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Global Tax Alert

The Latest on BEPS and Beyond

April 2022

EY Tax News Update: Global Edition

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Highlights

Rising commodity prices, disruption of value chains and a war on the European continent are commanding the full attention of policy makers. At the [5 April meeting of the European Union \(EU\) Finance Ministers \(ECOFIN\)](#), these issues figured prominently on the [agenda](#).

Did this distract attention from tax issues? To the contrary.

The accelerating economic and geopolitical developments are forcing politicians to take a critical look at their tax systems in search for additional revenues and to facilitate the green transition. Against this background, the EU Finance Ministers agreed on the way forward for [the Carbon Border Adjustment Regulation](#) in March. On 5 April, [broad support was expressed on the timetable for implementation of the Pillar Two Directive](#). Most likely, the Income Inclusion Rule will effectively enter into effect in the EU in 2024. The Undertaxed Profit Rule will likely enter into effect in 2025. Small Member States will be allowed to delay the introduction of the rules. Only objections from Poland still stand in the way of formal adoption of the Directive. However, if Poland persists in its objections, there are no significant hurdles standing in the way for the 26 Member States agreeing to the current compromise text to introduce Pillar Two in a coordinated fashion. The national legislators will then start the implementation into national law.

In the meantime, negotiations on the [Draft EU Directive against shell companies \(Unshell\) have commenced earlier than anticipated](#). This signals that there is relevant support from Member States for this Directive, but in-depth negotiations will be required to establish whether consensus can be reached. Another upcoming Commission plan for corporate tax reform is the Debt-Equity Bias Reduction Allowance expected in May. As evidenced, the pipeline of EU tax initiatives keeps flowing steadily.

Other countries are closely watching these developments in the EU. They are also closely following the discussions on tax reform in the United States (US), including the recent presentation of the [FY2023 Budget and Treasury Green Book](#). They include several new international tax proposals that build upon the [Build Back Better Act](#), which was passed by the US House of Representatives in November 2021 but stalled in the US Senate.

These transatlantic developments will also have a significant impact on the positioning of other G20 countries, investment hubs and developing countries, as discussed in EY's [EMEIA tax policy webcast of 12 April](#). What becomes clear is that volatility in geopolitics and the global economy is also making the tax environment less predictable. Therefore, this April 2022 Latest on BEPS and Beyond issue provides the latest insights to help navigate the challenges of international tax.

OECD

Public Consultation on draft rules regarding scope under Amount A for Pillar One

On 4 April 2022, the Secretariat of the OECD released a [public consultation](#) document with draft rules regarding scope under Amount A for Pillar One of the OECD/G20 project on addressing the tax challenges arising from the digitalization of the economy.

Under the draft rules, the scope of Amount A is based on two threshold tests: (i) a global revenue test; and (ii) a profitability test. Both of these tests are to be met for a Group to be considered a Covered Group under the Amount A rules. The global revenue test requires a Group to have Total Revenues greater than EUR €20 billion. The profitability test is a three-pronged test that is met if the Group's Pre-Tax Profit Margin is: (i) greater than 10% in the period; (ii) in two or more of the four periods preceding the period; and (iii) on Average across the period and the four periods immediately preceding the period.

Further, the consultation document does not include the rules for industry exclusions or for segmentation. These rules will be released for public consultation later as standalone documents. The public consultation was open to receive input from stakeholders until 18 April 2022.

See EY Global Tax Alert, [OECD releases public consultation document on draft rules regarding scope under Amount A for Pillar One](#), dated 12 April 2022.

Thailand deposits instrument of ratification of the MLI

On 31 March 2022, Thailand deposited its instrument of ratification of the *Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting* (MLI) with the OECD. At the time of depositing the instrument of ratification, jurisdictions must confirm their MLI positions. Accordingly, Thailand confirmed its initial MLI positions. The MLI will enter into force for Thailand on the first day of the month following the expiration of a period of three calendar months beginning on the date of the deposit of its instrument of ratification, i.e., on 1 July 2022.

OECD releases IT-format to support exchange of tax information on digital platforms

On 29 March 2022, the OECD released the standardized IT-format (a [User Guide](#) and an [XML Schema](#)) to support the electronic reporting and automatic exchange of information collected under the OECD's Model Reporting Rules for digital platforms released in 2020 and the optional module that extends the scope of the Model Reporting Rules released in 2021.

These Model Reporting Rules require digital platforms to report on the income realized by those offering accommodation, transport and personal services, as well as those selling goods, through platforms and to report the information to tax authorities. The Digital Platform Information (DPI) XML Schema is intended to minimize burdens on digital platform operators, which might otherwise arise were jurisdictions to apply multiple different requirements. Also, the DPI XML Schema was developed in close coordination with the EU, in order to ensure that the schema can also be relied upon for the reporting and exchange of information pursuant to the Council Directive (EU) 2021/514 (DAC7).

See EY Global Tax Alert, [OECD releases IT-format to support exchange of tax information on digital platforms](#), dated 30 March 2022.

OECD publishes fourth peer review on BEPS Action 6

On 21 March 2022, the OECD released the fourth annual peer review report (the report) on the implementation of BEPS Action 6 relating to prevention of treaty abuse. The peer reviews were carried out under the revised peer review methodology published in April 2021. Under this new methodology the focus has been placed on those bilateral and multilateral agreements for which no viable route to adoption of the minimum standard has been established. Jurisdictions are being asked to develop plans for such adoption and will be held accountable for executing these plans.

The report reflects detailed information on the implementation of BEPS Action 6 by the 139 jurisdictions that were members of the Inclusive Framework on 31 May 2021. According to the report, compliant agreements concluded between members of the Inclusive Framework and covered by the MLI have almost doubled from 350 to more than 650 between 2020 and 2021. Further, nearly 70% of the agreements concluded among the members of the Inclusive Framework are being brought into compliance through the MLI. In addition, the report notes that the MLI remains the most widely used route taken for the implementation of the minimum standard in non-compliant agreements, covering more than 470 agreements which are not yet compliant.

See EY Global Tax Alert, [OECD releases fourth annual peer review report on BEPS Action 6 relating to prevention of treaty abuse](#), dated 4 April 2022.

European Union

European Commission launches public consultation on EU-wide withholding tax initiative

On 1 April 2022, the European Commission (the Commission) opened a [public consultation](#) on improving withholding tax procedures for nonresident investors. The specific objectives of the Commission under this initiative are to provide the EU Member States with the necessary information to prevent tax abuse in the field of withholding taxes and to create swift and efficient processes of refund on request and relief at source.

The public consultation allows the public to provide feedback through a questionnaire and a brief document including any additional points not covered by the questionnaire. The public consultation focuses on stakeholders' views regarding

the current functioning of withholding tax procedures, the need for action at the EU level, their preferences on the available policy options to improve withholding tax refund procedures and further details of the potential EU relief at source system. The public consultation runs until 26 June 2022.

EU Finance Ministers continue negotiations to adopt Pillar Two Directive in light of Poland's remaining objection

On 5 April 2022, the Council of the EU (the Council) held an ECOFIN meeting where EU Finance Ministers publicly discussed the proposal for a Directive on ensuring a global minimum level of taxation for multinational groups in the EU.

In advance of the meeting, the French Council Presidency issued a [new compromise text](#) to resolve the remaining issues and reach a unanimous agreement during the ECOFIN meeting. The three remaining issues were: (i) the specifics of the optional provision for the small Member States to delay the application of the rules; (ii) the administrative burden placed on small businesses; and (iii) the link between the introduction of Pillar One and Pillar Two. During the public debate, all EU Member States expressed support for the new proposal except for Poland. Poland reiterated its position that the OECD two-pillar solution mandates the implementation of Pillar One and Pillar Two in parallel. Poland, therefore, requires a legally binding assurance on the link between the introduction of the two pillars.

The draft Directive requires a unanimous decision for adoption. The French Presidency of the Council will continue the negotiations with Poland and the other Member States with the aim of reaching an agreement during the next ECOFIN meeting on 24 May.

See EY Global Tax Alert, [EU Finance Ministers continue negotiations to adopt Pillar Two Directive in light of Poland's remaining objection](#), dated 6 April 2022.

United Nations

Model Tax Convention 2021 published

Recently, the United Nations (UN) published the [UN Model Double Taxation Convention United Nations between developed and developing countries 2021](#) (UN Model Tax Convention). This new version of the UN Model Tax Convention introduces a provision on automated digital services together with its Commentary. Another important

change consists of two new provisions added to Article 13 (Capital Gains) with respect to tax treaty obstacles to the taxation of gains on the direct transfer of some types of property linked to their territory as well as gains on so-called “offshore indirect transfers.”

A number of changes were also made to the Commentaries of the UN Model Tax Convention. These changes reflect the additions and changes to some of the articles. The changes made also include the work done with respect to a number of technical issues related to the interpretation and application of the articles, in particular the definition of permanent establishment, the concept of beneficial owner, and the application of the provisions to collective investment vehicles, pensions funds and real estate investment trusts.

In addition, at the first meeting on the newly constituted UN Tax Committee it was agreed that the Committee work on future updates to the UN Model Tax Convention that would, among other things, focus on: inclusion of computer software in the definition of royalties; the introduction of a subject to tax rule; the tax treatment of services and the treatment of income from cross-border insurance activities.

Country developments

Armenia: Cabinet approves ratification of the MLI

On 24 March 2022, the Republic of Armenia Government approved the *Draft law on Ratifying the Multilateral Convention to implement tax treaty related measures to prevent base erosion and profit shifting* (Draft law). The Draft law has yet to be ratified by the Armenian National Assembly.

Armenia submitted its [MLI position](#) at the time of the signature, listing its reservations and notifications as well as the 46 Covered Tax Agreements it wishes to be covered by the MLI. A definitive list of reservations and notifications will also need to be provided upon the depositing of the instrument of ratification.

Brazil: Proposal for a new transfer pricing system

On 12 April 2022, the Brazilian Tax Authority (RFB) and the OECD met to discuss the implementation of the arm's-length principle in Brazil. Currently, Brazil follows a formulary transfer pricing (TP) approach based on pre-established arithmetic formulas.

The reasons for changing Brazil's TP system include the following: (i) integrating Brazil into the global value chain of multinational enterprises (MNEs); (ii) avoiding double-taxation and double non-taxation scenarios; (iii) meeting Brazil's development goals (preventing loss of revenues due to current BEPS practices); and (iv) facilitating Brazil's entrance into the OECD.

Among other items, the revised TP system would allow taxpayers to select either a domestic or foreign tested party as part of the TP analysis. It would also implement all OECD-recognized TP methods, including the transactional net margin method (TNMM) and the profit split method (PSM). Moreover, the new TP system would allow a primary adjustment when taxpayers do not comply with the arm's-length principle, and a secondary adjustment to address the consequence of profit shifting. To eliminate double taxation scenarios, a corresponding adjustment would be available under the mutual agreement procedures (MAPs).

Further, Brazil would follow BEPS Action 13 and implement a three-tiered approach (i.e., Local File, Master File and Country-by-Country report).

To provide certainty and simplification, the proposal would implement a legal framework to make sure that safe harbor conditions are reflective of those practiced in the market. The RFB also highlighted that it may be possible to adopt safe harbors for Amount B of Pillar One.

See EY Global Tax Alert, [Brazil to propose new transfer pricing system to align with OECD's transfer pricing guidelines](#), dated 13 April 2022.

Canada: Public consultation on Pillar Two launched

On 7 April 2022, Canada released its [Budget 2022](#). Among other items, the Budget 2022 proposes to implement Pillar Two, along with a domestic minimum Top-up Tax that would apply to Canadian entities of MNEs that are within the scope of Pillar Two.

In order to implement the rules, the Canadian Government launched a public consultation on the implementation in Canada of the OECD Model Rules of Pillar Two and a domestic minimum Top-up Tax. The purpose of the consultation is to ensure that the draft legislation takes

into account any necessary adaptations of the OECD Model Rules. The consultation welcomes comments on all aspects of the implementation of these rules in domestic law. For this, the consultation set out questions on specific aspects of the OECD Model Rules as being of particular interest.

The public consultation will run until 7 July 2022. The Government anticipates the Income Inclusion Rule and the domestic minimum Top-up Tax would come into effect in 2023 as of a date to be fixed. They would come into effect no earlier than 2024.

The Budget also includes a reference to Pillar One. In this reference, the Canadian Government mentions that it is reviewing the public input received for the draft legislative proposals for a Digital Services Tax (DST). According to the Budget, the DST could be imposed as of 1 January 2024, but only if the Multilateral Convention implementing Amount A has not come into force. In that event, the DST would be payable as of 2024 in respect of revenues earned as of 1 January 2022.

France: Release of updated List of Non-Cooperative States and Territories

On 16 March 2022, the French Tax Authority published an updated list of non-cooperative states and territories in the [Official Journal](#). In this update, France removed Dominica from the list (change effective as from 16 March 2022). In addition, although Anguilla and Seychelles were withdrawn from the EU list of non-cooperative jurisdictions published on 12 October 2021, they are retained in the French list due to the absence of a tax information exchange agreement with France.

The updated list includes the following jurisdictions: American Samoa, American Virgin Islands, Anguilla, British Virgin Islands, Fiji, Guam, Palau, Panama, Samoa, Seychelles, Trinidad and Tobago as well as Vanuatu.

Germany: List of jurisdictions under Country-by-Country Reporting updated

On 28 March 2022, the Ministry of Finance of Germany published an [updated](#) list of jurisdictions included in the Multilateral Competent Authority Agreement on the Automatic Exchange of Country-by-Country Reports.

The jurisdictions added to the list are Azerbaijan, Maldives, and Turkey. The list is effective as of 29 March 2022.

Greece: Group escape under the Interest Limitation Provisions introduced

On 28 March 2022, the Greek Government issued Law [4916/2022](#), including a provision dedicated to introducing the safeguard clause for applying the interest deduction limitation rule (group escape).

According to the new provision and by way of an exception, an entity forming part of a consolidated group for financial accounting purposes is entitled to either:

- ▶ Fully deduct exceeding borrowing costs as long as it proves that the ratio of its equity over its total assets is equal or lower or higher by at most two percentage points from the relevant ratio of the group and provided that all assets and liabilities are measured pursuant to the same method, as in the consolidated financial statements; or
- ▶ Deduct exceeding borrowing costs as per a higher limit than the one normally applicable; this higher limit is calculated as follows:
 - First, a group ratio should be determined by dividing the exceeding borrowing costs of the group vis-à-vis third parties over the Earnings Before Interest, Taxes, Depreciation, and Amortization (EBITDA) of the group; and
 - Second, the group ratio should be multiplied by the EBITDA of the entity.

The aforementioned provision is in force as of 28 March 2022.

Greece: Guidance on the Controlled Foreign Companies legislation

On 23 February 2022, the Greek Tax Authority published [new guidance](#) on the application of the Greek Controlled Foreign Companies (CFC) rules clarifying that such rules do not apply to shipping companies or to companies with regard to funds that derive from maritime activities or investments from shipping funds, provided that such funds belong to individuals associated with shipping companies operating under the regime of L. 27/1975 and L.D. 2687/1953, since such companies are excluded from the domestic income tax regime.

In addition, the Circular clarifies that the substantial economic activity exemption applies only for EU and European Economic Area companies, and the burden of proof lies with the tax authorities.

Ireland: Guidance on the EU Mandatory Disclosure Regime

On 1 April 2022, the Irish Revenue Commissioners published the updated [Tax and Duty Manual](#) on EU Mandatory Disclosure of Reportable Cross-Border Arrangements (DAC6) to reflect the changes introduced by the *Finance Act 2021* and to provide additional guidance on the various hallmarks, filing obligations, nexus requirements to address situations where a company that is not tax resident in its place of incorporation will also have a nexus with its place of incorporation, and application of the main benefit test, among others. Additional examples have also been added.

Luxembourg: Circular on interest limitation rule under ATAD updated

On 25 March 2022, the Luxembourg Tax Authority (LTA) updated [Circular L.I.R. n°168bis/1](#) to clarify certain technical aspects of the interest limitation rules introduced in domestic law after transposing the Anti-Tax Avoidance Directive 2016/1164 (ATAD). In this update, the Circular covers the effect of the London Interbank Offered Rate (LIBOR) phase-out on the grandfathering clause according to which the modification of the loan reflecting the end of the LIBOR should not constitute a modification of the original agreement if certain conditions are met. If so, interest on loans that were concluded before 17 June 2016 continues to benefit from the grandfathering clause. It also clarifies the interaction of the interest limitation rules with the participation exemption. As a result, the rule embedded in the participation exemption that borrowing costs with a direct economic link up to the amount of tax-exempt dividend income are non-deductible applies first. Lastly, the Circular explains the definition of tax EBITDA, defined as the total of net taxable income as per the Luxembourg Income Tax Law, increased by exceeding borrowing costs, and the tax values of impairments, depreciations and amortizations that have reduced taxable income. No further increases or corrections are required to determine it.

See EY Global Tax Alert, [Luxembourg Tax Authority issues guidance on interest limitation rules covering LIBOR phase-out and interaction with participation exemption](#), dated 7 April 2022.

Luxembourg: New tax treaty signed with Colombia

On 10 February 2022, Colombia and Luxembourg signed a new double tax treaty. The tax treaty contains a number of treaty-based recommendations from the BEPS project contained in Action 6 (preventing the granting of treaty benefits in inappropriate circumstances), Action 7 (permanent establishment), and Action 14 (making dispute resolution mechanisms more effective).

More specifically, the tax treaty also provides that in cases where a person other than an individual is resident in Colombia and Luxembourg, both competent authorities shall endeavor to determine by mutual agreement the Contracting State of which the person shall be deemed to be a resident. Furthermore, the tax treaty contains a principal purpose test. In the permanent establishment (PE) clause, the tax treaty contains a contract splitting rule for construction activities and service PE, an anti-fragmentation rule and the new definition of agency PE.

In cases where the competent authorities are unable to reach an agreement after two years of submission, the tax treaty contains an arbitration clause to resolve the case within two years of the date on which all the required information was provided.

The MLI has no effect on this treaty since Colombia and Luxembourg have not included this tax treaty as a Covered Tax Agreement. For the MLI provisions to affect the tax treaty, both jurisdictions would need to include the tax treaty in their respective list of Covered Tax Agreements, indicating whether the tax treaty falls within the scope of reservations made by that respective jurisdiction.

The treaty will enter into force on the date the last notification is received, indicating the internal legislative procedures have been fulfilled. The tax treaty will enter into effect on 1 January of the calendar year following the date of entry into force.

See EY Global Tax Alert, [Colombia and Luxembourg sign double tax treaty](#), dated 31 March 2022.

Luxembourg: XSD schema for the Mandatory Disclosure Rules is updated, allowing the submission of corrective MDR reports

On 21 March 2022, the LTA announced an [update](#) to the Mandatory Disclosure Rules (MDR) XSD schema and User Guide on submitting MDR reports. Such reports are required under the implementation of the EU Directive on the Mandatory Disclosure and Exchange of Cross-border Tax Arrangements (DAC6).

According to the update, as of 30 March 2022, filing a corrective MDR report can be done by either sending the new XML file or manually entering the corrections on the Luxembourg administrative portal, i.e., MyGuichet.lu, instead of contacting the LTA to delete the initial report and enable the filing of a new one. In addition, specific fields have been integrated into the arrangement chart allowing for detailing the logical structure of the arrangement. This feature will be available as of 27 April 2022.

See EY Global Tax Alert, [Luxembourg Tax Authorities update XSD schema to allow submission of corrective MDR reports](#), dated 25 March 2022.

Malta: Details of the Protocol to Tax Treaty Between Malta and Poland become available

On 11 March 2022, Poland published an [amending protocol](#) signed by Malta and Poland on 30 November 2020 to update the Malta-Poland tax treaty.

The amending protocol brings changes to the MAP clause. It provides a period of three years to reach an agreement, beginning from the presentation of the case to the competent authority of the other Contracting State. Further, the amending protocol also includes a principal purpose test.

Both Malta and Poland have signed the MLI, and both of them have included this tax treaty as a Covered Tax Agreement. Furthermore, both have deposited their instruments of ratification so that the provisions of the MLI are in effect for this agreement.

The amending protocol is effective from 1 January 2023.

Netherlands: Bill to implement EU Directive on reporting obligations of digital platforms (DAC7) submitted to Parliament for approval

On 22 March 2022, the Dutch Government submitted a [bill](#) to the Lower House of Parliament to implement the new rules revising the EU Directive on Administrative Cooperation in the Field of Taxation to extend this Directive to reporting obligations of digital platform operators (DAC7).

Under DAC7 digital platforms are obliged to collect, verify and report information on sellers who use their platform to sell defined goods or to provide services. DAC7 also aims to enforce the exchange of information and cooperation between the Member States' tax authorities, for example, through a joint audit framework or data breach procedures.

Implementation is expected by 31 December 2022, and the bill will apply as of 1 January 2023. However, an exception is introduced for provisions related to joint audits, for which implementation and application are expected with a one-year delay (1 January 2024). Once the Lower House of the Parliament approves the bill, the bill will move to the Senate.

Netherlands: Details on the new protocol under tax treaty with Poland is available

On 3 March 2022, [details](#) of the amending protocol to the Netherlands-Poland Income Tax Treaty, signed on 29 October 2020, became available. More specifically, the protocol will enter into force on 30 April 2022 (i.e., the last day of the third month following the month in which the latter of the notifications has been received), and its provisions will have effect from 1 January 2023 (i.e., on or after the first day of January in the calendar year following that in which the amending protocol has entered into force).

The amending protocol brings the Netherlands-Poland tax treaty in line with the 2017 OECD Model Convention. In particular, the amending protocol contains the new preamble language that clarifies that the tax treaty is intended to eliminate double taxation with respect to taxes on income and capital gains without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance. Furthermore, the provision regarding PEs has been amended in line with the OECD Model Convention 2017. Lastly, the amending protocol brings changes to the MAP clause and introduces a principal purpose test. The

protocol will enter into force on 30 April 2022 (i.e., the last day of the third month following the month in which the latter of the notifications has been received), and its provisions will have effect from 1 January 2023 (i.e., on or after the first day of January in the calendar year following that in which the Amending Protocol has entered into force).

Netherlands: Court of Appeal confirms application of the anti-abuse provision in the context of entitlement of treaty benefits

On 1 February 2022, the Court of Appeal of Arnhem Leeuwarden (joined cases 20/00482 to 20/00484) [ruled](#) on the taxation of capital gains derived by a Dutch BV incorporated in the Netherlands, having its seat in Malta as from end of 2011.

In its Dutch tax returns for the consecutive years after the transfer of its seat to Malta, the Dutch BV took the position that an exemption should apply on capital gains realized by the BV. In dispute is whether: (i) the remittance provision (Article 2, paragraph 5) of the treaty allows the Netherlands to levy tax on the capital gains; and (ii) whether Article 30, paragraph 1 of the treaty disallows the tax treaty benefits for the BV considering its status as non-domiciled resident in Malta. Alternatively, in dispute is whether BV is eligible for a deduction of the taxes levied by Malta.

The Arnhem-Leeuwarden Court of Appeal held that the Dutch BV was designated as a non-domiciled resident in Malta, as a result of which capital gains from the sale of Swiss investments were not subject to taxation. The Court of Appeal ruled that the remittance provision of the tax treaty with Malta does therefore - prima facie - not apply as the capital gains would (also) not have been subject to tax had they been remitted to Malta. However, the Court subsequently ruled that Article 30 of the treaty - which states that the treaty does not apply to entities, like the BV, that are fully or partly exempt from tax as a result of a specific regime - is applicable such that the treaty cannot be invoked by the BV. As a consequence, the Court endorsed the earlier decision by the Lower Court and held that the Netherlands is not obliged to grant the exemption for foreign corporate profits. The Court furthermore confirmed that Maltese income tax can (alternatively) be deducted as a cost from Dutch BV's profits.

New Zealand: Public Consultation on the gig and sharing economy

On 10 March 2022, New Zealand released a [public consultation document](#) on how to simplify tax compliance requirements for gig workers and the sharing economy. The document outlines three key focus areas: (i) information gathering rules for digital platform providers; (ii) goods and services tax on services provided on these platforms; and (iii) tax compliance simplification for service providers.

The document considers the implications of adopting the OECD Model Rules for reporting by platform operators with respect to sellers in the sharing and gig economy (OECD Model Reporting Rules). These rules would require New Zealand digital platforms operators to report income information about both resident and nonresident sellers to the New Zealand Inland Revenue Department, which would be shared with tax authorities in jurisdictions that have implemented the OECD Model Reporting Rules. Alternatively, officials are also considering developing bespoke New Zealand rules that may expand obligations for the provision of information. Both proposed options would apply to digital platforms offering accommodation, transport, and personal services.

The Consultation will run until 21 April 2022, and legislation including these changes is anticipated later in 2022.

Singapore: Update to the list of jurisdictions for the automatic exchange of Country-by-Country reports

On 29 March 2022, the Inland Revenue Authority of Singapore updated its webpage on [Country-by-Country \(CbC\) reporting](#). In this update, Singapore added three jurisdictions to the list of jurisdictions that have exchange relationships with Singapore for the automatic exchange of CbC reports. The three jurisdictions are Azerbaijan and Turkey (both effective from financial year (FY) 2020), and Maldives effective from FY 2023.

South Africa: MLI submitted to Parliament for ratification

On 23 March 2022, the MLI was approved by the Cabinet of South Africa for submission to the Parliament for ratification. South Africa signed the MLI and submitted its [provisional MLI position](#), listing its reservations and notifications as well as the 76 tax treaties it wishes to be covered by the MLI, on 7 June 2017. A definitive list of reservations and notifications will need to be provided once the internal ratification process is completed and the instrument of ratification is deposited with the OECD.

Spain: Experts Committee releases White Book on Spanish Tax Reform

On 22 March 2022, the Committee of Experts appointed to review the Spanish tax system delivered the [White Book on Tax Reform](#) to the Spanish Minister of Finance. Spain expects to approve the tax reform during the first quarter of 2023.

The purpose of the White Book is to serve as a basis for a reform of the Spanish tax system that guarantees the sustainability of public finances so that Spain can respond to the financing of public spending.

The White Book proposes, among others, measures related to several EU proposals, including Unshell, Debt-Equity Bias Reduction Allowance (DEBRA), and Business Europe Framework Income Taxation (BEFIT). In addition, the Committee of Experts suggested the review of the concept of PE and ancillary or preparatory activities, the elimination of the digital tax, and coordinated implementation of Pillar I at EU level.

The introduction and the date of entry into force of the above measures are still uncertain.

Switzerland: Consultation on constitutional amendment and draft bill for the implementation of Pillar Two

On 11 March 2022, the Swiss Federal Council initiated a [consultation](#) to amend the Swiss Constitution with the aim of implementing minimum tax rules aligned with Pillar Two of the [OECD BEPS 2.0 Project](#). Accepting the proposed constitutional amendment requires a referendum expected to take place in June 2023.

The consultation proposes to apply the minimum tax rules to MNE groups with a consolidated revenue of €750 million or more. Also, the consultation document explores the idea to introduce a domestic minimum Top-up Tax for those profits taxed below the agreed minimum effective tax rate which would be collected by the Swiss cantons. It also provides a substance carve out.

The Consultation runs until 20 April 2022, and the [draft bill](#), if accepted, will enter into force on 1 January 2024.

United Kingdom: HMRC issues guidance on uncertain tax treatment requirements

On 1 April 2022, the United Kingdom (UK) Her Majesty's Revenue and Customs (HMRC) published [guidance](#) on when a taxpayer must notify the HMRC about an uncertain tax treatment.

In summary, the regime requires qualifying companies to notify HMRC of "uncertain amounts" in respect of "relevant taxes" subject to a threshold test and specific exemptions. "Relevant taxes" include corporation tax, income tax (including PAYE) and VAT.

A company is a "qualifying company" in any financial year if, in the previous financial year, the company had UK turnover exceeding £200m and/or a UK balance sheet total exceeding £2bn.

An uncertain amount exists if one or both of two notification criteria (or triggers) are met and create a tax advantage that exceeds a £5 million de minimis threshold.

Broadly, the triggers are where a provision has been made in the relevant company's accounts or a filing position has been taken by the business that is contrary to HMRC's known interpretation.

These rules apply to treatments included in returns required to be submitted on or after 1 April 2022. Therefore, notification is potentially relevant to transactions and uncertain treatments throughout 2021 (or earlier in some cases) as returns are submitted by 12 months after the end of the accounting period. As an example, clients with years ended 30 June 2021, 30 September 2021 or 31 December 2021 could be within the scope of the new rules for those periods.

United States: FY2023 Budget proposes changes to GILTI and the introduction of a UTPR and a domestic minimum tax

On 28 March 2022, United States (US) President Joe Biden released the [FY2023 Budget](#). Among the major proposals, the Budget proposes to increase the 21% corporate rate to 28%, which would consequently increase the Global Intangible Low-Taxed Income (GILTI) rate. The new GILTI effective rate would be 20%, applied on a jurisdiction-by-jurisdiction basis. The corporate and GILTI rate increases would apply to tax years beginning after 31 December 2022. For an earlier tax year ending after 31 December 2022, a blended corporate rate would apply equal to 21% plus 7% multiplied by the portion of the tax year that takes place in the 2023 calendar year.

Also, the Budget proposes to repeal the Base Erosion and Anti-avoidance Tax (BEAT) as modified by the *Build Back Better Act* and replace it with an Undertaxed Profit Rule (UTPR) that is consistent with the Undertaxed Payment Rule described in the OECD Pillar Two Model Rules, including a global annual revenue threshold (\$850 million), and de minimis exclusions. The proposal to repeal the BEAT and replace it with the UTPR would be effective for tax years beginning after 31 December 2023.

Further, the Budget includes a proposal to introduce a US domestic minimum Top-up Tax to protect US revenues from the imposition of UTPR by other countries.

See EY Global Tax Alert, [US | FY2023 Budget includes new details on international tax proposals](#), dated 1 April 2022.

For additional information with respect to this Alert, please contact the following:

Ernst & Young LLP (United States), Global Tax Desk Network, New York

- ▶ Ana Mingramm ana.mingramm@ey.com
- ▶ Jose A. (Jano) Bustos joseantonio.bustos@ey.com
- ▶ Nadine K Redford nadine.k.redford@ey.com

Ernst & Young Belastingadviseurs LLP, Rotterdam

- ▶ Marlies de Ruyter marlies.de.ruyter@nl.ey.com
- ▶ Maikel Evers maikel.evers@nl.ey.com
- ▶ Andromachi Anastasiou andromachi.anastasiou@nl.ey.com

Ernst & Young Belastingadviseurs LLP, Amsterdam

- ▶ David Corredor-Velásquez david.corredor.velasquez@nl.ey.com
- ▶ Konstantina Tsilimigka konstantina.tsilimigka@nl.ey.com
- ▶ Roberto Aviles Gutierrez roberto.aviles.gutierrez@nl.ey.com

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