines.

The primary measures of the global minimum tax in Pillar Two can be implemented without a multi-lateral instrument as they essentially either operate in a similar manner to controlled foreign company rules or they apply to deny deductions for certain outbound payments, which are within the purview of a jurisdiction's domestic law. Accordingly, while a multi-lateral instrument may be drafted to cover these rules at a later stage time, they can initially be implemented without one.

The treaty based rule in Pillar Two, referred to as the Subject to Tax Rule, allows a jurisdiction to deny treaty benefits in certain circumstances and will impact the operation of treaties. Therefore, its implementation would require a multi-lateral instrument. As with Pillar One implementation, a significant political effort will be required to implement the Subject to Tax Rule to meet the agreed upon timelines.

Pillar One – Applies to the largest groups

The agreement around Pillar One provides for only groups with revenue of at least EUR20bn to be initially in-scope. The threshold may be reduced to EUR10bn after a 7 year period and a review. Accordingly, only the world's very largest groups will be in the scope of this rule.

Pillar One will apply to groups that have a profit margin of at least 10% and it will effectively redistribute 20% - 30% of the excess profit above that profit margin for taxation in "end market jurisdictions". These are jurisdictions where goods or services are used or consumed and essentially represent where MNCs' customers and users are based.

While Pillar One is significant in that it will provide taxing rights to jurisdictions in which customers and users are based, the reallocation of only 20% - 30% of excess profits still means that the majority of the residual profit in excess of a 10% profit margin will be unaffected.

Pillar Two - Global minimum tax rate of at least 15%

The agreement on Pillar Two provides for a global minimum tax rate of at least 15%. However, it is possible that the final rate may be higher than 15%. In particular, US negotiators had set 15% as an absolute minimum, but have suggested that an even higher rate would be preferable. Recently, certain developing nations have also called for a rate that is higher than 15%.

At the beginning of 2021 the global minimum tax rate was likely to be between 10% and 12.5%. The increase to at least 15% is meaningful and is likely to apply to significantly more groups than a 10%-12.5% rate. The higher rate will not only make complying with the tax more expensive for groups, but it will also mean that groups may not be able to take advantage of certain incentives. For example, Hong Kong typically provides incentives at 8.25%, but the newly proposed global minimum tax rate of 15% is far closer to Hong Kong's own standard headline profits tax rate of 16.5% than the previously envisaged global minimum tax rate, meaning the vast majority of benefit from incentives could be lost.

Summary

The potential for Pillar One and Pillar Two to impact the international tax system and to have subsequent impacts on domestic tax systems is significant and with implementation set for 2023 we would encourage groups to begin assessing these impacts in the near future.

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