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OECD Launches Public Consultation on Pillar 1 Draft Rules for Nexus & Revenue Sourcing

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On 4 February, the OECD launched a public consultation concerning Draft Rules for Nexus and Revenue Sourcing from the Pillar 1 solution to address the tax challenges arising from digitalisation and globalisation of the economy. This consultation concerns Amount A of Pillar 1. The OECD states that consultations concerning Pillar 1 will occur in stages by releasing Secretariat working documents on each building block to obtain feedback quickly and before the work is finalised.

The revenue sourcing rules will allow in-scope MNEs to identify the relevant market jurisdictions from which revenue is derived, and to apply the revenue-based allocation key. Under the OECD agreement reached in October 2021, revenue is sourced to the end market jurisdictions where goods or services are used or consumed. The consultation document notes that *"input will be most helpful where it explains the additional guidance that would be needed to apply the rules to the circumstances of a particular type of business, as well as input on whether anything is missing or incomplete in the rules".*

The public consultation will run for only two weeks. Those who wish to provide feedback can submit comments until 18 February electronically in Word format by email to tfde@oecd.org, addressed to: Tax Treaties, Transfer Pricing and Financial Transactions Division OECD/CTPA.

EU Parliament Subcommittee on Tax Matters to Review EU Energy Tax Audit

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The European Parliament's Subcommittee on Tax Matters will review the European Court of Auditors report on energy taxation, carbon pricing and energy subsidies at their upcoming meeting on 10 February 2022. During this meeting, the Member of the European Court of Auditors responsible for the review, Viorel Stefan, will give a presentation on the report.

The report published on 31 January assesses whether existing energy taxes, carbon pricing and energy subsidies within the EU assist in achieving EU climate goals. The auditors examined the Energy Taxation Directive, existing Emissions Trading System and the proposals of the Commission to update this legislation, as well current energy taxation in the Member States. In addition, the report reviews how carbon pricing instruments and energy subsidies incentivise climate action.

The report finds that: *"under the current Energy Taxation Directive, more polluting sources of energy may have a tax advantage compared to more carbon-efficient ones: for instance, coal is taxed less than natural gas, and some fossil fuels are taxed significantly less than electricity. Moreover, while a majority of Member States impose high taxes on fuels, several others keep taxes close to the minimum established by the Directive, and this may distort the internal market. Low carbon prices and low energy taxes on fossil fuels increase the relative cost of greener technologies and delay the energy transition. The auditors note that while some energy subsidies can be used to move towards a less carbon-intensive economy, fossil-fuel subsidies hinder an efficient energy transition. Overall, Member States' subsidies for fossil fuels amount to over €55 billion per year, and fifteen Member States spend more on fossil-fuel subsidies than on renewable energy subsidies. Phasing out fossil-fuel subsidies by 2025, a goal which the EU and its Member States have committed to, will be a challenging social and economic transition."*

Member States Push to Delay EU Pillar II Implementing Directive

Low tax jurisdictions in the EU are urging other Member States in the EU to delay the implementation date for the European Commission proposal for an EU directive on global minimum level of taxation for multinational groups, published just prior to Christmas. Malta and Estonia have expressed reservations about the Directive, and Malta is reportedly lobbying to delay any introduction of the new rules until the beginning of 2025, rather than 2023, as is presently planned under the Directive.

On 18 January 2022, EU Finance Ministers held their first discussions concerning the Directive. Estonia's Minister of Finance Keit Pentus-Rosimannus maintained certain reservations, contending the EU proposal goes beyond the OECD agreed rules, to the extent it extends to domestic companies. She also urged caution about the speedy adoption of Pillar 2 without concurrent adoption of Pillar 1.

The French Presidency of the Council of the EU has set out as its priority adoption of this directive in first half of 2022. The Directive intends to implement the OECD Pillar 2 agreement into the EU legal order, and will only become EU law with unanimous vote of all Member states.

OECD Tax Talks: 21 February 2022

The latest OECD Tax Talks edition will be held online on Monday 21 February from 15:30-16:30 CET, in the format of a 45-minute presentation, followed by a 10-15 minute Q&A. The Tax Talks will focus on recent and upcoming developments in the OECD's international tax agenda, and it is expected that officials from the OECD Centre for Tax Policy and Administration will deliver updates on the state of play regarding the tax challenges of the digitalisation of the economy.

Registration is open via Zoom on the following link.

Global Forum Publishes 2022 Capacity Building Report

The OECD's Global Forum has published its 2022 Capacity Building Report, celebrating the 10th anniversary of the Global Forum and reflecting on 10 years of capacity building programme and its achievements. The work of the Global Forum is key in aiding developing countries with tax evasion and other illicit financial flows.

Since its inception in 2011, the Global Forum has trained over 22,000 officials, including over 850 African officials through the "Train the Trainer" pilot programme, launched in 2021 under the umbrella of the Africa Initiative, published six news toolkits to provide guidance on effectively implementing standards on transparency and exchange of information, and provided five e-learning courses since 2019, which have been completed by over 5 200 officials.

66 developing jurisdictions have also joined the Convention on Mutual Administrative Assistance in Tax Matters, with most developing countries have satisfactorily implemented the EOIR standard. In addition, 36 of the 108 jurisdictions committed to implement the AEOI standard by 2021 are developing jurisdictions and 12 additional developing countries are committed to start exchanging by 2022-24. The Global Forum recently published a new strategy to accompany and encourage these positive developments.

The selection of the remitted material has been prepared by: Piergiorgio Valente/ Aleksandar Ivanovski/ Brodie McIntosh/ Filipa Correia