

Report on recent US international tax developments - 16 October 2020

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The OECD¹ and the Inclusive Framework on BEPS² on 12 October released a series of documents in connection with the ongoing project on addressing the tax challenges arising from the digitalization of the economy, commonly known as the BEPS 2.0 project. The project, which began in early 2019, consists of two elements: Pillar One focused on developing new nexus and profit allocation rules and Pillar Two focused on developing global minimum tax rules. The released documents include detailed reports on the Blueprints on Pillar One ([Report](#)) and Pillar Two ([Report](#)); a lengthy Economic Impact Assessment ([Report](#)) of the Pillar One and Pillar Two proposals; a [Cover Statement](#) by the Inclusive Framework on the work to date and the next steps; a [Public Consultation](#) Document requesting comments on the Blueprints on both Pillars; and a [Report](#) to the G20 Finance Ministers for their 14 October meeting.

The OECD held both an [on-line press conference](#) and a [webcast](#) to update the press and the public on the latest developments in the BEPS 2.0 project.

According to the Inclusive Framework Cover Statement, even though substantial progress has been made on the BEPS 2.0 work, key political and technical issues still need to be resolved. As a result, the initial timeline for delivering a consensus-based solution by the end of 2020 cannot be met. The Inclusive Framework has now agreed to continue working to bring the process to a successful conclusion by mid-2021, specifically noting the need "to resolve technical issues, develop model draft legislation, guidelines, and international rules and processes as necessary to enable jurisdictions to implement a consensus-based solution."

The OECD is hosting a webcast to report on the Economic Impact Assessment Report on 20 October. The public consultation on the Pillar One and Pillar Two Blueprints will be open for stakeholder input until 14 December 2020 and all written comments received will be made publicly available. Public consultation meetings on the Blueprints will be held in January 2021.

On 14 October, the G20 Finance Ministers and Central Bank Governors met via teleconference and at the conclusion of the meeting issued a joint [communiqué](#) that touched on the BEPS 2.0 project. The communiqué reaffirmed the G20's commitment to making further progress on the two-pillar approach and stressed the importance of addressing the remaining issues in order to reach a global and consensus-based solution by mid-2021.

For details on this development, see EY Global Tax Alert, [G20 Finance Ministers and Central Bank Governors' meeting communiqué extends mandate of Inclusive Framework to continue negotiations on BEPS 2.0 project until mid-2021](#), dated 14 October 2020. A series of upcoming Global Tax Alerts will provide additional analysis including implications. An EY Global Thought Center webcast [Taxation of the digitalized economy: What's next](#) is scheduled for 28 October 2020.

The extension of the BEPS 2.0 mandate to mid-2021 raises questions regarding the implications for existing and pending Digital Services Taxes (DST). In particular, France

has suspended the collection of its DST until the end of 2020 under the condition that a global agreement would be reached by then. In light of the new G20 timeline, it is expected that France will communicate soon on whether it will extend the suspension pending the continued OECD negotiations. Other countries have been contemplating potential action on new DST legislation by the end of the year.

A European Commission (the Commission) spokesperson quickly provided the European Union's (EU) response to the latest developments. The official was quoted as saying the EU will not take unilateral action and will wait and abide by the new OECD Inclusive Framework timeline. The official indicated, however, that the EU will take unilateral action if the BEPS 2.0 process breaks down.

Going forward, the Commission may include discussion of a digital levy in the Commission Communication "Business Taxation for the 21st Century" that is expected to be released on 28 October 2020. Therefore, over the next few weeks, it will be important to monitor responses of individual G20 and non-G20 jurisdictions and the EU to these G20 developments.

In a related development, a United Nations (UN) digital taxation subcommittee on 11 October issued a note that includes a new proposed model treaty article and commentary on taxing the digital economy. New Article 12B (Income from Automated Digital Services), is proposed to be incorporated in the UN Model Double Taxation Convention Between Developed and Developing Countries.

Endnotes

1. Organisation for Economic Co-operation and Development.
2. Base Erosion and Profit Shifting.

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