

# Americas Tax Roundup

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## Latest news – Americas

### [OECD/G20 Inclusive Framework releases Administrative Guidance under Pillar Two GloBE rules: First Impressions](#)

On 2 February 2023, the OECD released anticipated [Administrative Guidance](#) on the Pillar Two Global Anti-Base Erosion (GloBE) Rules, as approved by the OECD/G20 Inclusive Framework on BEPS. This document provides additional guidance on a series of issues arising under the GloBE Model Rules and related Commentary.

### [Argentine Government updates list of non-cooperating jurisdictions for income tax](#)

The Argentine Government published Decree 48/2023, updating the list of non-cooperating jurisdictions for income tax purposes. The updated list of 80 non-cooperating jurisdictions is applicable for tax years beginning on or after 27 January 2023.

### [Peru extends tax incentives applicable for Real Estate Investment Funds](#)

The Peruvian Government enacted Law 31650, extending the tax incentives for Real Estate Investment Funds, introduced through Legislative Decree 1188. These tax incentives are extended to 31 December 2026 from 31 December 2022.

### [Chile postpones increase in the amounts of mining patents](#)

Chile enacted Law 21,536, which postpones to 2 January 2024, a series of legal changes applicable to the mining industry that were introduced by Law 21,420. Postponing the changes will allow Congress to have more time to correct certain issues identified in the parliamentary discussion and consider the suggestions raised by the different industry stakeholders in Chile.

### [Panama's Ministry of Economy and Finance extends term for implementation of electronic invoicing system](#)

Through Executive Decree No. 3 issued on 20 January 2023, Panama's Ministry of Economy and Finance extended the time for adopting the use of electronic invoicing mechanisms for certain businesses.

### [Costa Rican tax authority publishes Institutional Criterion regarding tax treatment of foreign exchange gain or loss in financial investment instruments](#)

The Costa Rican tax authority issued Institutional Criterion N° DGT-CI-001-2022, on the tax treatment of the foreign exchange gain or loss in financial investment instruments with respect to the capital gains tax. In general terms, the Institutional Criterion clarifies that in the event of a return of capital resulting from an investment made in foreign currency, there is no taxable or deductible exchange rate differential with respect to the tax on capital gains until there is an effective exchange of foreign currency to national currency.

### [Costa Rican General Directorate of Treasury establishes new procedure to request tax exemptions through Exonet system](#)

On 30 January 2023, Costa Rica's General Directorate of Treasury issued Resolution No. RES-DGH-005-2023, which establishes the procedure for requesting and processing tax exemptions through the Exonet system. The resolution also contains the requirements for requesting tax incentives through the Exonet system.



### [Costa Rican tax authority publishes new update to Catalogue of Goods and Services](#)

On 30 January 2023, the Costa Rican tax authority published an update to the Catalogue of Goods and Services. The update responds to the entry into force of the new list of basic goods and products subject to the reduced value-added tax rate of 1%.

### [Dominican Republic's Executive Branch publishes general regulations to new Customs Law](#)

On 24 January 2023, the Dominican Republic's Executive Branch published the general regulations for the application of the DR's new Customs Law. According to the customs authority, the regulations will position the Dominican Republic among the most competitive and innovative countries in the region.

### [US IRS examiners must consult IRS counsel before applying the economic substance doctrine in transfer pricing audits](#)

On 18 January 2023, an official in the IRS Large Business and International Division told an American Bar Association Section of Taxation meeting that examiners still must consult with IRS counsel before asserting related penalties related to the economic substance doctrine (ESD). The statement follows a decision to no longer require IRS examiners to obtain executive-level approval in order to assert the ESD under Internal Revenue Code Section 7701(o) during an audit.

### [US IRS addresses deductions involving cryptocurrency in two Chief Counsel Advice memos](#)

In two CCAs, the IRS has issued "non-specific taxpayer" advice involving cryptocurrency transactions, both concluding that cryptocurrency is not a "security" under Internal Revenue Code Section 165(g)(2). In CCA 202302011, the IRS determined that a taxpayer could not claim a loss deduction for cryptocurrency that had lost almost all its value; in CCA 202302012, the IRS determined that a taxpayer could not claim a charitable deduction for a donation of cryptocurrency that she had not had independently appraised.

### [US | Interim guidance on stock buyback excise tax offers mixed bag for corporate taxpayers](#)

Notice 2023-2 (Notice) announces that the Treasury Department and the IRS intend to issue proposed regulations on the application of the new 1% excise tax on repurchases of certain corporate stock under Internal Revenue Code Section 4501, which was enacted by the *Inflation Reduction Act*. The excise tax applies to repurchases made after 31 December 2022. The notice describes certain rules that the Treasury Department and IRS intend to include in the forthcoming proposed regulations. Taxpayers may rely on these rules until the forthcoming proposed regulations are issued.

### [USCIS announces FY 2024 H-1B Cap Registration Period](#)

The U.S. Citizenship and Immigration Services (USCIS) has announced that the initial registration period for the fiscal year (FY) 2024 H-1B Cap will run from 1 March to 17 March 2023. During this period, prospective petitioners and representatives will be able to complete and submit their registrations using USCIS' online H-1B registration system.

### [USCIS to resume bundling adjudication of I-539 and I-765 applications filed by H-4 and L-2 spouses](#)

Effective 25 January 2023, the U.S. Citizenship and Immigration Services has agreed to adjudicate Form I-539 (Application to Change or Extend Status) and Form I-765 (Application for Employment Authorization) applications submitted by H-4 and L-2 spouses, when these forms are "properly filed together" with an underlying I-129 petition.



### [Canada Border Services Agency updates trade compliance verification list: January 2023](#)

The Canada Border Services Agency (CBSA) has released its semi-annual list of trade compliance verification (audit) priorities. The list is designed to update the importing community on ongoing verification priorities and set the stage for new priorities for the upcoming calendar year.

### [EY Canada issues latest edition of TaxMatters@EY](#)

TaxMatters@EY, a monthly bulletin prepared by EY Canada, provides a summary of recent Canadian tax news, publications, and resources. Highlights of the February 2023 issue include: (i) updates on recent developments in the new residential property flipping rule, the underused housing tax and the tax-free first home savings account; and (ii) recent Tax Alerts.

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## This week's tax treaty news in the Americas

- ▶ [Venezuela and Türkiye: investment protection agreement negotiations concluded](#)

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## Upcoming webcasts

### [What India's 2023-24 Budget could mean for its economy \(9 February\)](#)

Senior EY tax and policy professionals will help explain the fine print of the 2023-24 India Budget, covering the macroeconomic and policy announcements, direct tax proposals and indirect tax proposals.

### [Private equity and private capital quarterly tax webcast \(16 February\)](#)

A panel of EY professionals will conduct a timely discussion of recent global private equity (PE) industry trends and the outlook for changes relevant to PE and alternative funds, transactions and portfolio companies.

### [Tax in a time of transition: US legislative, economic, regulatory and IRS developments \(17 February\)](#)

Companies need to keep pace with a tax and economic environment in transition. In this regularly occurring webcast series, panelists will provide updates on: (i) the US economy and tax policy; (ii) what's happening at the IRS; and (iii) breaking developments.

For a full list of upcoming webcasts, please access EY's webcast page on [ey.com](#) [here](#).

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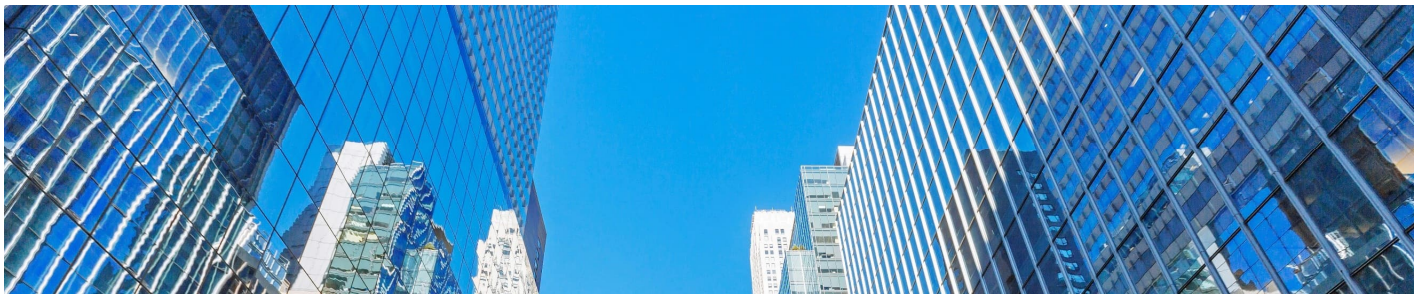
## Recently issued EY podcasts

### [US Cross-Border Taxation weekly podcast, 3 February 2023](#)

EY's weekly US Cross-border Taxation podcast reviews the week's US international tax-related developments. Highlights this week include:

- ▶ OECD Inclusive Framework releases Administrative Guidance under BEPS Pillar Two GloBE rules
- ▶ OECD issues Manual on MAP procedures and APAs
- ▶ OECD publishes package on tax dispute resolution

You can register for this weekly podcast on Apple Podcasts [here](#).



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## This week's EY Global Tax Alerts

### Americas Global Tax Alerts

- ▶ [Report on recent US international tax developments – 3 February 2023](#)
- ▶ [OECD/G20 Inclusive Framework releases Administrative Guidance under Pillar Two GloBE rules: First Impressions](#)
- ▶ [Chile postpones increase in the amounts of mining patents](#)
- ▶ [Costa Rican General Directorate of Treasury establishes new procedure to request tax exemptions through Exonet system](#)
- ▶ [Costa Rican Tax Authority publishes Institutional Criterion regarding tax treatment of foreign exchange in financial investment instruments](#)
- ▶ [Peru extends tax incentives applicable for Real Estate Investment Funds](#)
- ▶ [US IRS examiners must consult IRS counsel before applying the economic substance doctrine in transfer pricing audits](#)
- ▶ [Updated US list of foreign currency futures contracts - starting point for Section 1256](#)
- ▶ [Updated 2022 US Section 1256 qualified board or exchange list](#)
- ▶ [US | Interim guidance on stock buyback excise tax offers mixed bag for corporate taxpayers](#)
- ▶ [US IRS addresses deductions involving cryptocurrency in two Chief Counsel Advice memos](#)

### Other Global Tax Alerts

- ▶ [India releases Union Budget 2023](#)
- ▶ [Japan and Switzerland's updated Double Taxation Agreement has entered into force](#)

### Human Capital Alerts

- ▶ [Cambodia implements new online application procedure for Type E Visa](#)
- ▶ [Costa Rican Tax Authority publishes new update to Catalogue of Goods and Services](#)
- ▶ [Dominican Republic's Executive Branch publishes General Regulations to new Customs Law](#)
- ▶ [Indian Fiscal Budget 2023 - Key tax proposals impacting individuals and employers](#)
- ▶ [Indonesia | Local counterpart training certificates mandatory for work permit renewal](#)
- ▶ [Italy releases work quotas, labor office confirmation now required to hire foreign employees](#)
- ▶ [Korea's National Assembly passes significant 2022 tax reform bills](#)
- ▶ [Lithuania allows Blue Card and Temporary Residence Permit applications to now be submitted in applicant's home country](#)
- ▶ [Switzerland relaxes rules for hiring highly skilled non-EEA nationals](#)
- ▶ [USCIS announces FY 2024 H-1B Cap Registration Period](#)
- ▶ [USCIS to resume bundling adjudication of I-539 and I-765 applications filed by H-4 and L-2 spouses](#)



## Indirect Tax Alerts

- ▶ Canada Border Services Agency updates trade compliance verification list: January 2023
- ▶ Panama's Ministry of Economy and Finance extends term for implementation of electronic invoicing system
- ▶ Portugal publishes guidance regarding contribution on single-use packaging made of plastic or aluminum (or multi-material) for ready-to-eat meals

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## EY Industry and Tax Services publications

### Industry

#### Consumer Products & Retail

- ▶ Fashioning a sustainable future for an online clothing retailer

#### Private Equity

- ▶ Private equity firms are harnessing the ESG premium

### Services

#### Tax

- ▶ A practical guide to EU business travel and posted worker compliance
- ▶ Five legal considerations for businesses taking a lead on NFTs

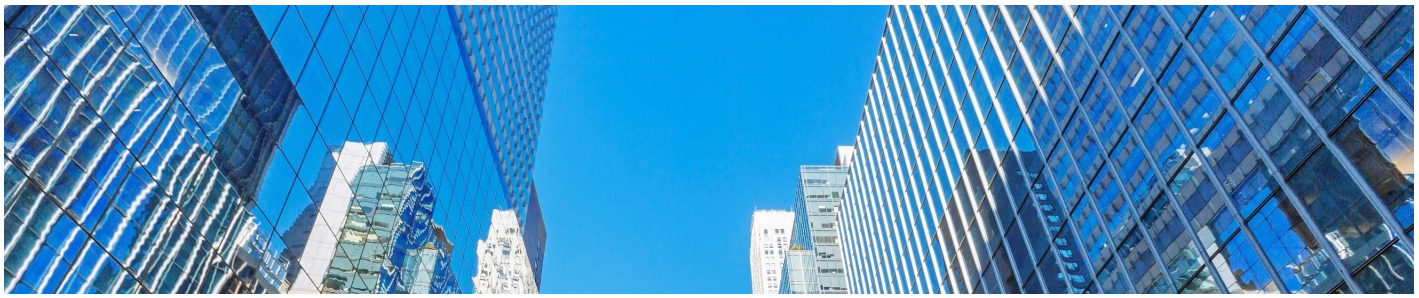
#### People and workforce

- ▶ Updated: How COVID-19 is disrupting immigration policies and worker mobility: a tracker

## Comments

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If you have any questions or suggestions about this newsletter, please email Global Tax News Update Help at: [globaltaxnewsupdatehelp@ey.com](mailto:globaltaxnewsupdatehelp@ey.com).



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