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Global Tax Alert

Report on recent US international tax developments - 17 July 2020

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The United States (US) Treasury and the Internal Revenue Service (IRS) on 14 July released draft redesigned partnership forms for 2021 (2022 filing season) that are intended to provide a standardized format designed to better align the information that partnerships provide on the schedules with the tax forms used by partners. According to the IRS press release, the changes would allow partners to more easily prepare their tax returns and the IRS to more efficiently verify taxpayer compliance. Specifically, the Government released [draft new](#) Schedule K-2 (Form 1065), Partners' Distributive Share Items – International and Schedule K-3 (Form 1065), Partner's – Share of Income, Deductions, Credits, etc. – International, along with instructions. Domestic partnerships with no international items will not be affected by the proposed changes. Public comments on the redesigned forms are invited through 14 September 2020.

Treasury and the IRS are also reportedly planning similar changes, as applicable, to Form 1120-S (U.S. Income Tax Return for an S Corporation) and Form 8865 (Return of U.S. Persons With Respect to Certain Foreign Partnerships) for the 2021 tax year. Comments are welcome on this project, as well.

Treasury on 16 July delivered two international tax-related regulatory projects to the Office of Management and Budget's Office of Information and Regulatory Affairs. One of the projects appears to be final regulations that would replace Temporary Regulation Section 1.245A-5T, with the second being an accompanying package of proposed regulations coordinating application of certain regulations under Internal Revenue Code Sections 245A and 951A.

The US Trade Representative (USTR) announced on 10 July that the US would take action against France's Digital Services Tax (DST) in the form of an additional 25% ad valorem duty on specified French-origin goods. The tariffs are scheduled to take effect on 6 January 2021, 180 days after the determination of action. The list covers 21 tariff subheadings, with an estimated trade value for calendar year 2019 of approximately US\$1.3 billion. The announcement comes after the US withdrew from negotiations regarding DSTs at the Organisation for Economic Co-operation and Development (OECD) level in June.

Despite the COVID-19 pandemic, the OECD expects to have blueprints of proposals for both Pillar 1 and Pillar 2 of the Base Erosion and Profit Shifting (BEPS) 2.0 project ready by October 2020, according to Pascal Saint-Amans, Director of the OECD's Centre for Tax Policy and Administration. Saint-Amans said political discussions will have to take place between now and then, noting that a G-20 Finance Ministers meeting is scheduled for 18-19 July.

The OECD official did not downplay the difficulties in getting international consensus nor the impatience of certain countries in regard to the digital economy. "We understand that many countries will get a DST [Digital Services Tax] as of 2021, and they may suspend [payment collection], which would allow them to avoid the US trade sanctions while giving us another chance to conclude [negotiations] in 2021," Saint-Amans said.

The OECD on 8 July released the second edition of its annual Corporate Tax Statistics publication (the [report](#)) together with an updated [database](#). For the first time, the database includes anonymized and aggregated Country-by-Country (CbC) reporting statistics, reflecting information for 2016 provided by 26 member jurisdictions of the Inclusive Framework on BEPS and covering about 4,000 multinational groups that operate across more than 100 jurisdictions worldwide. The OECD also published a list of [Frequently Asked Questions](#) on the aggregated CbC reporting data.

As highlighted in the [press release](#) accompanying the issuance of the report and the database, the OECD views the new statistics as suggesting some preliminary insights that, despite the data limitations, are indicative of the existence of BEPS behavior and reinforce the need to continue to address remaining BEPS issues as part of the Inclusive Framework's work on Pillar 2 of the BEPS 2.0 project.

Endnote

1. All "Section" references are to the Internal Revenue Code of 1986, and the regulations promulgated thereunder.
2. For more details, see EY Global Tax Alert, [OECD releases new corporate tax statistics including anonymized and aggregated Country-by-Country report statistics](#), dated 15 July 2020.

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