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OECD Tax Report to G20 Finance Ministers

The OECD Secretary-General issued its [Tax Report to G20 Finance Ministers and Central Bank Governors](#), following the [Outcome Statement](#) issued by the Inclusive Framework announcing a series of deliverables on the Two-Pillar Solution.

These deliverables include a framework for the simplified and streamlined application of transfer pricing rules to certain marketing and distribution activities (Amount B of Pillar One) and a [Subject to Tax Rule](#) (STTR) which will enable developing countries to update bilateral tax treaties to “tax back” in respect of certain intra-group income where such income is subject to low or no nominal taxation in the other jurisdiction.

On Amount A of Pillar One, the package includes a text of a Multilateral Convention (MLC), which allows jurisdictions to reallocate and exercise a domestic taxing right over a portion of MNE residual profits. The Inclusive Framework will publish the text of the MLC once it has been prepared for signature, upon resolution of a small number of specific items about which a few jurisdictions have expressed concerns.

As part of their ongoing work under Pillar Two, the Inclusive Framework issued a package of documents consisting of the [GloBE Information Return](#) and further [administrative guidance](#) including two new safe harbours.

The report also highlights progress on tax and development initiatives and the tax transparency agenda, setting out targets and initiatives to progress areas identified as key priorities by developing countries. The latest developments on the [Crypto-Asset Reporting Framework](#) (CARF) and amended Common Reporting Standard (CRS) are also detailed in the report, with technical work on the international exchange architecture for both frameworks now completed. Other information on tax transparency and the Automatic Exchange of Information is also discussed, as well as new analysis on [enhancing international tax transparency on real estate](#), [unleashing the potential of automatic exchange of information for developing countries](#), and [facilitating the use of tax-treaty exchanged information for certain non-tax purposes](#).

Spanish EU Presidency to Focus on EU Strategic Autonomy & Industrial Policy

Spain set out its [key priorities](#) for its six months presidency of the Council of the European Union, placing European industrial policy and EU strategic autonomy at the heart of its agenda for the EU. *"The international openness of the last seven decades has been mostly beneficial for the EU and has allowed it to reach levels of economic growth and social welfare that would have been unachievable under protectionism. However, this openness has also facilitated the offshoring of industries in strategic sectors, thus making the EU excessively dependent on third countries in areas such as energy, health, digital technologies and food. The geopolitical, technological and environmental changes currently taking place provide us with the opportunity to reverse this trend and attract new companies and jobs to European soil and reduce our foreign vulnerabilities."*, the Spanish presidency stated.

In the area of economic policy and taxation, the Spanish presidency has placed "fighting tax evasion" as a key area related to "promoting social and economic justice". The Presidency will *"advocate for the establishment of minimum and*

common standards on corporate taxation in all Member States and will fight tax evasion by large multinationals, which costs the EU 1.5 GDP points each year – that is, the same as what it spends on housing and environmental protection. We will also work for a proper revision of the Multiannual Financial Framework 2021-2027 and for the adequate reform of the fiscal rules to overcome austerity, increase transparency and combine the sustainability of public finances with the proper financing of the green and digital transitions."

"We approach this presidency with stamina and determination, with a very pro-European approach that we have shown since we joined the Union in 1986, and with the goal of closing as many files as possible and contributing to a stronger, more prosperous, and also fairer Europe going forward.", Nadia Calviño, Spanish minister for economic affairs and digital transformation said.

European Commission Publishes Progress Report on Pillar 1

The European Commission has published a [progress report](#) directed to the EU Council concerning Pillar 1, setting out an assessment of the implementation of Pillar One of the October 2021 statement as required by Article 57 of the Pillar Two Directive.

The Commission in the report welcomes the progress made to date and urges all participants to make a final effort to reach an agreement on the MLC to implement Pillar One. The Commission observes that the OECD Secretariat aims to finalise the technical work on Amount A by 10-12 July 2023 and present the package of the MLC and the Explanatory Statement, with the signing ceremony of the MLC expected to take place at the end of 2023. The report also details that the OECD Secretariat plans to have a preliminary agreement in July on the main components of Amount B subjected to a validation phase to be undertaken by the end of 2023.

The Commission confirms in the statement it will do its utmost to ensure a timely and consistent implementation of Pillar One at EU level.

CFE Professional Affairs Conference: "Tax Adviser 2030: Evolution or Revolution for Tax Practice, Policy & Administration?"

[Register now](#) for the 16th European Conference on Tax Advisers' Professional Affairs, organised by CFE Tax Advisers Europe and Finland's Association of Tax Consultants. The conference will be held in Helsinki, Finland, on Thursday 21 September 2023 from 10:00am to 16:00pm, on the topic of "Evolution or Revolution for Tax Practice, Policy and Administration".

Two conference panels of speakers will examine the evolution of fiscal systems, tax practice and tax administration, prompted by both policy developments at EU and international level, as well as the rise of Artificial Intelligence. The first panel will assess broadly the Impact of EU/ OECD Developments on Fiscal Systems and Tax Policy. The second panel will analyse the significance of the Impact of AI on digitalisation of tax systems with a focus on the OECD Tax Administration 3.0 project, the work of the Forum on Tax Administration, and the road to better aligned digitalisation of European tax administrations, by looking at the Nordic collaborative real-time economy project for digitalisation, presented by the Finnish Tax Administration (Nordic Real Economy project).

Further information concerning the conference and registration is available [here](#).

OECD & IF Members Extend Freeze on National DSTs Until End-2024

138 Members of the BEPS Inclusive Framework [extended the freeze](#) on imposition of national digital services tax (DST) until the end of 2024, which allows more time for an international agreement on reallocation of digital economy taxing rights under Pillar 1 to be reached. Some countries, notably Canada, refused to sign off the agreement. Canada's Deputy Prime Minister Chrystia Freeland said they will implement a national DST from 1 January 2024 and would not wait for a multilateral agreement on Pillar One. *"Two years ago, we agreed to pause the*

implementation of our own digital services tax (DST) to give time and space for negotiations on Pillar One. But we were clear that Canada would need to move forward with our own DST as of January 1, 2024, if the treaty to implement Pillar One has not come into force,” the [minister said](#).

Bloomberg [reports](#) that *'Biden's administration secured extension of a worldwide freeze on new digital taxes, putting it on a collision course with Canada after Ottawa refused to endorse the deal'*. The US and President Biden's administration signed on the initial agreement in 2021, however tax treaty changes in the US require a two-thirds majority in the Senate to ratify, where many Congress Republicans oppose reallocation of taxing rights under Pillar 1.

The OECD [Outcome Statement](#) indicates the agreed ban on national digital services taxes would continue through 2025, assuming sufficient progress has been made by that date towards the entry into force of the MLC under Pillar 1. The OECD Secretary-General said the agreement proved that despite the challenges and compromises along the way, multilateral dialogue works and can deliver results to tackle shared challenges, Mr Corman said.

European Union finance ministers [discussed](#) the latest OECD agreement, and acknowledged that Pillar 1 was "brought forward" and an outcome statement was agreed in view of the forthcoming G20 Finance Ministers and Central Bank Governors Meeting that took place on 17–18 July 2023.

EU Parliament Subcommittee on Tax Matters Hearing on the Role of Enablers in Tax Evasion

On 17 July, the EU Parliament's Subcommittee on Tax Matters, FISC, held a hearing on *"Tackling the Role of Enablers Involved in Facilitating Tax Evasion and Aggressive Tax Planning in the European Union (SAFE)"*. Experts at the hearing discussed the role of enablers in facilitating tax evasion and aggressive tax planning with a view to an upcoming proposal by the European Commission

with the objective of preventing enablers from setting up complex structures in non-EU countries for tax evasion and aggressive tax planning purposes.

Ms Gabriela Figueiredo Dias, Chair, International Ethics Standards Board for Accountants, Mr Olivier Boutellis-Taft, CEO, Accountancy Europe and Mr Ivan Lazarov, Research Associate, International Bureau of Fiscal Documentation (IBFD) spoke at the hearing. The hearing is available to be replayed [here](#).

The next meeting of FISC will take place on 19 September 2023, in the form of a public hearing on "*New EU common system for the avoidance of double taxation and prevention of tax abuse in the area of withholding taxes*". This will be followed by an exchange of view the Commissioner for Economy, Mr Paolo Gentiloni, followed by a discussion of FISC Members of the amendments tabled to the draft own-initiative report on the "*Role of tax policy in times of crisis*".

OECD Invites Input on Amount B, Pillar 1 (Transfer-Pricing)

Following the agreed [Outcome Statement](#), the OECD is now seeking public comments on [Amount B under Pillar One](#) concerning the application of the arm's length principle to in-country baseline marketing and distribution activities. The [public consultation document](#) released today outlines the design elements of Amount B and is released in order to obtain inputs from stakeholders on the technical aspects of Amount B. Further work will be undertaken on the following aspects:

- Ensuring an appropriate balance between a quantitative and qualitative approach in identifying baseline distribution activities;
- The appropriateness of:
 - the pricing framework, including in light of the final agreement on scope;
 - the application of the framework to the wholesale distribution of digital goods;

- country uplifts within geographic markets; and
- the criteria to apply Amount B utilising a local database in certain jurisdictions.

Interested parties are invited to submit their comments by **1 September 2023**. Due to the high volume of anticipated submissions, stakeholders are encouraged to send in their comments in the form of a [questionnaire](#), the OECD has said.

CFE Opinion Statement in Case C-83/21 Airbnb Ireland and Airbnb Payments UK

CFE has issued an [Opinion Statement](#) of the CFE ECJ Task Force on the ECJ decision of 22 December 2022 in case C-83/21, *Airbnb Ireland and Airbnb Payments UK* decided following the Opinion of AG Szpunar delivered on 7 July 2022. Inter alia, at issue was the compatibility with the freedom to provide services of the tax obligations imposed by the Italian government on service providers offering their intermediation services regarding real estate located in Italy. The Court found admissible to impose the obligation to collect and report data and to withhold tax on the intermediated payments. However, it held disproportionate to request them the appointment of a tax representative resident in Italy.

This case covered other issues such as: i) whether the tax obligations imposed by the Italian government on service providers would fall within the scope of three directives regulating the provisions of services within the EU, which would require communicating it to the Commission prior to its enactment, and; ii) whether the domestic referring court is bound to phrase the preliminary ruling questions following the wording proposed by the parties in the domestic procedures. Those questions will not be covered in this Opinion Statement, which focuses solely on compatibility with fundamental freedoms and, specifically, with the freedom to provide services.

The Court decision in *Airbnb* clarifies the limits of Member States' action concerning the imposition of tax-related obligations to non-taxpayers and reaffirms the inadmissibility of imposing the appointment of tax representatives. Although provided with a new opportunity, the Court did not further clarify the conditions by which a neutral criterion at face value would amount to factual discrimination (i.e. when it is not "inherently neutral" or can be more easily met by residents). This issue has already been addressed in our previous [Opinion Statement](#) on the *Vodafone* case. *Airbnb* appears to prevent any discussions on the validity of DAC7 in what concerns the reporting obligations. Furthermore, *Airbnb* might facilitate the introduction of withholding tax regimes also with non-resident withholding agents.

Finally, *Airbnb* does not prevent Member States (and the respective regions and municipalities) from imposing reporting and withholding tax obligations on the platforms operating within their territories. In case they effectively decide to do so autonomously, online platforms may be faced with thousands of different tax (procedural) regimes, increasing their compliance costs exponentially and hindering their capacity to offer their services within the internal market effectively. For that reason, the EU Commission could consider a proposal to harmonise the respective regimes through a directive.

We invite you to read the [Opinion Statement](#) and remain available for any queries you may have. We invite you to read the statement and remain available for any queries you may have.

EU Tax Symposium - 24 & 25 October

The 2023 EU Tax Symposium has been announced as a 1.5 day event, which will take place in the afternoon of 24 October and over the full day of 25 October 2023. The Symposium will be co-hosted by the European Parliament and European Commission. The theme for this year's Symposium is "*The future of taxation in the EU: challenges ahead & changes needed*".

Finance ministers, European and national parliamentarians, high-level policy

makers, academics and civil society representatives will address a wide range of tax issues, at all levels of governance. Registrations open in September.

OECD Launches New BEPS Multilateral Convention Matching Database

The OECD has launched an updated version of the [BEPS MLI Matching Database](#). The database assists tax authorities and other interested parties in relation to how the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (the "BEPS MLI") MLI will apply and modify a specific tax treaty.

The updated database *"includes significant improvements that will enhance user experience and provide additional features to support the implementation and application of the BEPS MLI. One of the key updates is the inclusion of historical data, which allows users to view the application of the BEPS MLI at specific points in time. The upgrade also offers a more intuitive interface that makes it easier for users to search for and access information."*

The database was first published in 2017 and presents detailed up-to-date information on the application of the BEPS MLI to tax treaties. In particular, the database presents the "matching results" under the BEPS MLI in respect of each covered tax treaty. The text of the BEPS MLI, the explanatory statement, background information, positions of each Signatory and Party, and the updated database are available at <http://oe.cd/mli>.

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