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Global Tax Alert

The Latest on BEPS and Beyond

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EY Tax News Update: Global Edition

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Highlights

As 2023 came to a close, many jurisdictions brought their Pillar Two minimum tax legislation to the finish line. By 1 January 2024, 22 jurisdictions had enacted minimum tax rules, as summarized in this edition of the *Latest on BEPS and Beyond* and EY's Pillar Two Developments Tracker. As of 2024, multinational enterprises (MNEs) must navigate a new, complex set of rules.

While the recent progress implementing Pillar Two of the Base Erosion and Profit Shifting (BEPS) 2.0 initiative has been noteworthy, some uncertainty remains. The OECD/G20 Inclusive Framework on BEPS (Inclusive Framework) recently updated its timeline for completing the work on Pillar One. Capitals worldwide are yet to agree on final guidelines on Amount B and settle on the content of the Amount A Multilateral Convention (MLC). And it is not clear whether prior political pressure on these instruments will help make Pillar One a success. Notably, while the standstill commitment for digital service taxes (DSTs) and other similar measures met its deadline at the end of 2023, a renewal was absent.

The fact that the Inclusive Framework has not renewed its DST standstill commitment may provide an opening to countries to introduce innovative tax measures. France's quasi-DST on streaming platforms is particularly noteworthy and may set the tone for 2024. The unfolding year could reveal whether more countries emulate this approach.

Building a better working world

This year (2024) also presents circumstances that could critically shape the world of BEPS and beyond. First, major democracies will invite billions of citizens to cast votes, as key elections will be held in the European Union (EU), the United States (US), India, Bangladesh and Indonesia. Any ensuing change of guard in political arenas and, subsequently, economic policies could bring new tax policies.

Second, the United Nations (UN) will embark on a fresh tax journey following the recent adoption of a resolution that upgrades the tax work of the organization. Upcoming negotiations in New York could lead to directional changes in the development of international tax policies.

Navigating 2024 will not only be about existing global standards set by the OECD and the UN and new guidance building on these standards, or the influence of national and regional initiatives, but also will depend greatly on the outcome of forthcoming elections and geopolitical trends. As global businesses await the year's developments, they will want to note that regional and national changes could alter their tax journey.

BEPS 2.0

OECD

OECD releases a working paper on the economic impact of the global minimum tax

On 9 January 2024, the OECD released the working paper "The Global Minimum Tax and the taxation of MNE profit" which was also presented during a webinar held the same day. The working paper does not represent the official views of the OECD or its member countries. The opinions expressed and arguments employed are those of the authors.

The working paper assesses the impact of the global minimum tax (GMT), using new data on MNEs' worldwide activity building on comprehensive estimates of global low-taxed profit.

The working paper has four main findings. First, profit shifting is estimated to be reduced by about half as a result of the GMT. The reduction in tax rate differentials is estimated to reduce the stock of shifted profit from US$698.4b to US$356.4b. Second, the GMT will reduce low-taxed profit worldwide through reduced profit shifting and top-up taxation. The global amount of MNE profit taxed below the 15% minimum effective tax rate is estimated to fall by more than two thirds. The working paper notes that the reduction in low-taxed profit is observed across all income groups, but it is largely concentrated in investment hubs. Third, the GMT is estimated to reduce tax-rate differentials across jurisdictions or even disappear after the implementation of the GMT. According to the working paper, differentials between investment hubs and other jurisdictions fall by 50%. Finally, the GMT is estimated to increase corporate income tax (CIT) revenues by US$155b to US$192b on average per year, which represents between 6.5% to 8.1% of current global CIT revenues on average.

European Union

Commission services publish FAQ document

On 22 December 2023, an array of documents were added to the European Commission's (Commission) webpage on the Minimum Tax Directive, including a frequently asked questions (FAQ) document. On its webpage, the Commission indicates that the document represents a compilation of reflections of the Commission Services and is not binding for the Commission and the Member States.

In most responses, the FAQ document reiterates the view that the Guidance of the Inclusive Framework "could be used as a source of illustration or interpretation for implementation of the [Pillar Two] Directive in order to ensure consistency in application across Member States to the extent that those sources are consistent with this Directive and Union law."

EU General Court rules Pillar Two annulment case inadmissible

On 22 December 2023, the General Court of the Court of Justice of the European Union published its decision in Case T143/23, where a taxpayer requested the partial annulment of the Minimum Tax Directive.

The annulment request concerned the relation between the Dutch tonnage tax regime and the Minimum Tax Directive. The applicant argued that the Minimum Tax Directive could subject its business to top-up tax and restrict his ability to recover investments that had been made relying on the tonnage tax scheme.

The General Court dismissed the case, ruling it inadmissible because the applicant was unable to effectively show that he belonged to "a limited class of persons" whose pre-existing rights were affected by the adoption of the Minimum Tax Directive.

Country developments

Barbados releases draft legislation on Pillar Two

On 15 December 2023, Barbados released draft legislation on Pillar Two. The proposal is expected to include a Qualified Domestic Minimum Top-up Tax (QDMTT) for fiscal years starting on or after 1 January 2024. It is important to note that the definition of an Excluded Entity includes a constituent entity that is part of an MNE group for which (i) its ultimate parent entity or intermediate parent entity is located in a jurisdiction that has not implemented an Income Inclusion Rule (IIR) or an Under-Taxed Profits Rule (UTPR) in the income year; or (ii) its members are not subject to an UTPR in the income year.

Certain existing tax allowances and credits will be retained and additional credits will be provided that satisfy the criteria of a "Qualified Refundable Tax Credit" under the Global Anti-Base Erosion (GloBE) Model Rules.

The consultation period was open until 5 January 2024.

Finland's president approves the Pillar Two legislation

On 28 December 2023, Finland´s President approved the final legislation implementing the Minimum Tax Directive into domestic law. The final wording of the legislation is aligned with the Directive and introduces a QDMTT and an IIR for fiscal years starting on or after 31 December 2023. The legislation also introduces a UTPR for fiscal years starting on or after 31 December 2024.

French Parliament approves Pillar Two legislation

On 21 December 2023, the French Parliament approved the Finance Bill for 2024 (the Bill), which provides for a transposition into French domestic law of the Minimum Tax Directive.

The Bill establishes a French QDMTT, which will be determined in the same way as the top-up tax under the IIR, with the possibility to use French Generally Accepted Accounting Principles (GAAP) or International Financial Reporting Standards (IFRS) as an alternative to the consolidation GAAP. The QDMTT amount will be equal to the difference between 15% and the effective tax rate of the Constituent Entities established in France. The French QDMTT will be creditable against the top-up tax determined under the IIR or the UTPR.

Finally, the Bill authorizes the French Government to adopt through ordinances any subsequent measures addressing filing, collection, audits and penalties related to the additional taxes arising from this new regime.

The new measures will apply for fiscal years starting on or after 31 December 2023, except the UTPR which will apply for fiscal years starting on or after 31 December 2024.

See EY Global Tax Alert, *French Parliament approves Finance Bill for 2024, including OECD Pillar Two rules*, dated 22 December 2023.

Gibraltar announces Pillar Two Qualified Domestic Minimum Top-Up Tax

On 19 December 2023, the Government of Gibraltar announced in a Ministerial Statement and Press Release the introduction of a Pillar Two-compliant QDMTT, which will apply in relation to fiscal years commencing on or after 31 December 2023.

The top-up tax is to apply to subsidiaries or permanent establishments of such groups if the Ultimate Parent Entity is in a jurisdiction that has introduced the Pillar Two rules.

This is the first part of a two-stage implementation of Pillar Two, with full implementation planned in respect of financial periods beginning after 31 December 2024.

See EY Global Tax Alert, *Gibraltar announces Pillar Two Qualified Domestic Minimum Top-Up Tax*, dated 21 December 2023.

Hong Kong releases public consultation on the introduction of Pillar Two

On 21 December 2023, Hong Kong´s Inland Revenue Department released a public consultation document on the implementation of Pillar Two into domestic law. The consultation document explains the Hong Kong policy considerations of the GloBE Model Rules provisions and confirms that an IIR, a UTPR, and a QDMTT will be effective for fiscal years starting on or after 1 January 2025.

The public consultation document aims to incorporate the GloBE Model Rules in the Inland Revenue Ordinance consistently with the OECD´s Commentaries and Administrative Guidance, as well as a transitional Country-by-Country Reporting (CbCR) safe harbor and a permanent QDMTT safe harbor. Procedural aspects such as filing obligations and penalties are also addressed in the public consultation document.

The consultation period is open until 20 March 2024.

See EY Global Tax Alert, *Hong Kong launches consultation on Pillar Two measures*, dated 4 January 2024.

Italy approves Pillar Two legislation

On 19 December 2023, the Italian government approved significant measures as a first phase of the upcoming comprehensive tax reform (International Tax Decree) including the implementation of Pillar Two into domestic law. In general, the Italian Pillar Two provisions published in the International Tax Decree do not differ significantly from the text already circulated for public consultation.

The International Tax Decree provides for the entry into force of the new rules with reference to financial years starting on or after 31 December 2023, except for the UTPR provisions that should apply to financial years starting on or after 31 December 2024.

The International Tax Decree was published on the *Official Gazette* of 28 December 2023.

See EY Global Tax Alert, *Italy approves BEPS Pillar Two provisions and other significant tax changes including ATAD 2 hybrid mismatches penalty protection regime*, dated 22 December 2023.

Liechtenstein enacts Pillar Two legislation

On 22 December 2023, the Liechtenstein Government published in the *Official Gazette* law BGBl. I 484/2023, which incorporates the Pillar Two legislation into domestic law. The legislation introduces a QDMTT and an IIR for fiscal years starting on or after 1 January 2024. The legislation also introduces a UTPR for fiscal years starting on or after 1 January 2025.

Luxembourg approves Pillar Two legislation

On 20 December 2023, the Luxembourg Parliament approved the legislation implementing Pillar Two into domestic law. The legislation introduces a QDMTT and an IIR for fiscal years starting on or after 31 December 2023. The legislation also introduces a UTPR for fiscal years starting on or after 31 December 2024. The bill was published in the *Official Gazette* of 22 December 2023.

See EY Global Tax Alert, *Luxembourg Parliament adopts law implementing the EU Minimum Tax Directive*, dated 21 December 2023.

Netherlands approves Pillar Two legislation

On 19 December 2023, the Dutch Senate approved the legislation implementing Pillar Two into domestic law. The legislation closely follows the Minimum Tax Directive and will introduce a QDMTT and an IIR for reporting years starting on or after 31 December 2023. The legislation also introduces a UTPR for reporting years starting on or after 31 December 2024. However, the UTPR may apply for fiscal years starting on or after 31 December 2023 in relation to low-taxed Constituent Entities of an MNE Group for which the Ultimate Parent Entity is located in a Member State that has opted to postpone the implementation of the Minimum Tax Directive.

In addition, the legislation contains a QDMTT safe harbor and a transitional UTPR safe harbor.

See EY Global Tax Alert, *Netherlands passes Act to implement the 2024 tax plan and Pillar Two minimum tax*, dated 19 December 2023.

Romania approves Pillar Two legislation

On 19 December 2023, the Romanian Chamber of Deputies approved legislation on Pillar Two. The legislation introduces a QDMTT and an IIR for fiscal year starting on or after 31 December 2023. The legislation also introduces a UTPR for fiscal years starting on or after 31 December 2024.

South Korea amends Pillar Two provisions and delays UTPR

On 31 December 2023, Korea enacted the 2024 Tax Reform Bill after it was passed by Korea's National Assembly. Among other things, the Tax Reform Bill postpones the UTPR by one year, deferring the effective date to 1 January 2025.

The Tax Reform Bill includes new rules to align the Korean Pillar Two rules with the GloBE Model Rules and the relevant Administrative Guidance. The new rules include (i) requirements on definitions and the scope of the GloBE Model Rules; (ii) details on calculating the GloBE income or loss and covered taxes; and (iii) penalties.

The Tax Reform generally became effective for fiscal years beginning on or after 1 January 2024.

See EY Global Tax Alert, *South Korea enacts 2024 tax reform bill includes a 12-month delay on Undertaxed Profits Rule*, dated 9 January 2024.

Spain releases draft legislation on Pillar Two

On 20 December 2023, the Spanish Ministry of Finance published draft legislation for public consultation to implement Pillar Two into domestic law. The draft legislation is generally aligned with the Minimum Tax Directive and includes some elements from the OECD Administrative Guidance released in February and July 2023.

The draft legislation includes an IIR and a QDMTT applicable for fiscal years starting on or after 31 December 2023. It also includes a UTPR generally applicable for fiscal years starting on or after 31 December 2024.

In addition, the legislation contains a transitional CbCR safe harbor, a QDMTT safe harbor and a transitional UTPR safe harbor.

Switzerland introduces a QDMTT and delays implementation of the IIR and UTPR

On 22 December 2023, the Swiss Federal Council officially announced the entry into force of the Swiss implementation of the Pillar Two rules beginning 1 January 2024. However, only the QDMTT will apply from 1 January 2024. The application of the IIR and the UTPR has been delayed and will be revisited at a later time. According to the explanatory statement released with the Pillar Two ordinance, the IIR and UTPR are likely to be introduced on 1 January 2025.

See EY Global Tax Alert, *Swiss BEPS 2.0 Pillar Two implementation – Switzerland to apply QDMTT beginning 1 January 2024; IIR and UTPR delayed*, dated 28 December 2023.

BEPS and other developments

OECD

OECD releases fifth edition of Corporate Tax Statistics publication

On 21 November 2023, the OECD released the fifth edition of its annual Corporate Tax Statistics publication (the Corporate Tax Statistics report) together with an updated database. The OECD describes the database as intended to support the analysis of corporate taxation and BEPS activity covering more than 160 countries, including all OECD members.

The database includes anonymized and aggregated CbCR statistics, reflecting information for the years 2019 and 2020 and including information from country-by-country (CbC) reports filed in 52 jurisdictions. It is accompanied by a list of FAQs on the anonymized and aggregated CbCR data. The database also includes information on 61 intellectual property regimes in 46 jurisdictions and withholding tax rate statistics for 119 jurisdictions.

The OECD also released a working paper titled "Effective tax rates of MNEs: New evidence on global low-taxed profit," providing estimates of the distribution of effective tax rates of large MNEs across and within jurisdictions. In particular, the paper reflects a finding that jurisdictions with nominal tax rates of 15% or more account for more than half of global profits taxed at an effective tax rate below 15%.

See EY Global Tax Alert, *OECD releases fifth edition of Corporate Tax Statistics publication*, dated 28 December 2023.

European Union

EU adopts delegated directive adjusting size criteria for enterprises

On 24 December 2023, a Delegated Directive adjusting the monetary criteria for micro, small, medium-sized and large undertakings or groups as prescribed under Article 3 of Directive 2013/34/EU (the Accounting Directive) entered into force, following its publication in the Official Journal of the EU on 21 December 2023. The Commission initially published the Delegated Directive on 17 October 2023.

According to the Accounting Directive, the classification of undertakings or groups into micro, small, medium or large is based on meeting two of three size criteria, namely the: (i) balance sheet total; (ii) net turnover; and (iii) average number of employees. These thresholds are relevant to determine which EU subsidiaries of non-EU groups are in scope of the Public CbCR Directive, under which a non-EU "medium-sized" or "large" group entity in the European Economic Area (EEA) has a reporting obligation if it is part of a group headed by a company outside the EEA.

Under the Delegated Directive, the criteria are adjusted by 25% (rounding up for micro). To qualify as a medium-sized or large undertaking, a subsidiary needs to meet two of the three following criteria:

1. Balance Sheet total > €5m (but a Member State may increase this threshold to €7.5m)
2. Net Turnover > €10m (but a Member State may increase this threshold up to €15m)
3. Average number of employees > 50

Member States should implement the Delegated Directive within 12 months of its enactment, with retroactive effect for financial years starting on or after 1 January 2024. A Member State may also elect to apply the amended threshold retroactively from 2023.

United Nations

UN General Assembly adopts resolution on the promotion of tax cooperation

On 22 December 2023, the UN General Assembly adopted Resolution 78/230 (the Resolution) for the "Promotion of inclusive and effective international tax cooperation at the United Nations." The Resolution establishes an ad hoc intergovernmental Committee mandated to develop the draft terms of reference for a UN framework convention on international tax cooperation, with a view to finalizing the Committee's work by August 2024. The Resolution was adopted under a vote by simple majority, with 111 jurisdictions voting in favor, 46 against and 10 abstaining. The votes against the resolution were largely from OECD and EU Member States, with the exception of Chile, Colombia and Switzerland, which voted in favor, and Costa Rica, Iceland, Mexico, Norway and Turkey that abstained.

Further, Resolution 78/657 contains the program budget implications of the Resolution, where it is estimated that additional resources amounting to US$1495.5m would be required for 2024.

As for next steps, the Resolution requests that the ad hoc intergovernmental committee submit a report to the General Assembly at its seventy-ninth session (opening on 10 September 2024), containing the draft terms of reference for a UN framework convention.

Country developments

Belgium gazettes Royal Decree on DAC7 filing obligations

On 29 December 2023, Belgium published on its *Official Gazette* the Royal Decree of 25 December 2023 clarifying the reporting procedures for platform operators under DAC7 (EU Directive on expanding the scope of exchange of information to digital platform operators).

Under the Royal Decree, platform operators should report the required information via an XML file through a dedicated electronic platform to allow for efficient information exchange within the EU. If the platform operator is exempted from its reporting obligation because a declaration including the same information is already submitted elsewhere, the platform operator should indicate this through the same electronic platform by reporting the identity of the platform operator that has submitted a declaration as well as where it was reported. A nil declaration should be submitted if the platform operator has nothing to declare. Lastly, if the platform operator has the choice between different EU Member States, the Royal Decree foresees a notification procedure when the platform operator chooses to fulfill its reporting obligation either in another EU Member State or in Belgium.

Platform operators taking the position that they are an excluded platform operator and therefore exempted from the (detailed) reporting obligation should indicate this through the same electronic platform by providing the following information: the exemption request year, their legal name, value added tax (VAT) or crossroads bank for enterprises (CBE) number, their registered office address, the name as well as full address, phone number and e-mail address of their contact person, the platform's commercial name, website, and a detailed business model description to establish compliance with the conditions for being an excluded platform operator (or reverification thereof, if excluded before). This request must be submitted by 15 January of the calendar year following the one the declaration relates to.

Belgian Parliament approves draft bill on Public CbCR

On 21 December 2023, the Belgian Parliament approved a bill on the disclosure of income tax information by certain undertakings and branches, commonly referred to as public CbCR, implementing EU Directive 2021/2101 on the disclosure of income tax information by certain undertakings and branches. The new rules are implemented through incorporation in the Belgian Code for Companies and Associations (BCCA) and are applicable to financial years starting on or after 22 June 2024.

The new legislation largely mirrors the provisions of the EU directive in terms of the scope of the Public CbCR requirements for (Belgian) undertakings, as well as the specific publication requirements (i.e., by when, where and by whom the publication should take place). Furthermore, the BCCA also provides a new set of penalties for noncompliance with the new Public CbCR requirements and includes a requirement for auditors to include a statement in their audit report with respect to Public CbCR.

The transposition of the EU Directive into Belgian domestic law will have a significant impact on Belgian-based MNEs and non-EU-based MNEs doing business in Belgium through a branch or subsidiary.

Shanghai tax office issues administrative guidelines on advance tax rulings

On 29 December 2023, Shanghai's State Taxation Administration guidelines on advance tax rulings (ATRs) entered into effect.

The guidelines apply for entities based in Shanghai. However, ATRs will not be issued in certain circumstances, including when they refer to (business) plans that (i) are not expected to be carried out within two years; (ii) do not have reasonable commercial purposes; or (iii) are not allowed based by law. Building on the advance pricing agreements (APAs) process, ATR requests should follow the relevant APA application procedures.

To obtain an ATR, taxpayers should submit an application to the large enterprises department of their municipality or district, providing the relevant application form, a letter of acknowledgement, required approvals, contracts, due diligence reports, and any additional information requested by the tax authority. If the application is incomplete, the tax authority may ask the applicant to provide the missing information within five days of receiving the application.

Once the application is submitted, the tax authority's working group must form an opinion and submit it in writing to the leading group of the large enterprises department within 30 days; the latter should respond within 10 days, and then the municipal tax authority should issue the decision.

The ruling may be withdrawn if the submitted information is illegal, false, incorrect or incomplete, or if the ruling conditions or the law underlying the ATR change significantly.

China's tax office releases report on APA program in China

In December 2023, the State Taxation Administration (STA) of China released a report describing the latest mechanisms, procedures, and implementation of the APA program in China from 2005 to 2022. The report aims to guide enterprises interested in entering into APAs with the Chinese tax authority and to offer clarity about China's APA program to other countries' competent authorities and the general public.

The data in the report derive from 260 APAs signed with the Chinese tax authority. The STA predicts there will be an increase in APAs due to uncertainties caused by the global implementation of BEPS projects and tax authorities' escalating scrutiny of transfer pricing. Therefore, the STA has decided to prioritize certain APA applications based on a number of criteria, including (i) the "first come – first served" rule; (ii) the quality of the request; (iii) whether the applicant belongs to a particular industry or region that needs priority attention; and (iv) whether the APA request is bilateral (under conditions).

Denmark aligns domestic defensive measures with the EU-list as updated in October 2023

On 19 December 2023, the Danish Government issued a draft bill (the Bill) proposing the alignment of its defensive measures with the EU's list of noncooperative tax jurisdictions (EU blacklist) as updated on 17 October 2023.

In Denmark, defensive measures were introduced by law no.788 of 4 May 2021 against countries listed on the EU blacklist, with effect from 1 July 2021. The defensive measures result in the nondeductibility in Denmark for payments to related entities that are resident (or registered) for tax purposes in a blacklisted jurisdiction and increased withholding tax rates on dividends distributed to recipients that are resident (or registered) for tax purposes in such jurisdictions (44% dividend withholding tax).

The defensive measures are based on beneficial ownership of the payments from Denmark. Consequently, it is not possible to achieve deductibility on payments to a recipient in a country that is not on the EU blacklist if the actual beneficial owner, and the ultimate recipient of the funds, resides in a blacklisted jurisdiction.

If adopted, the Bill will enter into force on 1 February 2024. The defensive measures will also apply to tax residents (or otherwise registered) recipients in Antigua and Barbuda, Belize and the Seychelles, but Costa Rica, British Virgin Islands and Marshall Islands have been removed from the list of covered jurisdictions, with Costa Rica and the British Virgin Islands having been moved to the so-called "Observation list."

Germany publishes law on the implementation of the MLI

On 19 December 2023, the German Federal Ministry of Finance published a first draft of a law on the application of the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS (MLI). Germany was one of the first signatories, signing the MLI on 7 June 2017. Domestic ratification followed on 18 December 2020, and the MLI came into force on 1 April 2021.

However, Germany made use of the reservation under Article 35(7) of the MLI, meaning that the covered tax agreements concluded by Germany would be effectively modified for both contracting states only after Germany has notified the OECD of the completion of its domestic measures required with regard to a covered tax agreement. Thus, the law on the application of the MLI is intended to prepare the notification necessary for the modifications to take effect within the meaning of Article 35(7)(b). To this end, this law names the modifications resulting from the MLI.

Hungary and the US sign joint statement on CbC exchange

On 22 December 2023, the US and Hungary signed a joint statement on the implementation of the spontaneous exchange of CbC reports for financial years starting in 2022. The joint statement confirms that CbC reports for financial years starting on or after 1 January 2022 and before 1 January 2023 will be spontaneously exchanged pursuant to the Convention on Mutual Administrative Assistance in Tax Matters. CbC reports should be exchanged via an XML schema as soon as possible and no later than 15 months after the last day of the fiscal year of the MNE Group to which the CbC report relates.

If one of the competent authorities suspect that an error may have led to incorrect or incomplete information, it should notify the other authority which should take measures under domestic law to rectify the errors. All information exchanged is strictly confidential, and competent authorities should report any inappropriate use or disclosure. If the taxpayer believes a tax adjustment, as a result of further inquiries based on the data in the CbC Report leads to undesirable outcomes, the competent authorities should endeavor to resolve the issue.

Irish Revenue issues manual on transfer pricing documentation

On 18 December 2023, the Irish Revenue issued a new Tax and Duty Manual (TDM) Part 35a-01-05 - Requests for Transfer Pricing (TP) Documentation. The TDM includes the operational policy of the Transfer Pricing Audit Branches of Large Corporates Division for requesting TP documentation from taxpayers. This forms part of the risk assessment/ appraisal process. The TDM is also designed to ensure that the requests for TP documentation align properly with the Compliance Intervention Framework as set out in the Code of Practice for Revenue Compliance Interventions.

The TDM refers to legislative amendments in Finance Act 2019, which requires taxpayers to have available such records as may reasonably be required to demonstrate compliance with TP legislation. This documentation should be submitted within 30 days of a written request made by a Revenue officer subject to a fixed penalty of €25,000 for noncompliance. The TDM also outlines the reasons for requesting TP documentation and provides a forum for requesting TP documentation under the compliance intervention framework as set out in the Code of Practice for Revenue Compliance Interventions.

Moldavian government approves methodology identifying noncooperative jurisdictions

On 1 December 2023, the Moldavian government announced, through Government Decision No. 896 of 22 November 2023, the approval of a methodology for establishing jurisdictions that do not adhere to international standards of transparency.

Detailed in *Official Gazette No. 462*, the methodology establishes criteria to evaluate transparency, a method for updating noncompliant jurisdictions, and a procedure for their inclusion and exclusion from the list.

The definition of a noncompliant jurisdiction includes those that fail to comply with international transparency standards set by organizations, such as the Financial Action Task Force, the Exchange of Information on Request, and the OECD Global Forum.

Moldova enacts public CbCR directive

On 22 November 2023, Moldova enacted legislation covering public CbCR.

The law broadly follows the EU public CbCR Directive. It would require large MNEs that have consolidated revenue for each of the last two consecutive financial years exceeding 15,750 billion Moldovan leu (MDL 15,750b; approximately €805.5m at current exchange) with presence in Moldova to disclose publicly the income taxes paid and other tax-related information.

The law will enter into effect for fiscal years commencing on or after 1 January 2025.

In other news

2024 Transfer Pricing Survey results now available

The 2024 EY International Tax and Transfer Pricing Survey finds businesses need a robust transfer pricing policy to manage new risks. According to the survey, concerns about double taxation resulting from global tax reform are fundamentally transforming the way businesses think about TP certainty and their operational TP needs. An overwhelming majority of respondents say they face a moderate or significant risk of double taxation related to the OECD Inclusive Framework on BEPS project. In addition, the survey shows that the concern about double taxation, broader tax and legislative change and business volatility are driving TP change within organizations in many important ways. Learn more about the survey results here.

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