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Global Tax Alert

The Latest on BEPS and Beyond

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Highlights

The past 12 months were characterized by the "global elections supercycle." New leaders and governments were elected across the world, including in some of the biggest economies. The outcomes of these elections will have major implications for 2025. While the focus in December was on the impact of the outcomes of the United States (US) elections, the new European Commission (Commission) was installed on 1 December. The Commission is the institution of the European Union (EU) that is responsible for proposing the EU legislation. After draft legislation is published by the Commission, the EU Member States and, if the legislation is not tabled as a tax matter, the European Parliament decide on the final version of EU directives and regulations.

Once the new governments are in place, the focus will move from electoral promises to taking up the governing role. As typically new governments are aiming to show decisive action in the first 100 days, a wave of policy proposals is expected as of the first months in 2025. In this context, policymakers are likely to embrace a "me first" perspective that will translate into strategies aimed at enhancing industrial competitiveness. While "me first" seems to imply protectionist tendencies, the reality will be more complicated. In some situations, the "me first" strategy will mean that economies will consider free trade as the best policy. Under other conditions, protecting the own market or industries may be perceived as more beneficial. The resulting environment will be complex to navigate for business, bringing risks but also relevant opportunities as the competition for industrial investments strengthens.

Clearly these policy developments will also have major implications for the international tax environment. Industrial policies aimed at enhancing competitiveness often rely on tax measures, both direct and indirect to achieve their goals. It seems logical to assume that this will also mean that businesses could find governments to be more receptive than in the past decade.

As in December many children will draw up a holiday wish list, it is interesting to assess what may be on the wish list of businesses worldwide when it comes to international taxation. EY has had many of its global international tax meetings in the past months. These meetings have shown that businesses would strongly welcome:

- Clarity from the biggest economic blocs on implementation of Pillar Two and corresponding actions by the frontrunning jurisdictions that have already implemented the rules to level the playing field
- Significant simplification of Pillar Two rules, with a primary focus on a permanent safe harbor that only prescribes deviations from financial reporting when (absolutely) necessary
- Relevant lowering of administrative costs by taking out unnecessary and duplicative international tax obligations
- More tax certainty in the transfer pricing area, as the controversy environment shows that Base Erosion and Profit Shifting (BEPS) Actions 8-10, related transfer pricing controversy, is creating risks of significant levels of double taxation for businesses
- Adaption of the international tax rules to the current-day desires of scarce talent to work remotely

While 2025 will show whether this wish list will come true, international tax practitioners will first have to manage the current-day reality of end-of-year tax obligations, tax risks and tax opportunities. We hope those will not keep you from relaxing December holidays. Please do not hesitate to reach out to our excellent colleagues if you need help.

We are wishing you a wonderful holiday season and a very good start of 2025!

BEPS 2.0

Country developments

Australia implements Pillar Two into domestic legislation

On 10 December 2024, Australia enacted Primary Legislation to implement Pillar Two in domestic law. The Primary Legislation consists of three new Acts: (i) Assessment Act; (ii) Consequential Act; and (iii) Imposition Act.

The Assessment Act includes the key aspects of the global and domestic minimum taxes, including the imposition of top-up tax through an Income Inclusion Rule (IIR) and a domestic minimum tax (DMT) with retrospective application to fiscal years starting from 1 January 2024 and an Undertaxed Profits Rule (UTPR), applying to fiscal years starting from 1 January 2025. The Consequential Act contains consequential and miscellaneous provisions to facilitate the administration of the top-up tax, including the preparation of new returns that are required to be filed in Australia by in-scope multinational enterprise (MNE) groups. The Imposition Act outlines the machinery to give effect to the imposition of the top-up tax.

The majority of Australia's Pillar Two rules are contained in Subordinate Legislation. The Subordinate Legislation, in the form of Rules, comprises the key operative aspects in line with the Organisation for Economic Cooperation and Development (OECD)'s Model Rules, including the Transitional Country-by-Country Reporting (CbCR) Safe Harbors. The Rules are a legislative instrument that is required to be executed by the Minister, which may occur prior to 31 December 2024. The Rules will have retrospective commencement to fiscal years starting on or after from 1 January 2024.

See EY Global Tax Alert, *Australia passes legislation to implement global and domestic minimum tax*, dated 3 December 2024.

Bahamas enacts Pillar Two legislation

On 29 November 2024, the government of the Bahamas published legislation in the *Official Gazette* introducing a Domestic Minimum Top-up Tax (DMTT). The DMTT is largely aligned with the OECD Model Rules and will apply to fiscal years starting on or after 31 December 2023. However, if a Constituent Entity in the Bahamas is not subject to the IIR or the UTPR in another jurisdiction for the 2024 fiscal year, the DMTT may not take effect until fiscal years beginning on or after 1 January 2025.

Currently, the Bahamas has no plans to implement either the IIR or UTPR.

Gibraltar releases Pillar Two draft legislation

On 10 December 2024, Gibraltar released draft legislation to implement a Qualified Domestic Minimum Top-up Tax (QDMTT) aligned with the OECD Model Rules, along with an IIR. The QDMTT will apply retroactively to fiscal years beginning on or after 31 December 2023, while the IIR will take effect for fiscal years starting on or after 31 December 2024.

The draft legislation does not incorporate the UTPR. It remains unclear whether Gibraltar intends to introduce the UTPR in the future.

See EY Global Tax Alert, *Gibraltar publishes proposed legislation for Pillar Two, including Qualified Domestic Top-up Tax*, dated 12 December 2024.

Guernsey approves Pillar Two legislation

On 26 November 2024, the government of Guernsey approved a Statutory Instrument implementing an IIR and a DMTT aligned with the OECD Model Rules. These rules will take effect for fiscal years beginning on or after 1 January 2025. The Statutory Instrument includes a Transitional CbCR Safe Harbor.

The Statutory Instrument also outlines requirements for the registration of Constituent Entities in Guernsey, with a registration deadline set at 12 months from the start of the first fiscal year beginning on or after 1 January 2025.

Currently, there are no plans to implement a UTPR.

Isle of Man approves Pillar Two legislation

On 3 December 2024, the Isle of Man published the Global Minimum Tax (Pillar Two) Order 2024. The legislation introduces a Multinational Top-up Tax equivalent to an IIR and a Domestic Top-up Tax which it is anticipated will obtain Qualifying status as a QDMTT to be applicable for fiscal years starting on or after 1 January 2025. The legislation is generally in line with the OECD Model Rules.

Additionally, the legislation establishes requirements for the registration of Constituent Entities in the Isle of Man, with a registration deadline set at 12 months from the start of the first fiscal year beginning on or after 1 January 2025.

Currently, there are no plans to implement a UTPR.

Lithuania amends draft legislation on Pillar Two

On 18 November 2024, the Ministry of Finance of Lithuania published an amendment to the Pillar Two draft legislation, announcing the full implementation of the EU Minimum Tax Directive. The draft legislation introduces the IIR, the QDMTT and the UTPR for fiscal years starting on or after 1 January 2026.

The proposed changes have not yet been implemented.

Singapore enacts Pillar Two legislation

On 27 November 2024, Singapore published the *Multinational Enterprise (Minimum Tax) Act 2024* (MMT Act) in its *Official Gazette*. The MMT Act was passed by Parliament on 15 October 2024 and received Presidential Assent on 8 November 2024 to become law.

The MMT Act introduces a Domestic Minimum Top-up Tax and an Income Inclusion Rule for fiscal years starting on or after 1 January 2025 for in-scope MNE groups. Subsidiary legislation (e.g., rules, regulations) will be released to cover determination of Global Anti-Base Erosion (GloBE) Income or Loss and Adjusted Covered Taxes, safe harbor rules and transitional rules, etc.

The legislation does not incorporate the UTPR at this stage, as its implementation will be evaluated later in light of evolving international developments.

Vietnam releases Draft Decree for Pillar Two

On 12 November 2024, Vietnam's Ministry of Finance issued a Draft Decree for public consultation, providing details on the implementation of Pillar Two. The Draft Decree clarifies that the QDMTT will not apply to stateless entities or stateless permanent establishments. However, it will apply to Joint Ventures and Minority-Owned Constituent Entities.

When calculating the QDMTT, the starting point is the accounting standard used by the Ultimate Parent Entity (UPE). If certain conditions are not met, an Acceptable or Authorized Financial Accounting Standard can be used instead.

The Draft Decree also addresses administrative and compliance requirements. These include the designation of a filing entity in Vietnam, registration requirements, and payment obligations.

The rules outlined in the Draft Decree will apply to fiscal years starting in or after December 2023.

See EY Global Tax Alert, *Vietnam releases Draft Decree guiding implementation of top-up Corporate Income Tax*, dated 20 November 2024.

BEPS and other developments

OECD

OECD releases updated FAQs for MNEs participating in ICAP risk assessments

On 5 December 2024, the OECD Forum on Tax Administration released updated frequently-asked-questions-and-answers (FAQs) on participating in the International Compliance Assurance Programme (ICAP). ICAP is a voluntary risk assessment and assurance program where multiple tax administrations come together to simultaneously risk-assess an MNE. In return, the program offers MNEs a level of tax assurance that provides certain audit protections by the participating tax administrations regarding the MNE's low-risk covered transactions for a specified period. FAQs about ICAP have been periodically updated, with the latest FAQs including three new questions about application deadlines, target timeframes, and the MNE group's role in determining the scope of the risk assessment.

The updated FAQs clarify that MNE groups can now submit ICAP applications at any time, removing the previous biannual deadlines of 31 March and 30 September. This change provides greater flexibility for MNE groups interested in joining the program. The FAQs detail the target timeframes for the three stages of ICAP: (i) the selection stage, which takes 8-12 weeks; (ii) the risk assessment stage, including issue resolution, which takes 30-45 weeks; and (iii) the outcomes stage, which takes six to eight weeks. These timeframes are slightly longer than those initially published but reflect the experience of completed ICAP cases. The timeframes for the selection and risk assessment stages begin when the lead tax administration accepts the relevant documentation, although the start date can be deferred at the request or with the agreement of the MNE group. The FAQs emphasize that these timeframes are ambitious and may vary depending on several factors, including the number of covered tax administrations, the number and complexity of transactions under review, the MNE group's previous participation in ICAP, the timing of the application, and whether the risk assessment stage involves issue resolution. Based on these target timeframes, the entire ICAP process, from application submission to receiving outcome letters, can take approximately 44-65 weeks, excluding any time between the selection and risk assessment stages.

Additionally, the FAQs clarify that MNE groups can influence the scope of an ICAP risk assessment by indicating their preferences for covered tax administrations and transactions. For instance, MNE groups can propose limitations based on a specific line of business, geographic area, or function. Despite these preferences, MNE groups are required to submit a complete selection documentation package covering all ICAP jurisdictions and transactions. This comprehensive package allows tax administrations to evaluate the impact of the proposed scope limitations on their ability to conduct an effective risk assessment. The FAQs also advise MNE groups proposing a limited scope to consult with their lead tax administration before submitting the documentation.

New jurisdictions join the Multilateral Competent Authority Agreement on Digital Platforms

On 26 November 2024, the OECD released an updated list of signatories to the Multilateral Competent Authority Agreement on Automatic Exchange of Information on Income Derived through Digital Platforms (DPI MCAA). The DPI MCAA is an international legal framework that supports the OECD's Model Rules for Reporting by Digital Platforms, facilitating the annual automatic exchange of information between participating jurisdictions. This exchange aims to improve international tax compliance by enabling tax authorities to access information on income earned by platform sellers. The original scope of the Model Rules focused on "Relevant Services," encompassing the rental of immovable property and personal services provided for consideration. However, recognizing the increasing prevalence of other economic activities facilitated by digital platforms, the OECD developed an optional module to broaden the reporting requirements to include the sale of goods and the rental of means of transportation. This optional module allows jurisdictions to implement the Model Rules with this extended scope, thereby capturing a wider range of transactions for tax reporting purposes.

The updated list includes Czechia, which signed on 6 November, as well as Germany and Hungary, both of which signed on 26 November, bringing to 29 the total number of jurisdictions participating in the DPI MCAA. The DPI MCAA allows for both reciprocal and non-reciprocal exchange of information, meaning a jurisdiction can receive information even without implementing the Model Rules domestically. Additionally, the agreement provides flexibility for jurisdictions to choose whether to exchange information based on the Model Rules' original scope or to include the extended scope covering the sale of goods and rental of means of transportation.

OECD publishes list of signatories to the Addendum to the CRS MCAA

On 26 November 2024, a signing ceremony took place at the 17th Global Forum Plenary meeting in Paraguay for the Addendum to the Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information (CRS MCAA) and the Crypto-Asset Reporting Framework MCAA (CARF MCAA). Colombia and San Marino had signed these agreements in October 2024, and several other countries signed in November 2024 before the ceremony. As of the signing ceremony, a total of 51 countries had signed the CRS MCAA Addendum, and 48 countries had signed the CARF MCAA.

The OECD, in collaboration with G20 countries, developed the CARF to tackle tax avoidance and evasion and improve tax compliance. The CARF MCAA facilitates the automatic exchange of tax-relevant information concerning crypto assets, with 61 jurisdictions committed to starting exchanges by 2027 or 2028. The CARF captures all transactions involving crypto-assets, while the amended CRS now includes digital financial products and avoids duplicate reporting with the CARF. The CRS MCAA Addendum incorporates new reporting requirements from the recent updates to the CRS, broadening its scope and enhancing its effectiveness. Global Forum members aim to implement these amendments by 2027.

Global Forum releases new batch of peer reviews on transparency and exchange of information on request

On 21 November 2024, the Global Forum on Transparency and Exchange of Information for Tax Purposes published nine new peer review reports. Six reports (Azerbaijan, Bosnia and Herzegovina, Colombia, Montenegro, Senegal and Uganda) assessed both the legal framework and the implementation of the exchange of information on request (EOIR) standard. The other three reports (Grenada, Guyana and Rwanda) were limited to the legal and regulatory framework.

Azerbaijan was rated "Compliant," having improved accounting records and tax authorities' powers but still needs to address issues with beneficial ownership information. Bosnia and Herzegovina, Colombia, Senegal and Uganda were rated "Largely Compliant." Bosnia and Herzegovina needs improvements in legal ownership and accounting information, beneficial ownership requirements, and retention period of records. Colombia has a new beneficial ownership register and improved exchange of information (EOI) processes but needs better monitoring and supervision. Senegal has a central register of beneficial owners but needs to fully populate it, retain accounting information, and improve response times. Uganda has outlawed bearer shares and set up beneficial ownership registers but needs further legal framework changes and better response times. Montenegro was rated "Partially Compliant," as it ensures the availability of legal ownership information through registration with public authorities but needs improvements in the beneficial ownership register, availability and timely access to accounting records, and supervisory measures.

Grenada, Guyana and Rwanda underwent Phase 1 reviews. Grenada improved transparency and repealed the legal regime for international entities but needs better ownership information for domestic companies, identification of beneficial owners, and availability of accounting records post-dissolution. Guyana has an adequate legal framework but needs complete ownership information, post-dissolution obligations, and a broader network of EOI relationships. Rwanda has a solid legal framework but needs to ensure up-to-date beneficial ownership information on bank accounts.

The reports were approved by the Global Forum's Peer Review Group in October 2024 and adopted by Global Forum members. To date, 124 jurisdictions have been fully reviewed in the second round of EOIR peer reviews, with 89% rated "Compliant" or "Largely Compliant," 9.5% as "Partially Compliant" and 1.5% as "Non-Compliant."

G20 Leaders endorse Rio de Janeiro Ministerial Declaration on international tax cooperation

On 18-19 November 2024, G20 Leaders met in Rio de Janeiro, Brazil, to address major global challenges and promote strong, sustainable, balanced and inclusive growth. The African Union was welcomed as a full member of the G20. The meeting concluded with the release of the Rio de Janeiro Leaders' Declaration, which includes a brief section on international tax priorities.

The declaration describes progressive taxation as key to achieving broader domestic social, fiscal and development objectives and expresses the intention to engage cooperatively on effective taxation of ultra-high-net-worth individuals, referencing the G20's continuing discussion of these issues and encouraging the OECD/G20 Inclusive Framework to consider working on these issues as well.

The declaration also reiterates the G20 Leaders' commitment to the October 2021 statement on Pillars One and Two and to swift implementation by all interested jurisdictions. It further notes continuing constructive discussion at the United Nations (UN) on the development of a Framework Convention on International Tax Cooperation.

In advance of the meeting, the OECD released the OECD Secretary-General's Tax Report to the G20 Leaders. This report provides an update on activities with respect to the G20's international tax agenda, including ongoing work on the BEPS 2.0 project, tax transparency and capacity-building efforts.

See EY Global Tax Alert, *G20 Leaders stress importance of progressive taxation and reiterate their commitment to BEPS 2.0*, dated 22 November 2024.

United Nations

UNGA Second Committee adopts resolution on international tax cooperation

On 19 November 2024, the United Nations General Assembly (UNGA) Second Committee approved the Resolution on the Promotion of inclusive and effective international tax cooperation at the UN (Resolution), with 125 in favor, 9 against and 46 abstentions.

The Resolution adopts the Terms of Reference (ToR) for a UN Framework Convention on International Tax Cooperation (Framework Convention) as contained in Annex I to the Report on the second session of the Ad Hoc Committee, and calls for the establishment of a Member State-led, open-ended intergovernmental negotiating committee (Committee) to draft the Framework Convention and the two early protocols.

As for next steps, the Committee will meet in 2025, 2026, and 2027 for at least three substantive sessions each year, and the key meeting will be the organizational session in New York from 3 to 6 February 2025 to address decision-making rules and decide on the subject of the second early protocol from the priority areas outlined in the ToR.

The Committee is tasked with completing its work and submitting the final text of the framework convention and the two protocols to the General Assembly by the first quarter of its eighty-second session. A sub-item on "Promotion of inclusive and effective international tax cooperation at the UN" will be included in the provisional agenda of the UN General Assembly's eightieth session.

European Union

EU Member States adopt the Directive on Faster and Safer Relief of Excess Withholding Taxes (FASTER)

On 10 December 2024, during the Economic and Financial Affairs Council (ECOFIN) meeting, the Council of the EU adopted the Directive setting forth rules that aim to make withholding tax (WHT) procedures in the EU more efficient and secure for investors, financial intermediaries and Member States (FASTER). The final compromise text includes only legal-linguistic revisions and clarifications, with no substantial changes compared to the political agreement reached by Member States on 14 May 2024.

The Directive outlines the following key provisions:

- The Member State of residence shall issue digital tax residence certificates (eTRCs) to individuals and corporate entities within 14 calendar days of their eTRC request.
- Under certain conditions, Member States should choose between a "relief at source" procedure and a "quick refund" system, or a combination of both, for WHT on dividends from publicly traded shares and, where applicable, interest from publicly traded bonds.
- A new standardized reporting process imposes common reporting obligations on certain financial intermediaries involved in the payment chain.

EU Member States have until 31 December 2028 to transpose the Directive into national legislation, with the rules applicable from 1 January 2030.

See EY Global Tax Alert, *EU Member States adopt the Directive on Faster and Safer Relief of Excess Withholding Taxes (FASTER)*, dated 11 December 2024.

ECOFIN adopts progress report under Hungarian Presidency

On 10 December 2024, the Council of the EU held an ECOFIN meeting where Finance Ministers adopted the progress report on tax matters under the Hungarian Council Presidency. The report summarizes the state of key tax files, including Unshell, FASTER, Business in Europe: Framework for Income Taxation (BEFIT), Transfer Pricing Directive (TPD), and Head Office Tax (HOT).

Progress on Unshell was limited. Following proposals for a "new approach" by the previous Presidency, the Hungarian Presidency proposed concrete changes to scope, hallmarks, reporting obligations, and the exchange of information and administrative actions. Ongoing negotiations face key issues among Member States, including concerns about the interaction with DAC6 (mandatory disclosure rules), and the removal of tax consequences. The Hungarian Presidency has not made its drafting proposals public, and it has also not clarified the next steps.

The Hungarian Presidency has also worked to advance discussions on the TPD, encouraging Member States to identify aspects that could form the basis of a Directive. Despite these efforts, the Directive has faced resistance, with most Member States expressing skepticism about its current form, while others remain open to continuing technical discussions to explore potential procedural harmonization. Technical discussions on establishing the Transfer Pricing Platform have made notable progress in defining its institutional set-up, structure, mandate, governance, and voting rules, but further work is needed to establish a clear path forward.

In 2025, technical work will also continue on DAC9 (GloBE Information Return), BEFIT, and HOT proposals. In light with this, on 11 December 2024, Poland, which will assume the EU Council Presidency as of 1 January 2025, announced its Presidency Programme indicating that it will continue work on DAC9 and steps will be taken to ensure that it is fully compliant with the OECD standard. In its Presidency Programme, Poland announced it will guide the review of the EU own resources framework as part of the broader negotiations of the EU's post-2027 budget. For this, the Member States will also explore new EU-wide levies or taxes. Additionally, Poland will organize a high-level expert conference on EU budget funding in February 2025.

Finally, Poland intends to support EU competitiveness by tackling harmful tax competition, including updating the EU list of non-cooperative jurisdictions for tax purposes in February.

Code of Conduct Group on Business Taxation presents report to the Council

On 10 December 2024, the Code of Conduct Group (COCG) presented its report to the Council, summarizing its work in the second half of 2024 under the Hungarian Council Presidency.

The Council appreciated the progress on future criterion 1.4 regarding beneficial ownership information and urged the Group to incorporate it as a fourth criterion on tax transparency. Starting in 2025, the COCG will focus on recommendations in Enhanced Monitoring reports for jurisdictions with persistent issues under criterion 1.2 (exchange information on request).

For criterion 3.2 (CbCR), the COCG will request commitments from jurisdictions with outstanding recommendations in the 2024 Inclusive Framework report and resident UPEs in 2022 or 2023, and those without activated CbCR exchanges with all EU Member States. These commitments will be recorded in Annex II in October 2025, with deficiencies addressed by the 2026 peer review report. Additionally, from 2025, the COCG will annually monitor jurisdictions that have been not asked for commitments on criterion 3.2 due to non-relevance or opt-outs from the peer review process in 2024 or earlier, to ensure exemptions remain justified.

The COCG also began considering new criteria for future changes to the EU list's geographical scope.

European Commission adopts final implementing regulation on template and electronic reporting formats for public CbCR

On 29 November 2024, the European Commission adopted Implementing Regulation 2024/2952.

The implementing regulation is aimed at standardizing the presentation of income tax information for public CbCR, as mandated by Directive 2013/34/EU. It introduces a common template and electronic formats for public CbC reports in the form of detailed Extensible Business Reporting Language (XBRL) specifications for financial data, requirements for report filing and a taxonomy defining the reportable data.

The implementing regulation was published in the *Official Journal* of the EU on 2 December 2024 and will come into effect for financial years starting on or after 1 January 2025.

See EY Global Tax Alert, *European Commission adopts final implementing regulation on template and electronic reporting formats for public CbCR*, dated 3 December 2024.

Country developments

Australia's public CbCR law passes all stages of Parliament

On 28 November 2024, the Australian public CbCR (PCbCR) regime was passed by all stages of Parliament without amendment. It received Royal Assent on 10 December 2024 and is now legally enacted in Australia.

Australia's PCbCR regime will require certain large multinational enterprises and purely domestic Australian groups that have annual global consolidated income of AU$1b or more in the previous year (a de minimis exception of >AU$10m Australia-sourced income applies) to publish selected tax information on a CbC basis for Australia and specified jurisdictions and, on either a CbC basis or an aggregated basis, for the rest of the world.

The information is to be published on an Australian government website, with publication facilitated by the Commissioner. Exemptions from disclosing some or all information may be granted on a class or entity basis. Significant penalties apply for late reporting or failure to report and if material errors are not corrected in time.

A final instrument providing the specified jurisdictions list has yet to be published. The Australian Tax Office (ATO) will also need to develop its information collection platform and provide guidance on the rules. Finally, an ATO Law Administration Practice Statement concerning the exemption application is under development with an expected completion date in March 2025.

The rules apply for financial reporting periods commencing on or after 1 July 2024, with the first report due by 30 June 2026 (by 12 months after the financial-period end).

See EY Global Tax Alert, *Australia's public country-by-country reporting law passes all stages of Parliament*, dated 4 December 2024.

Bosnia and Herzegovina introduces amendments to Transfer Pricing rules

On 20 November 2024, Bosnia and Herzegovina published amendments to the Rulebook on Transfer Pricing in the *Official Gazette* of the Federation of Bosnia and Herzegovina.

The amendments adjust the consolidated gross revenue threshold that a multinational enterprise (MNE) group must meet to be required to submit transfer pricing documentation. The previous threshold of 1.5 billion *Konvertibilna Marka* or convertible marks (KM 1.5b) has been replaced with €750m, or the equivalent in convertible marks based on the exchange rate of the Central Bank of Bosnia and Herzegovina, for the reporting tax period.

Additionally, the annual report on controlled transactions must now be submitted to the Tax Administration no later than 12 months after the last day of the MNE group's reporting tax period.

These amendments took effect on 21 November 2024, the day after their publication in the *Official Gazette*, and will be applicable from 1 January 2025.

Costa Rican Tax Administration issues final framework for automatic exchange of information on digital platform sellers

On 6 November 2024, the Tax Administration of Costa Rica issued Resolution MH-DGT-RES-0025-2024, which establishes the framework for the automatic exchange of information concerning sellers operating through digital platforms. This resolution follows a public consultation process conducted in April 2024 and aligns with Costa Rica's commitment to the OECD's Model Reporting Rules for Digital Platforms.

The resolution introduces detailed reporting requirements for digital platform operators, including identification and reporting obligations for: (i) tax residents in Costa Rica; (ii) foreign entities with effective management in Costa Rica; and (iii) nonresident operators providing services to Costa Rican residents or related to local real estate. It also specifies due diligence procedures for verifying sellers' information, collecting tax identification numbers and gathering specific data for property rental activities.

According to the resolution, annual reports must be submitted through the Financial Information Exchange System by 30 April of the following reporting period, using the OECD XML schema. Exemptions are provided for platform operators that: (i) earned less than €1m in income from services rendered through the platform within one calendar year; (ii) prove to the tax authorities that their business model does not generate profit; and (iii) do not have reportable sellers. Penalties for noncompliance can reach up to 2% of the platform operator's previous year's gross income, with a minimum of three base salaries and a maximum of 100 base salaries.

Platform operators can begin implementing due diligence procedures from 1 January 2025, with the first reporting deadline set for 30 April 2026.

Costa Rican Ministry of Finance launches public consultation on Executive Decree on international tax information exchange

On 5 December 2024, the Costa Rican Ministry of Finance released a draft Executive Decree for public consultation. This decree aims to amend and expand the Tax Procedure Regulations to ensure full compliance with Law No. 10488 (Amendment of article 106 quarter of the Tax Code) and the international standards on exchange of tax information.

The draft Executive Decree focuses on updating procedures for the international exchange of tax information. Among other changes, it introduces new provisions for the spontaneous exchange of tax information between jurisdictions and clarifies procedures for handling requests received through the exchange of information on request. The decree also mandates the annual publication of selection criteria and risk assessment parameters used in monitoring reporting financial entities. Furthermore, it includes additional definitions related to international standards on the exchange of information and strengthens confidentiality provisions for information received under international agreements.

Interested parties were invited to provide their input until 19 December 2024.

Cyprus tax authorities issue clarification note regarding Bilateral Agreement with the US

On 19 November 2024, the Cyprus Tax Department issued a clarification regarding the bilateral Competent Authority Arrangement (CAA) for the exchange of Country-by-Country (CbC) Reports between Cyprus and the US. The clarifications indicates that this agreement, currently under negotiation, is expected to be effective for Reporting Fiscal Years (RFY) starting on or after 1 January 2024.

As a consequence of the announcement, the secondary filing mechanism for a Cypriot Constituent Entity (CE) of a multinational enterprise group with a US-tax-resident UPE is triggered for RFYs starting on or after 1 January 2023, but before 1 January 2024 (i.e., during calendar year 2023).

Accordingly, a Cypriot CE whose UPE is a tax resident in the US, must file the CbC report locally in Cyprus for its RFY ending on 31 December 2023, even if a CbC report has been, or will be, submitted in the US.

The Cypriot Tax Department has further noted that if Cypriot CEs have already filed notifications in Cyprus for RFYs starting on or after 1 January 2023 and before 1 January 2024, the notifications must be revised accordingly if they are affected by the announcement. If these notifications are revised before 31 December 2024, no penalties will be imposed.

See EY Global Tax Alert, *Cyprus tax authorities issue clarification note regarding Bilateral Agreement with the United States*, dated 4 December 2024.

Agreement between Hungary and the US on the exchange of CbC reports enters into force

On 25 November 2024, the agreement between Hungary and the US on the exchange of CbC reports entered into force. This agreement aims to enhance international tax transparency and improve access to information about the global allocation of income, taxes paid and the locations of economic activities among MNE groups.

Under this agreement, both countries will automatically exchange annual CbC reports between their respective tax authorities. The agreement ensures that all exchanged information is kept confidential and protected. It also outlines procedures for collaboration, transmission and handling of errors. Additionally, it specifies the scope, timing and manner of the exchange of CbC reports.

The agreement will remain in effect until either the Convention on Mutual Administrative Assistance in Tax Matters is no longer in force between the parties or until one party provides a 12-month notice of termination.

Ireland updates guidance on hybrid mismatches in Tax and Duty Manual

On 9 December 2024, the Irish Revenue updated its guidance in the Tax and Duty Manual Part 35C-00-01 with respect to the domestic provisions on hybrid mismatches implementing the Anti-Tax Avoidance Directives (ATAD) 1 and 2. The updates include several key changes.

In Section 1, the introduction to hybrid mismatches has been clarified to state that OECD guidance on hybrid mismatches cannot be relied upon to disapply the hybrid mismatch rules in ATAD2, as transposed into Part 35C. The OECD guidance should only be used to provide guidance as to application of the rules. Section 2 has been updated to introduce the concept of primary and defensive anti-hybrid rules, and Section 3 has been expanded to include definitions of "deduction" and "structured arrangement."

In addition, Section 4.2.1.3 now includes an example of a territory that applies tax on the income of some, but not all, entities. The guidance emphasizes the need to consider whether such a tax can be seen as like domestic tax by evaluating how it applies to the entities that are subject to it and clarifies that the fact that the tax does not apply to all entities does not preclude it from being considered a foreign tax.

Section 5.1, which covers the worldwide system of taxation, has been updated to provide guidance on how to deal with loss-making branches with trapped losses.

Finally, Section 7.1.1 on associated enterprises has been clarified to outline scenarios where a 50% Associated Enterprise Test applies instead of a 25% test. This adjustment applies to establishing if mismatch outcomes such as double deductions, permanent establishment deductions without inclusion, and imported mismatch outcomes arise.

The 25% reference should also be read as 50% when applying Part 35C to hybrid entities.

Kenya Revenue Authority issues comprehensive guidance on MAP in resolving international tax disputes

In November 2024, the Kenya Revenue Authority (KRA) issued comprehensive guidance on the process for seeking resolution of international tax disputes through the Mutual Agreement Procedure (MAP).

Taxpayers may submit an application if they believe that they have been subjected to taxation contrary to the provisions of a Double Taxation Agreement (DTA) or to inconsistencies in the interpretation and application of the DTA. MAP is available where Kenya has signed a DTA with another contracting state that contains an Article on MAP. The compentent authorities (CAs) are not compelled to reach an agreement or to resolve a tax dispute but are required to use their best efforts to reach an agreement.

To initiate the MAP process, a taxpayer must submit an application to the CA in their jurisdiction of residence and provide relevant supporting documentation. The taxpayer must present this application to the CA within three years of being notified of the action that resulted in taxation that the taxpayer asserts is not in line with the DTA provisions. The CA will validate the request, request additional information, if needed, and determine whether the issue can be resolved unilaterally or requires bilateral consultations with the CAs of both Contracting States. If an agreement is reached, the taxpayer is notified within 30 days and can accept or reject the resolution.

The guidance also allows for simultaneous pursuit of MAP and domestic legal remedies, potential multilateral MAPs and suspension of tax collection if the taxpayer has appealed the assessment and paid any undisputed amounts.

See EY Global Tax Alert, *Kenya Revenue Authority issues comprehensive guidance on MAP in resolving international tax disputes*, dated 25 November 2024.

Liechtenstein updates list of jurisdictions for exchange of CbC reports

On 12 November 2024, the Liechtenstein published in its *Official Gazette* the updated list of jurisdictions that Liechtenstein will exchange CbC reports under the CbC MCAA and bilateral competent authority agreements.

Compared to the list of 2023, Liechtenstein has added to the list Albania, Cameroon, Mauritania and Montenegro.

As of 1 January 2025, Liechtenstein will have established an exchange relationship with a total of 104 countries.

Minister of Finance of Poland launches public consultation on updated list of low-tax jurisdictions

On 25 November 2024, the Minister of Finance of Poland launched a public consultation on the draft regulation updating the list of countries and territories that engage in harmful tax competition in the area of corporate income tax. According to this update, Andorra has been removed from the list.

As of Dec. 13, 2024, the project is being reviewed by the legal committee after a completed consultation.

The regulation will apply to transfer pricing documentation for fiscal years starting after 31 December 2024. For fiscal years that began before 1 January 2025, and end after 31 December 2024, the previous regulation will remain in effect until the end of that fiscal year.

The new regulation is aimed to come into force on 1 January 2025 and will replace the previous regulation from 28 March 2019.

Romanian Ministry of Finance Issues guidance on reporting formats for EU Public CbCR

In December, the Romanian Ministry of Finance issued a press release regarding the reporting formats and template for EU Public CbCR requirements (Implementing Regulation). This follows the adoption of the final implementing regulation on the template and electronic reporting formats for public CbCR. According to Article 5 of the Implementing Regulation, undertakings shall apply this Regulation to corporate income tax information reports for financial years beginning on or after 1 January 2025.

According to the press release, until the Implementing Regulation enters into force, economic operators covered by the corporate income tax reporting requirements may use the reporting instructions referred to in Parts B and C of Section III of Annex III to Council Directive 2011/16/EU of 15 February 2011 (DAC1), use the template and formats provided in the Implementing Regulation, or establish their own reporting format, as long as the report includes the information required by the applicable accounting regulations.

Ministry of Finance of Slovak Republic initiates public consultation on Draft Bill implementing DAC8

On 25 November 2024, the Ministry of Finance of Slovak Republic launched a public consultation on a Draft Bill to amend the Act on Automatic Exchange of Information on Financial Accounts for Tax Administration purposes and other related laws. This amendment aims to implement Directive on Administrative Cooperation implementing the OECD rules on reporting for crypto assets (DAC8) starting from 1 January 2026.

The Draft Bill requires crypto asset service providers to report information about crypto assets used for payment and investment purposes to the tax authorities. The tax authorities should then exchange the information with other EU Member States and relevant contracting states. The bill also expands the scope of the automatic exchange of financial accounts to include e-money and central bank digital currencies, in line with the revised CRS adopted by the OECD in 2023.

The deadline for submitting information to the tax authorities aligns with the deadline for the automatic exchange of financial account information, with exchanges between tax authorities taking place within nine months after the reporting period. The first reporting period will commence on 1 January 2026.

For the Draft Bill to become law, it must be approved by the parliament, signed by the President, and published in the *Official Gazette*.

Switzerland updates list of jurisdictions for the automatic exchange of CbC information

On 1 December 2024, the Directorate of Public International Law of Switzerland published an updated list (RO 2024 738) of jurisdictions for the Exchange of CbC MCAA. Compared to the previous update, Switzerland added to the list Armenia, with effect from 1 January 2026, Georgia, with effect from 1 January 2025, and Montenegro, with effect from 1 January 2024.

The updated list came into effect on 1 December 2024, superseding the earlier version released on 1 September 2024.

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