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Global Tax Alert

Report on recent US international tax developments - 7 August 2020

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As this week comes to a close and the United States (US) Senate is scheduled to begin its August recess, talks over another coronavirus bill have continued, though US Treasury Secretary Steven Mnuchin told Senate Republicans on 4 August that Administration negotiators were no closer to reaching a deal with House Speaker Nancy Pelosi and Senate Democratic leader Chuck Schumer. White House Chief of Staff Mark Meadows said, "we are a long ways' away from striking any kind of a deal." Specifically, there is still a gulf between the two sides on longstanding issues like the amount of the unemployment add-on, and state and local government funding. Thus, how and when a deal may come together is unclear. Chief of Staff Meadows and President Trump have discussed executive action on issues like payroll tax relief, unemployment benefits and preventing evictions. Meadows said that Friday (7 August) is the target deadline after which the President may move forward with any executive orders.

Some Senators have called for the chamber to stay in session past the scheduled start of the August recess on 7 August. The House is out, with their recess already scheduled to begin, and members will receive 24 hours' notice prior to a vote related to coronavirus legislation. The relief bill talks make the August schedule uncertain.

Building a better working world

With respect to this week's tax developments, final Base Erosion and Anti-Abuse Tax (BEAT) regulations are now under review by the Office of Management and Budget Office of Information and Regulatory Affairs (OIRA). According to OIRA's website, the final regulations were received for review on 3 August. The final rules would follow up on proposed regulations (REG-112607-19) released in December 2019. For background on the proposed regulations, see EY Global Tax Alert, *US final and proposed BEAT regulations provide some relief for taxpayers*, dated 9 December 2019.

Also this week, there has been some discussion regarding the Global Intangible Low-Taxed Income (GILTI) regulations with an official from the Internal Revenue Service (IRS) indicating that the Service may refine the Tested Unit Rule in the GILTI High-Tax Exclusion rules.

Final regulations (TD 9902) were released on 20 July 2020 together with new proposed regulations (REG-127732-19) under Internal Revenue Code Section 954(b)(4) related to high-taxed subpart F income. The official noted that the tested unit concept borrows from concepts used in the Qualified Business Unit rules, branch basket rules, dual consolidated loss rules and the hybrid rules. The IRS "pulled a lot of those different concepts … and came up with this new tested unit concept." The official said that they believe it is a good standard. However, the official noted that the IRS is "very interested" in receiving comments on the new rule and "further refining this rule, if we can."

On the international front, a group of United Nations (UN) Tax Committee members from developing countries issued a proposal regarding the taxing of digital services income. The proposal differs significantly from the Organisation for Economic Co-operation and Development's Pillar 1 proposal, both in its scope and allocation methods. The proposal on new article 12B – Income from Automated Digital Services – will be considered during the Committee's meetings in October and November and could be added to the UN Model Tax Convention. The proposal is in the early stages of development and will be subject to further discussions and likely revisions.

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