Report on recent US international tax developments – 29 May 2020

NEW! EY Tax News Update: Global Edition

EY's new Tax News Update: Global Edition is a free, personalized email subscription service that allows you to receive EY Global Tax Alerts, newsletters, events, and thought leadership published across all areas of tax. Access more information about the tool and registration here.

Also available is our EY Global Tax Alert Library on ey.com.

The United States (US) Treasury has sent final regulations on the foreign-derived intangible income (FDII) provision and the global intangible low-taxed income (GILTI) provision to the Office of Management and Budget Office of Information and Regulatory Affairs (OIRA) for review. The final Internal Revenue Code[1] Section 250 rules were received by OIRA on 26 May. The Internal Revenue Service (IRS) issued proposed regulations under Section 250 (REG-104464-18) in March 2019, providing guidance for calculating the deduction allowed to a domestic corporation for its FDII and GILTI. The proposed regulations primarily provide guidance for calculating a domestic corporation's FDII; proposed regulations for calculating GILTI were released in September 2018.

Governments are ready to refocus their attention on the Base Erosion and Profit Shifting (BEPS) 2.0 project after having been sidetracked by the global COVID-19 pandemic, according to Pascal Saint-Amans, Director of the Organisation for Economic Co-operation and Development (OECD) Centre for Tax Policy and Administration. The OECD official was quoted this week as saying that there has been significant progress in regard to revenue sourcing, scope, nexus, base determination and business line segmentation, and that these areas would be the subject of future public consultation.

Building a better working world

Saint-Amans suggested that two key trends in the BEPS area have emerged in the current environment. He said that a number of countries are beginning to believe that it is possible to ring-fence the digital economy, pointing to the fact that digital companies are doing well during the pandemic and effectively ring-fencing themselves. The US Government has been steadfast in its opposition to this point of view, arguing it is not possible to ring-fence the digital economy because the entire global economy is moving toward digitalization. The second trend, Saint-Amans reported, is that countries will not stand for tax avoidance by corporations that receive coronavirus stimulus funding.

While the OECD official said a third pillar is not being considered that would focus on a global excess profits tax as a means to raise revenue following the coronavirus pandemic, he suggested there could be a third pillar internally at the OECD that would focus on BEPS rules for lesser developed countries that may not benefit sufficiently from the original BEPS projects.

Endnote

1. All "Section" references are to the Internal Revenue Code of 1986, and the regulations promulgated thereunder.

For additional information with respect to this Alert, please contact the following:

Ernst & Young LLP, International Tax and Transaction Services, Washington, DC

- Arlene Fitzpatrick arlene.fitzpatrick@ey.com
- Joshua Ruland joshua.ruland@ey.com

EY | Assurance | Tax | Transactions | Advisory

EYG no. 003575-20Gbl

1508-1600216 NY
ED None