

Report on recent US international tax developments - 27 November 2019

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The Organisation for Economic Co-operation and Development (OECD) held a public consultation on the Secretariat Proposal for a "Unified Approach" under Pillar 1 of the BEPS 2.0 project on 21-22 November 2019 in Paris at the OECD Conference Centre. Representatives from business, labor groups, non-governmental organizations, and academia participated in the consultation to discuss their perspective. EY submitted a [comment letter](#) and a global team from EY participated in the consultation.

The OECD Secretariat laid out the timeline for meetings of the Inclusive Framework for the end of January 2020 and in June/July 2020, and suggested that, at a minimum, a high-level political agreement on the Pillar One framework must be achieved by the January meeting. Most business community representatives supported a go-slow approach, in recognition of the fact that the proposal involves fundamental changes to long-standing global tax norms that will have to be spelled out clearly and in detail.

One commonality voiced at the meeting was that the existing global transfer pricing system, based on the arm's-length principle, needs to be changed and should at least be augmented by some more formulaic rules. [Public consultation videos](#) (a total of 13 hours) are now available on OECD WebTV and can be viewed without registration.

At the time of publication of this Alert, the United States (US) Government has not released final foreign tax credit regulations and final and proposed Base Erosion and Anti-abuse Tax (BEAT) regulations, as anticipated. A senior Treasury official had said in mid-November their release was imminent. The BEAT regulations cleared the Office of Management and Budget's Office of Information and Regulatory Affairs several weeks ago.

On 13 November 2019, the Spanish Supreme Court issued a favorable decision confirming the right of a US Regulated Investment Company (RIC) to obtain a refund of the Spanish withholding tax on dividends paid in excess. The US RIC had filed a reclaim to obtain a refund of the difference between the dividend withholding tax imposed and the reduced 1% applicable to Spanish Collective Investment Vehicles (CIVs), insofar as it implied discriminatory tax treatment for nonresidents in comparison with Spanish CIVs. See EY Global Tax Alert, [*Spanish Supreme Court issues favorable decision on reclaims for US RICs*](#), dated 26 November 2019 for details.

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