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World Leaders Endorse Global Tax Deal

Following the agreement on global minimum corporate tax and the partial reallocation of profit to market countries, endorsed on 8 October by G20 Finance Ministers, the G20 political leaders issued a political declaration setting out their commitment to implement the deal as agreed with the OECD-endorsed timeline. The leaders of 19 nations in Rome were joined by their Russian and Chinese counterparts via video-link to confirm the final political agreement. The latest communique notes the "historic achievement through which we will establish a more stable and fairer international tax system." The world leaders called on the OECD and the BEPS Inclusive Framework "to swiftly develop the model rules and multilateral instruments as agreed in the Detailed Implementation Plan, with a view to ensure that the new rules will come into effect at global level in 2023". The leaders also endorsed further support for developing countries through the Inclusive Framework and further domestic resource mobilisation efforts.

Previous Statement released on 8 October 2021 set out a more detailed plan indicating that more than $125 billion from circa 100 largest MNEs will be reallocated to countries in which such companies have had extensive operations and revenue, but did not have taxable presence for corporation tax purposes under existing rules. Pillar One, the profit reallocation element of the agreement, would require a new multilateral instrument to be signed next year, with effective implementation from 2023. Notably, regarding Pillar One, the agreement ensures a standstill clause under which existing Digital Service Taxes and other similar relevant unilateral measures must be frozen or abolished in due course, under certain conditions.

Such provisions alleviate potential problems with US implementation, given the concerns expressed by the administration of President Biden who urged Congress to implement the deal swiftly by way of a reconciliation process. Under said process, the Senate could pass the bill implementing Pillar 1 with a simple majority of senators instead of 2/3 majority traditionally required for international economic treaties. The GOP/ Republican Senate members have warned the US Department of Treasury not to pursue alternative venues in implementation of Pillar 1 that would undermine their constitutional authority.

Pascal Saint-Amans, Director of the OECD Centre for Tax Policy and Administration, speaking at the Web Summit technology conference in Lisbon last week, said there are outstanding issues with the implementation, including in the US, but without it, the deal would be merely a political commitment without legal implications.

Tax Implications of COP26: World's Climate Policy Summit

World leaders attending the UN Conference on Climate Change (COP26) are gathered in Glasgow to discuss climate policy proposals which could potentially reverse global warming trends threatening to cause unprecedented environmental, health and wider societal damage in the coming decades. Speaking on behalf of the host government, UK Prime Minister Boris Johnson said the world is "at one minute to midnight over climate change", urging fellow leaders to move from aspiration to action now. These calls were echoed by other leaders, activists and NGOs.

The President of the European Commission Ursula von der Leyen announced the EU Carbon Border Adjustment Mechanism plans which are aimed at taxation of EU-importing entities with high carbon footprint, which would level the playing field with the EU industry, already subject to the European Emission Trading System.

President von der Leyen said that "the EU was in favour of a global solution that would see the world's biggest emitters agree on global carbon pricing. To avoid carbon leakage, now introduce slowly but surely a carbon border adjustment mechanism that says if you come with dirty products on our market, you have to pay a price as if you were in the Emissions Trading System of the European Union. But we prefer you keep the money in your economy by putting a price on carbon in your economy," von der Leyen said. In support of this goal, Belgian Prime Minister Alexander de Croo said that EU's policy is a "trade weapon" to force major polluting economies to comply with these "advanced standards". In a similar tone, Canadian Prime Minister Justin Trudeau said that all countries should agree on a global price on carbon, to limit the utilisation of fossil fuels and level the playing field for countries that already impose certain levy on carbon emissions.

As a contribution to COP26, the OECD has published a report entitled *Carbon Pricing in Times of COVID-19: What Has Changed in G20 Economies?* The report reviews how countries can convert long-term climate goals into "concrete policy packages that deliver the necessary transformational change". The report examines how carbon pricing can play a significant role in meeting climate goals and assist in the green recovery. Additionally, the report reviews the evolution of carbon prices in G20 countries between 2018 and 2021 and estimates carbon pricing resulting from carbon taxes, emissions trading systems, and fuel excise taxes.

Register Now: CFE Conference on "Professional Judgment in Tax Planning" on 25 November 2021

Register now to secure your place for the 14th European Conference on Tax Advisers' Professional Affairs, to be held virtually on Thursday, 25 November

2021 from 10:00AM to 12:00PM CET, on the topic of *"Professional Judgment in Tax Planning - An Ethics Quality Bar for All Tax Advisers".*

Speakers from a wide range of stakeholder perspectives will examine issues raised in the discussion paper published by CFE seeking to promote ethical professional judgment across all tax advisers in Europe, through the proposed "ethics quality bar" contained in the paper, based on five questions that all tax advisers should reflect on when undertaking their advisory role in the overall tax system. Panellists will consider whether the quality bar can help to steer all advisers in the direction of an appropriate balance between the rights and obligations of taxpayers, avoiding abusive planning. Registration for the event is possible via this link.

EU Commission 2022 Work Programme & Q4 Tax Policy Priorities

The European Commission work programme for 2022 indicates that the EU will focus its taxation policy priorities on implementation of the global tax agreement concerning Pillars 1 and 2. The work programme states the "European Commission will now strive to show the EU's leadership in global tax fairness, by ensuring a swift and consistent implementation across the EU." Implementation of Pillar 1 largely depends on the ongoing technical level work at the OECD, which should inform the EU legislative process. Depending on the agreed solution, EU's implementation of Pillar 1 OECD global agreement on re-allocation of taxing rights might come as a legislative item (directive), under Article 115 TFEU, which requires consensus of all Member states.

Regarding the work priorities for the last quarter of 2021, the Commission list of points for the next scheduled college meetings indicates that two draft directives are in the pipeline, with publication date set for 22 December 2021:

- Directive to fight the use of shell entities; and,

- Proposal on implementation of the OECD global agreement on minimum effective taxation (Pillar 2).

Alternatively, Commission's work programme indicates that a non-legislative proposal would come the latest in Q3 2022 in the form of a Recommendation on minimum income.

This EU proposal will be complemented with a Directive on minimum effective tax rates disclosure, concerning entities within scope of the Directive implementing Pillar 2 in the European Union. It is unclear yet what the legal basis for such a proposal would be, given the disclosure of tax related information had previously created tension between the Commission and Council (Member states) regarding the draft directive on public country-by-country reporting (CbCR).

Concerning the initiative to fight the use of shell entities, the EU intends to allow Member states to tax a shell entity located in another EU Member state, satisfying certain conditions, as if the shell were located within their own taxing jurisdiction. It is expected that the criteria identifying a company as a 'shell entity' would be based on a methodology similar to the one already used by the EU in the DAC6 hallmarks.

European Parliament: Public hearing on "The impact of new technologies on taxation: crypto and blockchain"

The European Parliament Subcommittee on Taxation Matters (FISC) will hold a public hearing tomorrow on "The impact of new technologies on taxation: crypto and blockchain" (9 November 09:00 - 10:30). Invited speakers include, Michelle Harding, Head of the Tax Data and Statistical Analysis Unit at the OECD’s Centre for Tax Policy and Administration; Andreas Thiemann, Researcher at the Joint Research Centre of the European Commission (JRC); Alberto García Valera, Partner at EY Law and Dr Robert Müller, Postdoctoral researcher.

The meeting will be web-streamed and can be followed via this link.

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