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Global Tax Alert

The Latest on BEPS and Beyond

September 2020

EY Tax News Update: Global Edition

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Highlights

The fall period is often a hectic period in policy making. In the second half of the year, policy makers in the international tax area will press six months of ambitions into effectively less than four months of meeting time with peers. Moreover, it is also the period in which traditionally many country governments present their budgets for the coming calendar year. And with COVID-19 creating a health and economic crisis in 2020, it will be the period when governments continue to work on keeping the virus under control but will also answer questions on where the soft hand of stimulus is needed in the year to come and how to pay for the crisis and these stimulus measures.

In July, the Leaders of the European Union (EU) Member States came to a historical agreement on raising money for the recovery from the COVID-19 pandemic. The EU will borrow €750 billion from the capital markets, 390 billion of which will be given to EU Member States as grants, while 360 billion will be provided to them as loans. This joint borrowing and the solidarity behind it marks an important step for the EU. Also, the decision to create additional own resources for the EU to repay the loans is a game changer, as EU Member States in the past have been very reluctant to give own resources to the EU.

Building a better working world

The EU Member States agreed on the introduction of new taxes to repay the grants portion of the loans. As of 2021, a new **own resource based on non-recycled plastic waste** will be introduced. By 1 January 2023, at the latest, a **carbon border adjustment mechanism** and a **digital levy** will follow. Also, a **revised EU Emissions Trading System scheme** is mentioned, without specific timing. These agreements by the EU point to ambitions we knew existed with some larger EU countries. However, full agreement was never expressed until the recovery package was agreed upon.

Which brings us back to the fall when other EU stakeholders, such as the European Parliament and national parliaments of EU countries, will have to decide on the recovery package. Also, the ambitions of the EU will meet the ambitions of the other economic blocks in the global OECD-led project on addressing the tax challenges of the digitalization of the economy. During the informal Ecofin meeting, which was held on 11 and 12 September, the European Commission indicated that it will move forward with a minimum tax proposal. Besides that, it will present a digital tax proposal in the first half of 2021. The question is how this relates to the timing of the OECD-led project on both topics. The expectation is that before mid-October blueprints will be published on both Pillar 1 and Pillar 2. It is already almost certain that no (directional) agreement on Pillar 1 will be reached until after the United States (US) elections. However, it has been mentioned by the OECD Secretariat several times that all countries are still working hard on Pillar 2 and that there is hope that countries may still come to some form of a (directional) agreement.

With these meetings coming up, the US Elections in November, and all the domestic budgets which will dominate the fall period, it is clear that some directional steps will be taken in the coming months. We will keep you informed on these developments in next month's edition of The Latest on BEPS and Beyond.

OECD

On 3 September 2020, the OECD released the Tax Policy Reforms 2020 report (the report) which describes the latest tax reforms across all OECD members (with the exception of Colombia, which became a member of the OECD after the primary data collection exercise had been completed), as well as Argentina, China, Indonesia and South Africa. The intention is to continue expanding the coverage of the report to additional G20 countries and selected partner economies (namely, Argentina, China, Indonesia and South Africa). The report identifies major tax policy trends adopted before the COVID-19 crisis and it takes stock of the tax and broader fiscal measures introduced by countries in response to the pandemic, from its outbreak to June 2020. According to the report, significant progress has been achieved, among others, on the implementation of BEPS Actions 5 (harmful tax practices), 6 (treaty abuse), 13 (Country-by-Country reporting) and 14 (dispute resolution), with BEPS Actions 2 (hybrid mismatch arrangements), 3 (controlled foreign company) and 4 (limitations on interest deductions), rapidly being adopted by a large number of countries. The report notes that significant work has been undertaken to improve the quality of available corporate tax statistics as recommended by BEPS Action 11 and that many countries have indicated that they plan to introduce or expand mandatory disclosure rules, in line with Action 12. Furthermore, the report highlights that many countries have introduced new legislation to implement domestically all or part of the guidance developed under BEPS Actions 8 to 10. In the context of the tax challenges arising from the digitalization of the economy, the report mentions that efforts to achieve a consensus-based multilateral solution to address those challenges are ongoing, but a growing number of countries have announced or implemented interim measures to tax certain revenues from digital services in the meantime.

On 1 September 2020, the Global Forum on Transparency and Exchange of Information for Tax Purposes (the Global Forum) published nine new peer review reports related to Anguilla, Chile, China, Gibraltar, Greece, Korea, Malta, Papua New Guinea and Uruguay, assessing the compliance with the international standard on transparency and exchange of information on request (EOIR). The assessment results in one of four distinct overall ratings: (i) compliant; (ii) largely compliant; (iii) partially compliant; or (iv) non-compliant. Seven jurisdictions – Chile, China, Gibraltar, Greece, Korea, Papua New Guinea and Uruguay – received an overall rating of "Largely Compliant." The overall rating of Anguilla was downgraded from "Partially Compliant" to "Non-compliant" and Malta was issued a "Partially Compliant" rating, whereas the first-round report had concluded the jurisdiction's EOIR practice to be "Largely Compliant" with the standard.

On 23 July 2020, the OECD updated the list of signatories of the Multilateral Competent Authority Agreement on the exchange of Country-by-Country reports (CbC MCAA). According to this latest update, Oman signed the CbC MCAA on 16 July 2020. The total number of jurisdictions that have signed the CbC MCAA is now 87.

On 22 July 2020, Japan made a notification to extend its list of covered tax agreements (CTAs) to add the tax treaty with Oman and update its *Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS* (MLI) positions accordingly. The MLI entered into force for Japan on 1 January 2019 and will enter into force for Oman on 1 November 2020.

On 18 July 2020, the OECD released the OECD's Secretary-General Report to G20 Finance Ministers and Central Bank Governors (the report). The report, which consists of two parts, was provided to the G20 Finance Ministers and Central Bank Governors for their consideration in advance of their virtual meeting on 18 July.

Part I of the report is an update on the activities with respect to the G20's international tax agenda and future progress needed, including an update on the work to address the tax challenges arising from the digitalization of the economy. Part II is a progress report to the G20 by the Global Forum on Transparency and Exchange of Information for Tax Purposes. The report includes, as an annex, the OECD/G20 Inclusive Framework on BEPS: Progress Report July 2019-July 2020 (the Inclusive Framework progress report).

Also, on 22 June 2020, the OECD held its 16th Tax Talks webcast during which members of the OECD Secretariat provided an overview of the outcomes of the G20 Finance Ministers' meeting and an update on the OECD's international tax work consistent with the report.

See EY Global Tax Alert, *OECD issues report to G20 Finance Ministers and Central Bank Governors and hosts webcast to provide update on tax work*, dated 29 July 2020.

European Union

On 11-12 September 2020, the European Union (EU) Finance and Economics Ministers met in Berlin during an informal Economic and Financial Affairs Council (ECOFIN) meeting under the German Presidency of the Council of the EU. According to a press release issued at the conclusion of the meeting, the Ministers discussed the following topics; (i) implementing Europe's recovery; (ii) own resources for the EU budget; (iii) fair and effective taxation in the EU; and (iv) rethinking financial markets in the digital age. With respect to own resources, the press release states that particular emphasis was placed on the need for EU policies dealing with matters such as digital technology and climate change to be taken into account on the revenue side of the budget. The European Commission (the Commission) announced it would be presenting proposals on these matters in the first half of 2021. In the context of fair and effective taxation in the EU, the press release highlights that there was broad consensus on this matter among the member states, who were in favor of providing continued support to the OECD's work on fair taxation, which includes an effective minimum tax and fair taxation of the digital economy. According to the press release, the aim is to arrive at a solution at the global level and implementation at the European level.

On 19 August 2020, the Commission released a report to the European Parliament and to the EU Council on the implementation of the Council Directive (EU) 2016/1164 of 12 July 2016 setting forth rules against tax avoidance practices that directly affect the functioning of the internal market as amended by Council Directive (EU) 2017/952 of 29 May 2017 amending Directive (EU) 2016/1164 as regards hybrid mismatches with third countries (ATAD). This report is the first step in the evaluation of the impact of the ATAD and provides an overview of the implementation of the early applicable ATAD measures (interest limitation, general anti-avoidance rule (GAAR), and controlled foreign company (CFC) rule) across Member States. The next step will consist of the delivery of a comprehensive evaluation report of the ATAD measures, including overview of the implementation of those ATAD measures that were not included in this report (exit taxation and hybrid mismatches rules) by 1 January 2022.

Among others, the report notes that four Member States, Austria, Denmark, Ireland, and Spain, have not yet fully complied with their obligations to adopt and notify transposition measures with regard to the interest limitations, GAAR and CFC rule and the Commission opened ex officio infringement procedures for failure to implement the necessary measures. Furthermore, the Commission opened infringement cases against the Member States that failed to notify national implementing measures for exit taxation (Germany, Greece, Latvia, Portugal, Romania and Spain) and hybrid mismatches (Cyprus, Germany, Greece, Latvia, Poland, Romania and Spain), which should have been transposed by 31 December 2019.

United Nations

On 6 August 2020, the United Nations (UN) Committee of Experts on International Cooperation in Tax Matters released a draft provision and its Commentary which would allow source taxation of income from the rendering of automated digital services in accordance with the outcomes of the 20th session of the Committee. According to the draft provision, income from automated digital services arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State. However, income from automated digital services arising in a Contracting State may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the beneficial owner of the income is a resident of the other Contracting State, the tax so charged shall not exceed a specific percent to be established through bilateral negotiations of the gross amount of the income. The draft provision defines automated digital services as "any payment in consideration for any service provided on the internet or an electronic network requiring minimal human involvement from the service provider."

Recently, the UN announced that the 21st Session of the Committee of Experts on International Cooperation in Tax Matters will be held using a virtual platform with informal meetings held between the dates 20 October and 6 November 2020. In preparation for the 21st Session, the UN has also released a number of draft papers for public comments. The list of draft papers can be accessed here and interested parties can send their comments on any of the draft papers to taxcommittee@un.org. That session will also review the progress made in the UN Handbook on the avoidance and resolution of tax disputes with the aim of having a final text that can be approved at the April 2021 session. The handbook will set out best practices and also discuss the use of mediation and arbitration of tax disputes and other improvements to mutual agreement procedure.

Recently, the UN Committee of Experts on International Cooperation in Tax Matters released a discussion draft on possible changes to the UN Model Double Tax Convention (UN MTC) concerning Capital Gains on Offshore Indirect Transfers (OITs). The discussion draft contains three sections; Section 1 of the discussion draft contains draft changes to paragraph 18 of the existing Commentary on Article 13 to clarify the scope of the alternative that is provided in that paragraph. Section 2 contains a draft provision (with its Commentary) that would allow for the taxation of gains from certain OITs by the Contracting State in which the underlying local assets are situated. Section 3 addresses the direct taxation of gains from the alienation of financial assets and of certain rights granted by the government of that State. The discussion draft is open for comments from 22 July to 21 August 2020. These comments will be examined at the September online meeting of the Subcommittee on the UN MTC between Developed and Developing Countries with a view to continuing the discussion of the proposed changes at the Committee's 21st session in October 2020.

Also, the Subcommittee released a statement with the agreed outcome from Subcommittee Meeting on the Tax Consequences of the Digitalization of the Economy that took place on 25-27 August 2020. According to the statement, the Subcommittee discussed the draft provision for Article 12B and Commentary and agreed that it would be useful for the Drafting Group to continue its work and prepare an amended draft which takes into account the comments submitted by members and observers as far as the drafting group considers them an improvement of their draft.

Recently, the UN Committee of Experts on International Cooperation in Tax Matters released a discussion draft on possible changes to the UN MTC to include software payments in the definition of royalties. The discussion draft contains three sections; Section 1 includes the proposal for change to the definition of royalties found in Art. 12(3) of the UN MTC. Section 2 includes the reasons for that proposal that were put forward by the members of the Committee who drafted it. Section 3 includes some of the arguments that have been raised by members who oppose the proposal. The discussion draft is open for comments from 1 September to 2 October 2020.

African Tax Administration Forum

On 26 and 27 August 2020, the 4th High-Level Tax Policy Dialogue took place virtually through Zoom Conferencing under the theme "Taxing Rights for Africa in the New World and Effects of COVID-19: The Role of Tax Policymakers and Tax Administrators." The event was jointly organized by the African Tax Administration Forum (ATAF) and the African Union Commission, and with the support of the African Development Bank. During the meeting, the participants took note of the complexities surrounding the global debate on the tax challenges arising from the digital economy, including the uncertainty on the timelines towards completion of negotiations. The meeting emphasized the urgent need to agree on a harmonized African position on the approach toward taxing digital multinational enterprises operating on the continent and to ensure continuous engagement with the global process on taxing the digital economy. The participants also agreed that the African Union should play a critical role in providing the much-needed political support and leadership on the ongoing discussions on consensus-based solutions.

Australia

On 3 September 2020, the Treasury Laws Amendment (2020 Measures No. 2) Bill 2020 received Royal Assent in Australia and thus became law as corresponding Act No. 79. The law includes, among others, certain amendments to the hybrid mismatch rules to clarify and strengthen their operation. The date of effect of the amendments varies from 1 January 2019 to 1 July 2020. According to the amendments, for the purpose of applying the hybrid mismatch rules, trusts and partnerships will be recognized as entities that can make and receive payments, hold, acquire or dispose of assets and enter into schemes. The amendments also clarified the definition of a deducting hybrid entity, the operation of the dual inclusion income rule, the definition of foreign hybrid mismatch rules and that, for the purposes of applying the hybrid mismatch rules (other than the integrity rule), foreign income tax generally does not include foreign municipal or State taxes.

Bulgaria

On 4 August 2020, Bulgaria amended the Tax and Social Security Procedure Code by extending the deadlines for Directive on Administrative Cooperation (DAC) 2 (Common Reporting Standard) and DAC6 (mandatory disclosure rules) reporting frameworks.

The extension is based on Directive (EU) 2020/876 that amends the DAC allowing EU Member States an option to defer the time limits for DAC2 and DAC6 reporting.

The DAC2 reporting deadline for financial institutions in respect of information concerning the taxable period 2019 is extended from 30 June 2020 to 30 September 2020.

The DAC6 reporting deadlines for intermediaries and taxpayers are extended as follows:

- For mainstream reporting (30-day period to report new cross-border arrangements), the deadline period commences on 1 January 2021.
- For reportable arrangements which have taken place between 1 July 2020 and 31 December 2020, the deadline is within a 30-day period commencing on 1 January 2021.
- For historical reporting (reportable arrangements from 25 June 2018 to 30 June 2020), the deadline is extended from 31 August 2020 to 28 February 2021.
- For first periodic reporting of marketable arrangements (reportable arrangements between 1 July 2020 and 31 December 2020) the first reporting is due by 30 April 2021.

Croatia

On 31 August 2020, the Croatian Ministry of Finance released for public consultation a draft law for the implementation in Croatia of the MLI. The consultation deadline is 30 September 2020. Croatia submitted its provisional MLI positions at the time of signature, listing its reservations and notifications as well as the CTAs it wishes to be covered by the MLI (62 CTAs). The instrument of ratification still needs to be deposited before the MLI will enter into force with respect to its CTAs. A definitive list of reservations and notifications will also need to be provided upon the depositing of the instrument of ratification.

Cyprus

On 27 July 2020, the Cypriot Tax Authority (CTA) issued an official announcement confirming that Cyprus has adopted a six-month deferral related to the EU Directive on the mandatory disclosure and exchange of cross-border tax arrangements (referred to as DAC6 or the Directive).

This announcement follows the adoption of the Directive on 24 June 2020 by the Council of the EU allowing EU Member States an option to defer, for up to six months, the time limits for the filing and exchange of information on cross-border arrangements under DAC6.

See EY Global Tax Alert, *Cyprus postpones MDR reporting deadlines for six months*, dated 5 August 2020.

Egypt

On 18 August 2020, the Egyptian House of Representatives approved for ratification the MLI. As part of the ratification process, the approved draft of the MLI is sent for final presidential ratification. If the President does not ratify the draft law within 30 days and does not expressly object to it, it automatically becomes law 30 days from its submission for presidential ratification. Egypt submitted its provisional MLI positions at the time of signature, listing its reservations and notifications as well as the CTAs it wishes to be covered by the MLI (55 CTAs). The instrument of ratification still needs to be deposited before the MLI will enter into force with respect to its CTAs. A definitive list of reservations and notifications will also need to be provided upon the depositing of the instrument of ratification.

France

On 22 July 2020, France published in the *Official Journal* the decree (*arrêté*) of 20 July 2020 which updated the list of jurisdictions that have country-by-country (CbC) reporting requirements similar to the French legislation (article 223 quinquies C of the French Tax Code) and have concluded with France an agreement on the automatic exchange of information included in CbC reports.

For fiscal years commencing on or after 1 January 2018, the following states are added to the existing list: Andorra, Colombia, Cayman Islands, Curaçao, Monaco, Nigeria, Pakistan, Peru, Qatar, United Kingdom, and Switzerland. Israel has been withdrawn from the list.

Gibraltar

On 10 July 2020, the Gibraltar Government published the International Tax Compliance (Amendment) Regulations 2020 amending the provisions of the *Income Tax Act 2010* and other local legislation to defer certain deadlines for the disclosure and exchange of information on cross-border tax arrangements and financial accounts due to the impact of the COVID-19 pandemic.

Under the Regulations, the deadline for intermediaries and/or relevant taxpayers to report cross-border arrangements in accordance with the Directive (EU) 2018/622 (DAC6) that were implemented or made available from 25 June 2018 to 30 June 2020, is extended from 31 August 2020 to 28 February 2021.

The 30-day reporting period for reportable cross-border arrangements that are implemented or made available between 1 July 2020 and 31 December 2020, starts on 1 January 2021.

For periodic reporting on marketable cross-border arrangements (i.e., arrangements that are designed and marketed without a need to be customized), the first reporting is due by 30 April 2021.

The automatic exchange of the above information will take place for the first time on 30 April 2021.

The Regulations also provide for a deferral in the reporting of financial accounts under the Common Reporting Standard (CRS) and the *Foreign Account Tax Compliance Act* (FATCA) for the calendar year 2019 until 30 September 2020. In the case of CRS, the automatic exchange of such information should take place within 12 months following the end of the calendar year 2019.

Greece

On 31 July 2020, L. 4714/2020 was published in the Greek *Government Gazette*, transposing three EU Directives: (i) the Council Directive (EU) 2016/1164 as amended by Council Directive (EU) regarding hybrid mismatches and exit taxation; (ii) Council Directive (EU) 2018/822 of 25 May 2018 amending Directive 2011/16/EU regarding mandatory automatic exchange of information in the field of taxation relating to reportable cross-border arrangements (DAC6); and (iii) the EU Tax Dispute Resolution Directive (2017/1852).

On 27 July 2020, the Dispute Settlement Body of the Independent Authority for Public Revenue decided that the reduction of share capital of a Greek Corporation instead of a dividend distribution during profitable tax years does not constitute an artificial arrangement within the meaning of the GAAR under tax Greek tax rules. The body based its decision on the interpretation of the Greek GAAR as provided in Circular 2167/2019. The body referred to, among other cases, *Cadbury Schweppes* (C-196/04) and *Eurowings Luftverkehr* (C-294/97), without mentioning the *Danish Beneficial Ownership* cases (C-115/16, C-116/16).

On 21 July 2020, the Independent Authority for Public Revenue provided the legal framework for exchange of information between Greece and:

- Other EU Member States (EU Directive 2011/16 and its subsequent amendments, as implemented in Greek legislation)
- Third countries (the OECD Multilateral CbC MCAA, the Automatic Exchange of Financial Account Information Agreement (CRS MCAA), the FATCA agreement with the US, the Greece – United States Competent Authority Agreement on the Exchange of Country-By-Country (CbC) Reports (2017), tax treaties and the Exchange of Information Agreement with Guernsey)

In addition, the authority communicated the template for the request for information filed with the tax authorities.

Italy

On 22 July 2020, the Italian Government approved the Legislative Decree (the Italian Legislation) which implements the EU Directive on the mandatory disclosure and exchange of cross-border tax arrangements (referred to as DAC6 or the Directive). The Italian Legislation will become effective 15 days after the date of publication in the *Official Journal*.

The Italian legislation is broadly aligned to the requirements of the Directive. The Italian legislation also provides for a six-month deferral of the reporting deadlines as approved by the Council of the EU as a consequence of the COVID-19 pandemic.

See EY Global Tax Alert, *Italy approves legislation to implement Mandatory Disclosure Rules*, dated 4 August 2020.

On 17 July 2020, Italy ratified the tax treaty with Uruguay. which was signed on 1 March 2019.

The treaty contains the preamble language which clarifies that the tax treaty is not intended to be used to generate non-taxation or reduced taxation through tax evasion or avoidance, including treaty shopping. In cases where a person other than an individual is resident in both Italy and Uruguay (i.e., a dual resident entity), both competent authorities shall endeavor to determine by mutual agreement, the Contracting State of which the person shall be deemed to be a resident.

In the permanent establishment (PE) clause, the treaty includes the new definition of agency PE, an anti-fragmentation rule, and the specific activities exceptions subject to the preparatory or auxiliary requirement.

The treaty also includes a principal purpose test. Furthermore, the treaty enables taxpayers to present a case for mutual agreement procedure (MAP) to the competent authorities of either Contracting State. It provides a period of three years for submission of a MAP request, beginning on the date of the first notification of the action resulting in taxation not in accordance with the provisions of the treaty.

Both Italy and Uruguay have signed the MLI but neither of them has included this tax treaty as a CTA. Therefore, it may be expected that the treaty will not be further modified by the MLI, particularly given that the treaty already includes the treaty-related BEPS minimum standards.

Lithuania

On 30 July 2020, the Lithuanian State Tax Inspectorate issued amendments to the Mandatory Disclosure Regime (MDR) rules to introduce a six-month deferral to the EU Directive on the mandatory disclosure and exchange of cross-border tax arrangements (referred to as DAC6 or the Directive). The amendments follow the adoption of a Directive on 24 June 2020 by the Council of the EU allowing EU Member States an option to defer, for up to six months, the time limits for the filing and exchange of information on cross-border arrangements under DAC6. The amendments to the Lithuanian MDR rules came into force on 31 July 2020.

The Lithuanian MDR legislation was adopted on 30 July 2019 and it is broadly aligned to the requirements of the Directive.

See EY Global Tax Alert, *Lithuania postpones MDR reporting deadlines for six months*, dated 5 August 2020.

Malaysia

On 1 August 2020, Malaysia's Royal Malaysian Customs Department (Customs) released an updated service tax Guide on Digital Services by Foreign Service Providers (the Guide). From 1 January 2020, registered foreign persons (FRPs) are required to charge service tax at a 6% rate on digital services provided to consumers in Malaysia. Details of new group relief provisions and clarification on several aspects of the law are included in the recently released Guide. Under the new group relief rules, FRPs will not need to charge service tax when providing digital services to companies in Malaysia within its group of companies provided that the FRP does not provide the same digital services outside its group of companies. A full text of the Guide is available on Customs' MYSST portal.

Malta

On 31 August 2020, the Commissioner for Revenue of Malta published guidelines in connection with the scope and application of the rules introduced by the Anti-Tax Avoidance Directives Implementation Regulations (ATAD Regulations).

The main provisions of the guidelines relate to:

- Interest deduction limitations: The guidelines clarify that the interest deduction limitations are applicable as from the basis year starting on or after 1 January 2019.

Furthermore, for the purposes of the interest deduction limitation, EBITDA (earnings before interest tax depreciation and amortization) shall be calculated after all actual and deemed deductions are provided for in terms of local legislation.

- Exit tax: The provisions on exit taxation apply as from 1 January 2020.
- Controlled Foreign Company: CFC regulations are applicable as from the basis year starting on or after 1 January 2019.

Mexico

On 24 July 2020, Mexico published in the Mexican *Official Gazette* the second resolution of amendments to the 2020 Miscellaneous Tax Regulations in the Mexican *Official Gazette*, which among other items, provides rules for individuals selling products or rendering services through digital platforms. These new rules provide that nonresident taxpayers rendering digital services in Mexico may opt to pay value-added tax (VAT) in Mexican pesos or US dollars. Additionally, these new rules provide details on nonresident taxpayers rendering digital intermediation services, namely when the amount collected for the sale of goods, provision of services or the use/disposition of goods is reimbursed to the customer. In the latter case, the VAT paid for such goods or services may be offset in the following VAT returns. These new rules are effective on the day following their publication in the *Official Gazette*.

Portugal

On 11 August 2020, the Portuguese Government enacted legislation postponing for six months the reporting deadlines under the domestic law that implements the EU Directive on the mandatory disclosure and exchange of cross-border tax arrangements (referred to as DAC6 or the Directive).

This provision has been enacted in the context of the transposition into Portuguese law of the EU Directive 2020/876, of 24 June, which enables Member States to defer, up to six months, the time limits for the filing and exchange of information on cross-border arrangements foreseen in DAC6.

See EY Global Tax Alert, *Portugal postpones MDR reporting deadlines for six months*, dated 13 August 2020.

Slovakia

On 9 July 2020, the Slovak National Council approved a six-month deferral to the EU Directive on the mandatory disclosure and exchange of cross-border tax arrangements (referred to as DAC6 or the Directive). Under DAC6, taxpayers and intermediaries are required to report cross-border reportable arrangements from 1 July 2020. However, reports will retrospectively cover arrangements where the first step is implemented between 25 June 2018 and 1 July 2020.

The deferral approval in Slovakia follows the adoption on 24 June 2020 by the Council of the EU of amendments to the EU Directive 2011/16 allowing Member States an option to defer, for up to six months, the time limits for filing and exchange of information on cross-border arrangements under DAC6.

See EY Global Tax Alert, *Slovakia postpones MDR reporting deadlines for six months*, dated 13 August 2020.

Sweden

On 3 September 2020, the Swedish Government announced a proposal to introduce a measure that would deny the deductibility of interest expenses on payments to companies listed in the EU list of non-cooperative jurisdictions. The new measure would apply to both related and unrelated party transactions and it is proposed to enter into force as of 1 January 2021.

Switzerland

On 31 July 2020, the Swiss Ministry of Finance published a mutual agreement, signed by Switzerland on 28 July 2020 and by the US on 23 July 2020, respectively, on mandatory binding arbitration under article 25(6) and (7) of the Switzerland-United States Income Tax Treaty (1996), as amended by the 2009 protocol and exchange of notes.

According to the mutual agreement, the cases eligible for arbitration are: (i) cases in which no agreement under a mutual agreement can be reached, generally, within two years and all conditions for starting an arbitration procedure are satisfied; and (ii) unresolved bilateral Advance Pricing Agreement (APA) requests.

The cases not eligible for arbitration are: (i) cases not accepted by a competent authority or cases where no assistance is provided to a taxpayer because the procedural requirements are not met; (ii) cases which are deemed not to be suitable for arbitration by the competent authorities; and (iii) cases solved by a decision of a Court or Administrative Tribunal.

Interested parties must decide within 30 days whether they agree with the outcome of the arbitration procedure.

Taiwan

On 18 August 2020, the Taiwan Ministry of Finance (MOF) has issued Tai Tsai Shuei Tax Ruling No. 10904576560 to detail the draft amendments to certain provisions of the Regulations Governing Assessment of Profit-Seeking Enterprise Income Tax on Non-Arm's-Length Transfer Pricing (TP Regulations). Official amendments are expected to be finalized prior to the end of 2020 and will apply to the 2020 Taiwan corporate income tax filings. The amendments impact the valuation of intangibles, across a wide range of various industries. Among others, the amendments: (i) re-define the definition of intangibles; (ii) require a comparability analysis on the development, enhancement, maintenance, protection, and exploitation (DEMPE) activities to ensure that profit allocation is consistent with the DEMPE functions performed and at arm's length; and (iii) include the addition of the Income-based Method as a TP method in evaluating the arm's-length nature of intangible transactions, corresponding Income-based method regulations, and factors to be considered when applying the method.

Tanzania

On 1 July 2020, the Tanzania Revenue Authority published the Transfer Pricing (TP) Guidelines 2020, replacing the TP Guidelines released in 2014. The TP Guidelines 2020 provide a practical guidance on the interpretation and application of the Tax Administration TP Regulations 2018. The TP Guidelines 2020 cover among others the following items; (i) functional analysis; (ii) intra-group services; (iii) financing activities; (iv) intangible property; (v) APAs; and (vi) corresponding adjustments. In cases of any conflict of interpretation between the TP Guidelines 2020 and any provision of the law, the latter shall prevail.

Vietnam

On 24 June 2020, the Vietnamese Government enacted Decree No. 68/2020/ND-CP (the Decree) which: (i) amends the limitation on deduction for interest expenses; (ii) revises the arm's-length range; and (iii) proposes the use of commercial database as comparables for benchmarking purposes. According to the Decree, the EBITDA rule restricting the amount of related-party interest that is deductible will increase from the original 20% which was introduced on 1 May 2017 to 30%. Further, the carry forward option is limited to five years immediately succeeding the year for which the excess interest expense was first incurred. Previously interest deductions were unable to be carried forward. The New Decree applies from fiscal year 2019 onwards. The amended interest deduction rules can be applied retrospectively for the tax years 2017 and 2018. Taxpayers that opt to use the revised interest deduction cap of 30% for the tax years 2017 and 2018 must submit the amended 2017 and 2018 corporate income tax returns by 1 January 2021.

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