國際租稅要聞
International Tax Newsletter

第284期

Welcome

近幾年來國際租稅的環境劇烈變遷，跨國企業要掌握不斷變化的國際租稅議題與趨勢，是一項重大挑戰。資誠每月出版《國際租稅要聞》，提供專論，並整理 PwC Global Network 專家的觀點，提供全球稅務新知及分析發展趨勢。

我們希望本刊物對您有所幫助，並期待您的評論。

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作者：曾博昇 執業會計師 / 郭芳妤 協理

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摘要

發生了甚麼?

2026年1月5日OECD宣布BEPS包容性架構（Inclusive Framework, IF）的147個成員已就「支柱二」全球最低稅負制（以下簡稱GloBE）達成一系列的新協議，並發布「雙軌制解決方案」（Side-by-Side Package），內容包含以下五大避風港：

- 雙軌制避風港（Side-by-Side Safe Harbour, SbS SH）；
- 最終母公司避風港（Ultimate Parent Entity Safe Harbour, UPE SH）；
- 永久性簡易有效稅率避風港（Simplified ETR Safe Harbour, SESH）；
- 過渡性國別報告避風港（Transitional CbCR Safe Harbour, TCSH）展延一年；以及
- 實質性租稅優惠避風港（Substance-Based Tax Incentive Safe Harbour, SBTI SH）。

IF亦承諾未來將針對雙軌制避風港與最終母公司避風港條款進行盤點檢視。

為何重要？

此解決方案之所以值得注意主要有兩個原因：第一係該方案反映去年六月七大工業國組織（G7）所達成的協議內容，以防止美國先前研議中的第899條報復性條款捲土重來；第二則是過去簡化措施的討論成果差強人意，如今終於達成共識。過渡性國別報告避風港延長一年應能減輕許多跨國集團的遵循負擔；然而，新的永久性簡易有效稅率避風港仍需投入大量的時間與精力評估是否適用，因此OECD也承諾在今年稍後將推出更多的簡化機制。

建議採取的行動

跨國集團應了解此解決方案的內容，以分析在各租稅管轄區內可應用的項目，以及避風港規則對於減輕遵循負擔的影響。此外，需留意本方案並不會影響各國國內最低稅負制(即QDMTT)的遵循義務，故仍需符合註冊、申報及繳納期限的要求。

專論
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細節說明

雙軌制避風港

本次方案的重點是雙軌制避風港，若跨國集團的最終母公司位於擁有「合格雙軌制度(Qualified SbS Regime)」的租稅管轄區，且該管轄區已被列入OECD的中央紀錄（OECD's Central Record），則該集團所有成員實體(包括合資公司與合資子公司)的所得涵蓋原則（Income Inclusion Rule, IIR）及徵稅不足支出原則（Undertaxed Profits Rule, UTPR）的補充稅可被視為零。一管轄區如同時符合以下四項條件，即可被認定具有合格雙軌制度：

1. 具備合格的境內稅收制度(Eligible Domestic Tax System)，即符合以下三項條件：
    (1) 名目公司所得稅率至少須達20%(考量租稅優惠調整及地方層級的所得稅負後)；
    (2) 須設有合格國內最低稅負制（QDMTT）或以財務報表所得為基礎的企業替代最低稅負制（Alternative Minimum Tax, AMT），且名目稅率至少為15%；以及
    (3) 於該租稅管轄區的國內整體利潤之有效稅率不存在低於 15% 的實質風險(考量租稅優惠後)；
2. 具備合格的全球稅收制度(Eligible Worldwide Tax System)，即符合以下三項條件：
    (1) 對居民企業的所有境外所得實施全面的課稅制度（包含受控外國公司與分公司的積極性及消極性所得，不論盈餘是否已實際分配）；
    (2) 施行具實質的反避稅單邊措施，以確保境外來源所得課稅的完整性；以及
    (3) 國外整體利潤之有效稅率不存在低於 15% 的實質風險(考量租稅優惠後)；
3. 須對QDMTT提供境外稅額扣抵，其允許扣抵的條件須與其他可扣抵的涵蓋稅款相同；
4. 必須在2026年1月1日之前已制定其合格的境內及全球稅收制度；若於其後制定，將至2027或2028年評估是否符合資格，而非在2026上半年即進行評估。若租稅管轄區符合資格，則原則上將自2026年1月1日起開始採行雙軌制避風港制度。

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雙軌制避風港並不影響QDMTT的運作與適用，選擇適用雙軌制避風港的跨國集團，仍需遵循與QDMTT有關的義務。截至2026年1月5日，美國是OECD中央紀錄中唯一符合資格的租稅管轄區。

另外，雙軌制避風港亦不會免除跨國集團申報全球最低稅負制資訊申報表（GloBE Information Return, GIR）的義務，惟選擇適用雙軌制避風港後，相關作業得以簡化，例如GIR將納入雙軌制避風港的選填欄位，並可免除申報與IIR和UTPR計算相關的特定資料點；此外，GIR中關於QDMTT的資料點亦須填報。

最後，被列為擁有合格雙軌制度的租稅管轄區若進行任何實質性的法案變更，須在法令頒布後三個月內通知IF成員。實質性變更包含可預見將影響該管轄區適用雙軌制避風港的資格，例如變更公司稅率、廢止重要稅務法規或擴大租稅優惠範圍等。一旦收到此通知，IF成員將進行審查，以決定適當的因應措施，包含重新評估該管轄區是否仍具備合格雙軌制度的資格。

最終母公司避風港

自2026年1月1日起始的會計年度，最終母公司避風港可以經由選擇適用。只要最終母公司所在的租稅管轄區有「合格最終母公司制度」（Qualified UPE Regime），其他國家就不能對該集團最終母公司在該管轄區的當地利潤適用UTPR課稅，故位於最終母公司管轄區內之所有實體的UTPR補充稅一律為零。

為符合合格最終母公司制度的適用資格，最終母公司所在之租稅管轄區必須具備合格的境內稅收制度，亦即同時符合以下三項條件：

1. 名目公司所得稅率至少須達20%(考量租稅優惠調整及地方層級的所得稅負後)；

2. 須設有合格國內最低稅負制（QDMTT）或以財務報表所得為基礎的企業替代最低稅負制（Alternative Minimum Tax, AMT），且名目稅率至少為15%；

3. 於該租稅管轄區的國內整體利潤之有效稅率不存在低於 15% 的實質風險(考量租稅優惠後)。

各國若要取得合格最終母公司制度的資格，其國內相關稅制必須在2026年1 月1日前完成立法並正式生效。此外，各租稅管轄區必須在2026年上半年主動提出申請，要求對其國內制度進行審查，確認是否符合合格最終母公司制度的標準。符合資格的租稅管轄區將會被列入中央紀錄的名單中，未來也會適用定期檢視機制。截至目前，尚無任何國家被列進合格最終母公司制度的中央紀錄中。

需注意，此選擇並不影響該集團在最終母公司租稅管轄區以外的營運地適用IIR 或UTPR，也不會改變QDMTT所要求的遵循義務。

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簡易有效稅率避風港

簡易有效稅率避風港旨在取代原本預計於2026年底到期的過渡性國別報告避風港(儘管該過渡性期間已再延長一年)，預期將成為未來對GloBE規則進一步簡化的基礎。

依照簡易有效稅率避風港規定，選擇適用該制度的跨國集團，若其某一租稅管轄區的簡易有效稅率（Simplified ETR）達到15%最低稅率，或於該期間呈現簡易虧損（Simplified Loss），則該管轄區的補充稅負視為零。此外，簡易有效稅率避風港的適用資格限於在該年度的前24個月內沒有產生補充稅的管轄區，且無國別實體（Stateless Entities）與多數投資實體等不得適用此避風港。

為適用避風港，跨國集團須符合四項原則：收入與費用配合原則、所有所得完全歸屬至各管轄區、虧損與費用僅得扣除一次，以及稅款僅得認列一次。

簡易有效稅率係以簡易稅款（Simplified Taxes）除以簡易所得（Simplified Income）得出，兩者皆係依租稅管轄區層級進行計算，其計算基礎說明如下：

- 簡易所得的計算以租稅管轄區的稅前利潤為起點，並針對特定項目進行調整，以更貼近 GloBE 的政策意旨。調整項目包括剔除「應排除股利」與「應排除權益損益」，並排除賄賂、回扣及大型罰款等費用。此避風港也納入為保險業與航運業設計的專屬規則，以及對併購的簡化處理。
- 簡易稅款以財報中的所得稅費用為計算基礎，包含當期所得稅與遞延所得稅費用。調整項目則需排除非涵蓋稅項、未確定稅務事項與不預期支付之稅款；遞延所得稅仍須依最低稅率15%重新計算(recast)，以與GloBE 規則保持一致。此避風港亦提供如同GloBE複雜試算的選擇項目，例如可將合格可退還稅額抵免（QRTC）或可交易轉讓稅額抵免（MTTC）採用與GloBE相同的處理，也可使用 GloBE 虧損選擇（GloBE loss election）等，這些選擇為跨國集團在履行支柱二遵循義務時提供了彈性。

針對跨國稅務議題也提供了一項為期五年的選擇適用項目，適用於涉及常設機構、混合實體與受控外國公司（CFC）的跨境稅款分配；針對移轉訂價調整亦有相關規定，一般而言年度結束後的移轉訂價調整通常計入該「調整」年度，經選擇後，若移轉訂價調整於年度結束後的12個月內完成，則可以將調整產生的所得與稅額計入於「交易」發生的年度。

簡易有效稅率避風港使用的資料來源原則上與GloBE複雜試算相同，係以最終母公司之合併財報為計算基礎，惟某些租稅管轄區可能要求需依當地財務會計準則計算，而非按集團合併財報中的資料，OECD鼓勵各管轄區以提供選擇的方式，在符合條件的情況下允許跨國集團選用以合併財報為計算基礎，且一旦選擇適用，該租稅管轄區內的所有實體於往後年度均須全面適用。

簡易有效稅率避風港適用於自2026年12月31日以後的會計年度，而若符合特定條件，則可於2025年12月31日以後的會計年度開始適用。需注意此避風港並非自動適用，而是需由各國將其納入國內法規後方可適用。

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延長過渡性國別報告避風港

為了協助過渡到新的簡易有效稅率避風港，OECD把現行過渡性國別報告避風港延長一年，適用到所有在2027年12月31日或以前開始的會計年度，但不包含在2029年6月30日以後結束的會計年度。於延長的年度，有效稅率測試門檻維持17%。在過渡期間內，納稅人可以選擇適用過渡性國別報告避風港或簡易有效稅率避風港。

實質性租稅優惠避風港

實質性租稅優惠避風港將合格租稅優惠（Qualified Tax Incentives, QTI）定義為基於合格支出或在境內生產的有形資產數量所計算的租稅優惠，並設有實質上限（Substance Cap）規定。合格租稅優惠會被加計至涵蓋稅款或簡易稅額中以計算有效稅率(視同已繳納)，而不會計入GloBE所得，因此會提升有效稅率。由於將租稅優惠視為QTI的處理方式，可能比將其視為QRTC或MTTC更有利於跨國集團，因此集團得選擇適用，將具備合格支出或產量性質的QRTC或MTTC視同QTI，否則在計算有效稅率時，這些項目通常會被視為收入項目。

其中需留意以支出為基礎的租稅優惠只有在以合格支出計算時，才能被認定為QTI，例如依固定比率或公式計算出的稅額抵減(Credits)、超額扣除(Super deductions)、加成攤提(Enhanced allowances)或基於支出的所得免稅；純時間性質的優惠（如立即費用化、加速折舊）則不屬於QTI。以產量為基礎的優惠則必須依據可衡量的產出量（如製造數量或減排量），且限定為在租稅管轄區內實際生產；若以產值計算則不符合條件。整體而言，QTI必須反映具體、有形且位於租稅管轄區的實質活動，而非因價格或利潤波動而改變的價值，以避免扭曲有效稅率或使租稅利益因市場變動而變化，且QTI原則上需以「已發生的支出」或「已完成的產出」為基礎進行計算。

可計入QTI的金額設有實質上限，該上限係依跨國集團在租稅管轄區的經濟活動（例如薪資與有形資產）為基礎，其計算方式有兩種：

- 一般方法：5.5%的「合格薪資成本」或「合格有形資產折舊 / 耗竭費用」，兩者取高。
- 五年期選擇適用項目（Five-Year Election）：可選擇以「該租稅管轄區內合格有形資產帳面價值的1%」計算，但不包含土地及其他不可折舊的資產。

此「實質上限」將限制QTI之潛在效益，對高薪資及重資產的營運模式較為有利。

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稅務會計考量

從財務報導角度而言，會計準則通常要求企業在稅法「實質通過」或「正式立法通過」的期間，認列稅法變動的會計影響。

OECD 所發布的行政指引通常不被視為稅法本身，因為多數已實施支柱二制度的租稅管轄區仍需額外的立法程序，才能將該指引正式納入當地法規。因此，企業應評估是否需要在財務報表中揭露相關資訊，尤其是在本指引預期將對企業產生重大影響的情況下。

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要聞

Legislation
立法

哥倫比亞
哥倫比亞自 2026 年起開徵新的權益稅

哥倫比亞政府透過 2 月 24 日頒布的第 0173 號行政命令（簡稱「行政命令」），創設了一項適用於 2026 課稅年度的新權益稅。權益稅適用於在哥倫比亞申報所得稅的法人實體及事實合夥（de facto partnerships），且截至 2026 年 3 月 1 日，其權益等於或超過 200,000 個稅務單位價值（tax unit's value, UVT）（約合哥倫比亞披索 105 億元，或美金約 270 萬元）。

這個措施依產業別訂定不同稅率，設定加速的遵循申報期限，並強化反避稅條款以防止以人為方式降低權益的金額。

權益稅可能對受影響的實體產生重大的現金稅負成本，尤其是適用較高稅率的金融機構及資源開採業公司。由於衡量基準日（2026 年 3 月 1 日）與申報及繳納期限之間的時程非常短，企業更有必要及早進行規劃並檢視資產負債表。

接近課稅門檻，或近期曾進行重組交易（包括分割）的實體，在強化反避稅規定後，可能面臨更嚴格的審查風險。

資誠觀點

納稅義務人應主動評估截至 2026 年 3 月 1 日的權益金額，判斷是否達到 200,000 UVT 的門檻，並評估對現金流的潛在影響。建議即時檢視資產及負債狀況，以及近期的企業重組，以降低風險並確保合規。

Columbia
Colombia introduces new equity tax effective in 2026

Through Executive Order 0173 of 24 February (the ‘Executive Order’), the Colombian Government created a new equity tax applicable for fiscal year 2026. The tax applies to legal entities and de facto partnerships that are income tax filers in Colombia and whose equity as of 1 March 2026, equals or exceeds 200,000 tax unit’s value (UVT) (approximately COP $10,5 billion or USD $2,7 million).

The measure introduces different tax rates depending on the industry sector, sets accelerated compliance deadlines, and strengthens anti-avoidance provisions aimed at preventing artificial equity reductions.

The equity tax may create a significant cash tax cost for affected entities, particularly financial institutions and companies in the extractive sector that are subject to the higher rate. The short timeline between the measuring date (March 1, 2026) and the filing and payment deadlines increases the need for early planning and balance sheet review.

Entities near the threshold or that have undertaken recent restructuring transactions (including spin-offs) may face heightened scrutiny under the strengthened anti-avoidance rules.

For more information see our PwC Tax Insight.

PwC observation:

Taxpayers should proactively assess projected equity as of 1 March 2026, determine whether the 200,000 UVT threshold is met, and evaluate the potential cash flow impact. A timely review of asset and liability positions, as well as recent corporate reorganizations, is recommended to mitigate risks and enable compliance.

法國
2026 年財政法通過

財政法將大型企業利潤的特別附加稅延長至少一年。附加稅現適用於在法國營業額達歐元 15 億元以上的企業。課稅基礎仍為當年度及前一年度應繳企業所得稅的平均數，係以沒有適用稅額減免、稅額扣抵及各類應收稅款的全部應稅利潤為基礎計算。

財政法亦調整了適用長期資本利得（long-term capital gains, LTCG）的權益性證券的定義。為確保權益性證券得以認定為符合條件者，財政法允許在權益性證券帳戶中設立專屬子帳戶，並將符合母子公司制度、持有至少 5% 表決權的證券歸入其中。這個規定適用於 2025 年 12 月 31 日（含）以後結束的會計年度。

資誠觀點

與2025 年相同，法國等到 2 月才通過財政法。在缺乏政治共識、且財政狀況日益緊張的背景下，儘管先前已宣布多項有利於企業的措施，本次財政法並未大幅改變稅制環境。

France
2026 Finance Law adopted

The Finance Law extends the exceptional contribution on the profits of large companies for at least one additional year. The contribution now applies to companies with a turnover in France greater than or equal to EUR 1.5 billion. The taxable basis still corresponds to the average of the corporate income tax due for the current FY and the previous one, based on total taxable profits before applying tax reductions, credits, and tax receivables of any nature.

The Finance law also adjusts the definition of equity securities eligible for the long-term capital gains (LTCG). To secure the characterization as eligible equity securities, the Finance law allows the creation of a dedicated subaccount within the equity securities account and to classify therein the securities eligible for the parent-subsidiary regime, held for at least 5% of the voting rights. This provision applies to financial years ending on or after 31 December 2025.

PwC observation:

As in 2025, France had to wait until February for a Finance Law to be adopted. In the absence of a political compromise and against a backdrop of an increasingly strained fiscal situation, the Finance Law does not overhaul the tax landscape, even though favourable measures for businesses initially had been announced.

香港
2026-27 年度香港財政預算案提出稅務及印花稅措施

2026-27 年度香港財政預算案於 2026 年 2 月 25 日發表，財政司司長提出以下旨在促進香港經濟發展及支持企業的稅務及印花稅措施：

1. 強化單一家族辦公室及基金的稅務制度，包括擴大「基金」定義以涵蓋特定的單一投資者基金（funds-of-one），以及將數位資產、貴金屬、指定商品等歸類為可享稅務優惠的合格投資項目。修正法案預計於 2026 年上半年提出，並計劃自 2025/26 課稅年度起實施。
2. 強化香港作為企業財資中心（Corporate Treasury Centres, CTCs）設立據點的角色。一系列強化措施預計於 2026 年中公布，包括為企業財資中心及其關係企業提供額外稅務優惠與彈性，並引入預先核准機制。
3. 制定優惠政策方案以吸引企業及投資，包括土地批給安排、財政補貼及稅務優惠（提供半稅或 5% 的優惠稅率）。修正法案預計於 2026 年間提出。
4. 強化海運服務業的稅務優惠措施，並為符合條件的商品交易商提供半稅的租稅優惠。修正法案預計於 2026 年上半年提出。
5. 繼續就購買智慧財產權（intellectual property, IP）或使用 IP 權利的資本支出的稅務扣除安排進行諮詢。修正法案預計於 2026 年提出。
6. 檢視及強化研究與開發支出的稅務安排。
7. 研究為符合條件的機構在香港從事黃金交易及結算提供稅務優惠。
8. 就2025/26 課稅年度提供一次性100% 利得稅減免，每案上限為港幣 3,000 元。
9. 放寬集團內部資產轉讓印花稅減免的條件，包括擴大合資格的關係法人團體的範圍，並將關係門檻由 90% 降至 75%。修正法案預計於 2026 年提出，並追溯適用於 2026 年 2 月 25 日（含）以後簽署的文件。

資誠觀點

延續 2025 年的經濟動能，2026-27 年度財政預算案推出多項配合國家第十五個五年規劃的針對性措施，為香港以創新驅動及包容性增長的新篇章奠定基礎。整體預算案力求平衡，並經審慎設計，以在外部環境不確定性升高的情況下，進一步強化香港在所處環境的彈性。

Hong Kong
2026-27 Hong Kong Budget proposes tax and stamp duty measures

In the 2026-27 Hong Kong Budget, delivered 25 February 2026, the Financial Secretary proposed the following tax and stamp duty measures aimed at boosting Hong Kong's economic development and supporting businesses:

1. Enhancing the tax regime for single family offices and funds, including expanding the scope of 'fund' to cover specific funds- of-one, as well as classifying digital assets, precious metals, specified commodities, etc. as qualifying investments eligible for tax concessions. The amendment bill is expected to be introduced in the first half of 2026, with a view to effecting the implementation from the year of assessment 2025/26.

2. Strengthening Hong Kong's role as a key base for the establishment of Corporate Treasury Centres (CTCs). A series of enhancement measures are expected to be announced during mid-2026, including providing additional tax incentives and flexibility to CTCs and their associated companies, and introducing a pre-approval mechanism.

3. Formulating preferential policy packages to attract enterprises and investments, including land grant arrangements, financial subsidies, and tax incentives offering preferential tax rates of half-rate or 5%. The amendment bill is expected to be introduced during 2026.

4. Enhancing the tax concession measures for the maritime service industry and providing a half-rate tax concession to eligible commodities traders. The amendment bill is expected to be introduced in the first half of 2026.

5. Continuing the consultation on tax deduction arrangements for capital expenditure on purchasing intellectual property (IP) or the rights to use IP. The amendment bill is expected to be introduced in 2026.

6. Reviewing and enhancing the tax arrangements for research and development expenditures.

7. Exploring offering tax incentives for eligible institutions conducting gold trading and settlement in Hong Kong.

8. Granting a one-off reduction of 100% of profits tax for the year of assessment 2025/26, subject to a ceiling of HK$3,000 per case..

9. Relaxing the criteria for stamp duty relief in relation to the intra-group transfer of assets by expanding the scope of eligible associated bodies corporate, and lowering the association threshold from 90% to 75%. The amendment bill is expected to be introduced in 2026, and would apply retroactively to instruments signed on or after 25 February 2026.

For more in the Hong Kong Budget, please see our Insight.

PwC observation:

Building on the economic momentum of 2025, the 2026-27 Budget introduces targeted measures aligned with the national 15th Five-Year Plan to lay the foundation for Hong Kong's next chapter of innovation-led and inclusive growth. The budget is balanced, and calibrated to reinforce Hong Kong's resilience in the face of an uncertain external environment.

波蘭
補充稅法規修正及與 OECD 接軌

2 月 13 日，波蘭財政部發布一項立法草案（簡稱「草案」），對波蘭支柱二規則引入重大修正。這些修正的主要目的在於釐清現行規定、解決解釋上的不明確性、使波蘭法規與 OECD 2024 年 6 月及 2025 年 1 月最新行政指南保持一致，並就國際財務報導準則（International Financial Reporting Standards, IFRS）何時可適用於合格國內最低稅負制（Qualified Domestic Minimum Top-up Tax, QDMTT）的計算提供重要釐清。

資誠觀點

草案引入數項修正，將直接影響企業集團的稅務結算，重點包括：

- 行政指南的實施： 包括 2024 年 6 月的指南（例如處理全球反稅基侵蝕即「GloBE」價值與資產負債帳面價值的差異）及 2025 年 1 月的指南（明定政府安排所生遞延所得稅資產的認列規則）。
- 現行規定的釐清： 申報 GloBE 資訊報告及當地納稅申報書的程序性規定，以及適用統一會計準則計算 QDMTT 的條件。

就 QDMTT 計算而言，一般原則為適用波蘭會計法（波蘭 GAAP），IFRS 則作為例外適用，前提是同一集團中至少有一個納稅義務人依法須適用 IFRS。「依法須適用 IFRS」的條件應如何解釋尚不完全明確，但依據財政部的其中一種解釋，這個規定要求集團中的 QDMTT 納稅義務人：

- 於會計目的上，適用計算 QDMTT 所使用的會計準則（波蘭 GAAP 或 IFRS）；
- 波蘭集團內各實體為編製財務報表之目的，適用統一的會計準則；
- 所有集團實體採用最終母公司的會計年度。

波蘭
補充稅法規修正及與 OECD 接軌(續)

草案提出，「依法須適用 IFRS」係指最終母公司在波蘭編製合併財務報表的要求。

這次修正針對「QDMTT 計算中什麼時候可以用 IFRS」做了重要說明：原本適用波蘭 GAAP 的實體，現在也可以用 IFRS 合併報表來計算 QDMTT（不過這份報表必須經過審計），條件是 IFRS 在過去五個課稅年度裡，一直是集團主要使用的會計準則。這項簡化措施的目的，是讓集團可以直接沿用現有的合併報表，不用為了配合規定而全面更換財務報導準則，藉此減輕行政負擔和相關成本。上述修正旨在透過使用合併報表來減輕行政負擔及成本，而無需全面轉換財務報導準則。「主要準則」的概念係依據集團合併財務報表所使用的準則，以及適用 IFRS 的實體的資產價值占全體 QDMTT 納稅義務人總資產的比例來定義，這至關重要。

需特別留意的是，擬議的法規為過渡性方案，適用於不晚於 2028 年 12 月 31 日結束的課稅年度，這也引發了對其後適用規則的疑問。

另外，草案亦涵蓋過渡性避風港（Transitional Safe Harbour, TSH）規則。草案明確指出，對於少數持股成員實體（Minority Owned Constituent Entities, MOCEs）無須另行進行獨立的 TSH 計算，該解釋可能源自現行條文。如果某集團於 2024 年即已適用 Pillar Two，則欲於 2025 年在波蘭適用 TSH，須同時符合波蘭於 2024 年亦具備 TSH 資格，且相關選擇須於 2024 年度的 GloBE 資訊申報書（GIR）中作出。

Poland
Amendments to Top-Up Tax regulations and OECD alignment

On February 13, the Ministry of Finance published a draft act introducing significant amendments to the Polish Pillar Two rules. The primary goal of these changes is to clarify existing rules, address lack of clarity in interpretation, align Polish legislation with the latest OECD Administrative Guidance from June 2024 and January 2025 as well as provide important clarifications on when IFRS can be applied for Qualified Domestic Minimum Top-up Tax (QDMTT) calculations

PwC observation:

The draft amendment introduces several modifications that will directly affect the tax settlements of capital groups, particularly focusing on:

- Implementation of Administrative Guidance: This includes guidance from June 2024 (e.g. addressing differences between GloBE values and carrying values of assets and liabilities) and January 2025 (specifying rules for recognizing deferred tax assets from governmental arrangements).
- Clarification of existing provisions: procedural provisions for filing GloBE Information Returns and local tax returns, and conditions for applying uniform accounting standards for QDMTT.

For QDMTT calculations, the general principle is to apply the Polish Accounting Act (Polish GAAP), with IFRS serving as an exception, if at least one taxpayer from a given group is required by law to apply IFRS. It is not clear how to interpret the condition of “being obliged to apply IFRS.” This provision is not entirely clear, but according to one interpretation of the Ministry of Finance, it obliges QDMTT taxpayers from the group:

- to apply, for accounting purposes, the standard that is used to calculate QDMTT (Polish GAAP or IFRS),
- to apply a uniform accounting standard within Polish group entities for the purpose of the preparation of the financial statements,
- to adopt by all group entities the financial year of the UPE.

Poland
Amendments to Top-Up Tax regulations and OECD alignment(continued)

The draft proposes that being "obliged to apply IFRS" refers to the requirement to prepare consolidated financial statements in Poland by the Ultimate Parent Entity (UPE).

The amendment introduces important clarifications on when IFRS can be applied for QDMTT calculations: entities applying Polish GAAP can now calculate QDMTT using IFRS consolidation packages (which must be audited), provided that IFRS has been the dominant accounting standard in the group for the past five tax years. This simplification aims to reduce administrative burden and costs, enabling groups to leverage existing consolidation packages without a complete shift in financial reporting standards.

These changes aim to reduce administrative burden and costs by enabling the use of consolidation packages without requiring a full switch in financial reporting standards. The concept of a "dominant standard" is defined based on its use in the group's consolidated financial statement and the proportion of asset value held by IFRS-applying entities to the total assets of all QDMTT taxpayers and will be of great importance.

A key point to consider is that the proposed regulations are a temporary solution, applicable to tax years ending no later than 31 December 2028, which raises questions about the rules that will apply thereafter.

Furthermore, the amendment also addresses the Transitional Safe Harbour (TSH) rules. The draft clarifies that separate TSH calculations for Minority Owned Constituent Entities (MOCEs) are not required. Such approach may come from the current provisions. Moreover, according to the amendment, to benefit from TSH in Poland in 2025, if a group was subject to Pillar Two in 2024, Poland should qualify for TSH also for 2024 and relevant election should be made in GIR for 2024.

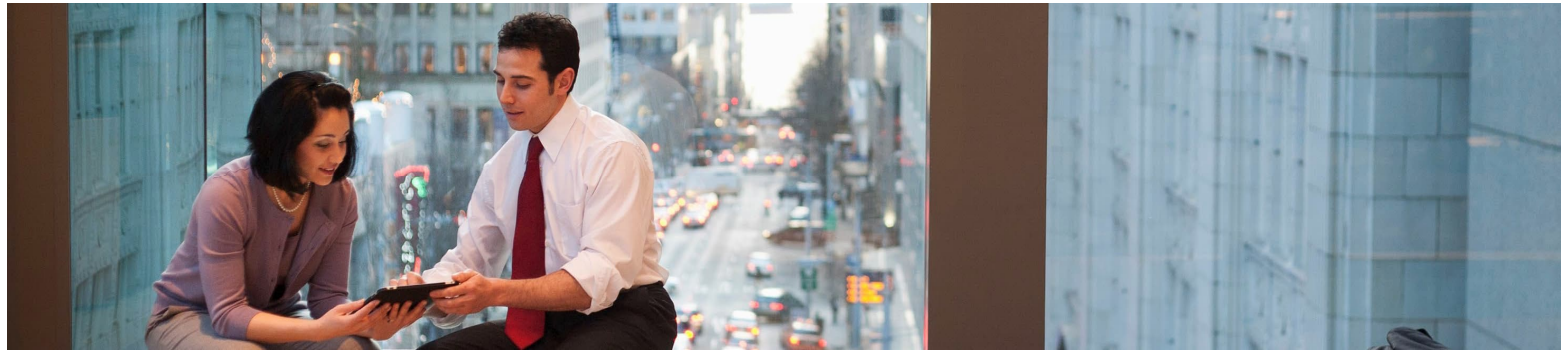
美國
2026-17 號通知為第987條規劃更簡化的方法，提供針對性的虧損紓解

美國財政部及國稅局於 2026 年 2 月 25 日發布第 2026-17 號通知（Notice 2026-17），說明其計畫依據第987條（Section 987）發布擬議法規。這個擬議法規將允許納稅義務人選擇採用一套簡化方法（係以 1991 年的擬議法規為藍本），用以計算 Section 987合格營業單位（qualified business unit, QBU）的應稅所得或虧損，及相關的外幣損益。即將發布的擬議法規亦將就虧損暫停規則、遞延規則及避險規則提供進一步簡化與釐清，並提供一項選擇權，允許納稅義務人選擇將受控外國公司（controlled foreign corporation, CFC）排除於 Section 987 損益計算或認列要求之外，惟涉及特定的向內交易者除外（即 CFC 選擇權）。

通知中的規則預計將與未來發布的擬議法規一致，且除了 CFC 選擇權的相關規則外，納稅義務人得依通知內容作為適用依據（須符合一致性規則）。這些規則適用於擬議法規發布前結束的課稅年度，且係適用 2024 年最終法規者。

資誠觀點

企業應就 2024 年 12 月發布的最終法規中的制度計算方式，與選擇性權益及基礎池法（elective equity and basis pool method）之間的取捨進行模擬分析，包括不用匯回模式可能對已認列損益所產生的影響。企業應評估依擬議虧損暫停門檻及簡化認列分組方法下，相關虧損的可利用性，尤其是在曾出現的 Section 987 虧損遭「鎖住」的架構下。企業亦應考慮盤點並記錄與 QBU 曝險相關的避險工具，以判斷擴大後的避險定義是否適用。企業應考慮是否就通知中的新規則提交意見，特別是 CFC 選擇權。意見截止日為 2026 年 4 月 26 日。



United States

Notice 2026-17 charts a simpler Section 987 path with targeted loss relief

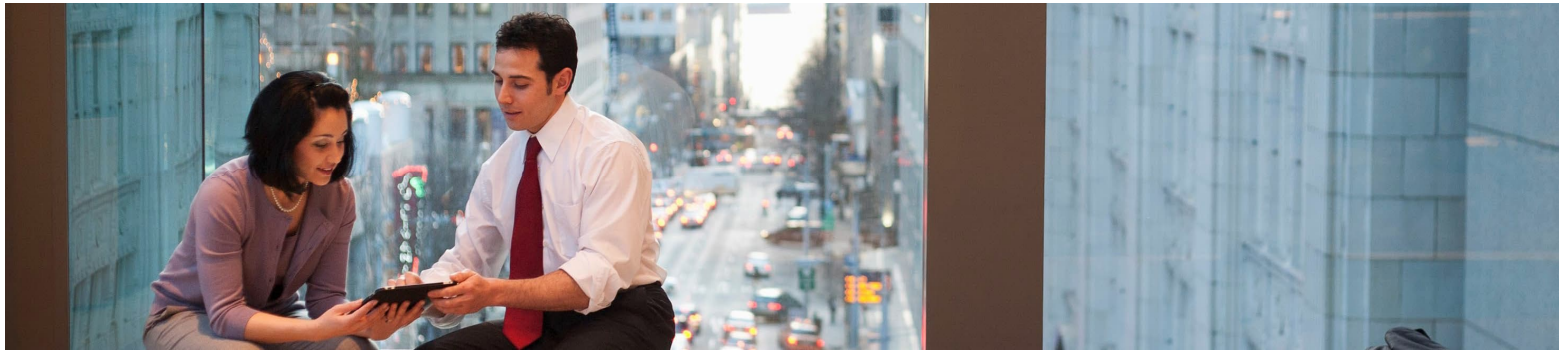
Treasury and the IRS on 25 February 2026 issued Notice 2026- 17, which provides the plan to issue proposed regulations under Section 987 that would permit taxpayers to elect a simplified method—modeled on the 1991 proposed regulations—to compute a Section 987 qualified business unit's (QBU's) taxable income or loss and related foreign currency gain or loss. The forthcoming proposed regulations also would provide additional simplification and clarification for the suspended loss rules, the deferral rules, and hedging rules as well as an election to exclude CFCs from the requirement to compute or recognize Section 987 gain or loss, except in connection with certain inbound transactions (the CFC election).

The rules in the Notice are expected to be consistent with the rules in the forthcoming proposed regulations and may be relied on (subject to consistency rules), except for the rules with respect to the CFC election. Reliance is permitted for a tax year ending before the proposed regulations are published and to which the 2024 final regulations apply.

For more information: PwC Tax Insight.

PwC observation:

Companies should model the tradeoffs between the regime computations in the final regulations issued in December 2024 and the elective equity and basis pool method (including how remittance patterns may affect recognized gain or loss). Companies should assess loss utilization under the proposed loss-suspension thresholds and simplified recognition grouping approach, particularly if a structure has historically 'trapped' Section 987 losses. Companies also should consider taking inventory of, and documenting, hedges tied to QBU exposures to determine whether the expanded hedging definition (and any identification relief) is relevant. Companies should consider whether to submit comments on the new rules provided in the Notice, especially the CFC election. Comments are due 26 April 2026.



印度
印度與法國政府簽署議定書，修正現行租稅協定

印度與法國政府已簽署一項議定書，修正印度—法國避免雙重課稅協定（租稅協定）。雙方對租稅協定中有關資本利得、股利、技術服務費（fees for technical services, FTS）、最惠國待遇（Most Favoured Nation, MFN）及常設機構（permanent establishment, PE）的條款提出重大修正。

議定書將於印度及法國完成相關法定程序後生效。議定書預計將對租稅協定帶來以下重要修正：

- 資本利得： 議定書擬規定，因公司股權移轉的資本利得，其課稅權在所有情況下均完全歸屬來源國（即公司的居住國）。這項修正將取消目前適用於投資組合投資人（即持有被處分公司股權低於 10% 的投資人）在來源國得享的免稅待遇。
- 最惠國待遇條款： 擬予刪除。
- 股利： 議定書擬就股利所得引入 5%（持股至少 10% 時適用）及 15%（其他情形適用）的稅率，以取代現行單一 10% 的稅率。
- 技術服務費： 定義將與印度—美國租稅協定中的定義一致，這意味著可能將在印度—法國租稅協定中引入「使技術可供使用」測試。
- 服務型常設機構： 原租稅協定第 5 條並無服務型常設機構的條款。議定書擬透過引入服務型常設機構條款，擴大現行常設機構條款的適用範圍。
- 將多邊工具（Multilateral Instrument）條款納入租稅協定： 議定書擬將印度與法國已批准及簽署的多邊工具條款納入租稅協定。
- 其他修正： 更新「資訊交換」的規定，並新增「協助稅款徵收」的條文。

資誠觀點

「技術服務費」定義的變更及租稅協定中股利稅率的調整，預計將為跨境經濟活動整體及外國直接投資流入印度提供助力。服務型常設機構條款的引入，更使得納稅義務人有必要對其現有及未來的商業模式進行全面的檢視。

最惠國待遇條款的刪除，係在於最高法院就 MFN 條款作出具里程碑意義的判決後，為投資人帶來確定性。

India

Governments of India and France sign Protocol to amend existing tax treaty

The governments of India and France have signed a Protocol amending the India-France Double Taxation Avoidance Agreement (tax treaty). They propose substantial changes to the capital gains, dividend, fees for technical services (FTS), Most Favoured Nation (MFN) and permanent establishment (PE) clauses of the tax treaty.

The Protocol will take effect once the due procedures are completed in India and France. The Protocol is expected to bring about the following key changes to the tax treaty –

- **Capital gains**: The Protocol seeks to assign the taxing rights in case of capital gains from the transfer of shares of a company entirely to the source jurisdiction, i.e., the jurisdiction in which the company is resident, in all cases. The proposed amendment would thus remove the tax exemption in the source jurisdiction available for portfolio investors (i.e. investors holding less than 10% participating interest in the company whose shares are alienated).
- **MFN clause**: This clause is proposed to be removed.
- **Dividend**: The Protocol seeks to introduce tax rates of 5% (where shareholding is at least 10%) and 15% (other cases) for dividend income, replacing the existing singular rate of 10%.
- **FTS**: The definition is set to be aligned with the definition in the India– US tax treaty, possibly implying that the 'make- available' test would be introduced in the India–France tax treaty.
- **Service PE**: There was no clause in Article 5 of the tax treaty dealing with service PE. The Protocol is set to broaden the scope of the existing PE clause by introducing a service PE clause.
- **Incorporating Multilateral Instrument provisions in the tax treaty**: The Protocol seeks to incorporate the provisions of the Multilateral Instrument as ratified and signed by India and France into the tax treaty.
- **Other changes**: Updating the 'Exchange of Information' provisions, and introducing a new Article on 'Assistance in Collection of Taxes'.

PwC observation:

The change in the definition of 'FTS' and the modification in the rates of tax on dividends under the tax treaty are expected to provide an impetus to cross-border economic activity in general and foreign direct investment inflows into India in particular. The introduction of a service PE clause further warrants that the taxpayers undertake a thorough examination of their existing and future business models.

The elimination of the MFN clause seeks to impart certainty to investors in the aftermath of the Supreme Court's landmark decision on the MFN clause.

要聞

Administrative
行政

澳洲
就進一步修正支柱二規則進行公眾諮詢

澳洲財政部已公布一份擬修正澳洲的全球及國內最低稅負制的修正草案，徵求公眾意見，目的是確保支柱二補充稅在澳洲的有效運作。修正內容包括：

- 釐清澳洲國內最低稅負制（domestic minimum tax, DMT）在涉及與澳洲具有連結的無國籍實體（stateless entities）的情形下的適用方式；
- 調整澳洲 DMT 與稅務合併制度的互動關係，以確保能適當地將國內補充稅額從稅務合併集團的子公司成員分配至集團的母公司；
- 確保在涉及反向混合實體（reverse hybrid entity）或混合實體時，涵蓋稅額的分配方式，與GloBE 所得的分配原則保持一致；
- 確保澳洲 DMT 能正常運作，鑒於澳洲被認定為具有合格 DMT的國家，對相關規則進行修正，以確保國內稅負制可適用於澳洲；以及
- 新增外幣換算規則，規範如何將以外幣計算的補充稅額轉換為澳幣。

修正草案的公眾諮詢已於 2026 年 3 月 13 日截止。

資誠觀點

由於修正草案之目的在於使澳洲支柱二與 OECD 規則一致，一旦完成修正，將追溯適用於 2024 年 1 月 1 日（含）以後開始的會計年度。儘管修正預計將在即將到來的首次支柱二申報截止日前完成立法，但納稅義務人在計算其澳洲支柱二補充稅負計算時，若預期法律將有修正，應記錄澳洲法律與 OECD 規則之間的不一致之處。

Australia
Consultation on further Pillar Two Rule amendments

Australia's Treasury has released for comment an exposure draft of proposed amendments to Australia's Global and Domestic Minimum Tax Rules to ensure the effective operation of Pillar Two top-up taxes in Australia. The changes:

- clarify the operation of Australia's domestic minimum tax (DMT) in relation to stateless entities with an Australian nexus
- refine the interaction between Australia's DMT and tax consolidation rules to ensure it operates appropriately to allocate domestic top-up tax amounts from subsidiary members of the tax consolidated group to the group's head company
- ensure covered taxes are appropriately allocated con sistent with the allocation of GloBE income for a reverse hybrid entity or hybrid entity
- ensure that Australia's DMT will function properly, i.e., since Australia is specified as having a Qualified DMT, amendments are made to the Rules to ensure that domestic top-up tax can apply to Australia, and
- add a foreign currency translation rule for the conversion of amounts of top-up tax calculated in a foreign currency to Australian dollars.

Comments on the proposed law closed 13 March 2026.

PwC observation:

As the aim of the proposed amendments is to align Australian Pillar Two law with the OECD rules, once these amendments are made they would apply retroactively to fiscal years commencing on and after 1 January 2024. Although the amendments are expected to be made before the forthcoming first Pillar Two deadline, where taxpayers anticipate a law change in finalising their Australian Pillar Two top-up tax liability calculations, they should document the inconsistency identified between the Australian law and the OECD materials.

澳洲
支柱二與澳洲加入 GloBE資訊申報表多邊主管機關協議

GloBE 資訊申報表多邊主管機關協議（GloBE Information Return Multilateral Competent Authority Agreement, GIR-MCAA）是一項多邊協議，旨在促進各國稅務機關之間自動交換 GloBE 資訊申報表（GloBE Information Return, GIR），作為支持支柱二實施的工具。

澳洲於 2026 年 1 月 28 日簽署 GIR-MCAA。鑒於首次 GIR 申報截止日為 2026 年 6 月 30 日，澳洲現已能與其他參與國分享境內申報的 GIR，以及接收來自國際交換的 GIR 資訊。

資誠觀點

澳洲加入 GIR-MCAA 是一項基礎性的里程碑，使跨境交換 GIR 成為可能，有助於減輕可將 GIR 申報集中於單一管轄區的跨國企業集團的遵循負擔，並確保澳洲稅務局能取得管理支柱二全球及國內最低稅負所需的資訊。

Australia
Pillar Two and Australia's entry to the GIR-MCAA

The GloBE Information Return Multilateral Competent Authority Agreement (GIR-MCAA) is a multilateral agreement designed to facilitate the automatic exchange of GloBE Information Returns (GIR) between tax authorities as an administrative tool supporting the implementation of Pillar Two.

Australia signed the GIR-MCAA on 28 January 2026 (refer to the current list of countries that have signed up to the GIR-MCAA). With the first GIR lodgments due 30 June 2026, Australia is now able to share domestic filings of GIRs and receive international exchanges of GIR information with those other participating countries.

PwC observation:

Australia's entry into the GIR-MCAA is a foundational administrative step that enables the cross-border exchange of GIR, the potential to reduce compliance burdens for MNE groups that can centralise their GIR filing in one jurisdiction, and ensures the Australian Taxation Office can receive the information it needs to administer Pillar Two global and domestic minimum taxes.

澳洲
澳洲支柱二申報期限展延

澳洲稅務局已表示，將針對 2024 年開始的會計年度，為所有適用範圍內的納稅義務人，就澳洲所得涵蓋原則（Income Inclusion Rule, IIR）和徵稅不足支出原則（Undertaxed Profits Rule, UTPR）稅務申報表（Australian IIR/UTPR Tax Return, AIUTR）及澳洲 DMT 稅務申報表（DMT Tax Return, DMTR）自動提供 30 天的申報期限展延，讓納稅義務人有更多時間準備首年度的支柱二申報。這項展延自動適用，無需另行申請，但僅限是首年度申報。重要的是，自動展延僅適用於申報，不適用於稅款繳納期限。首年度應繳的任何 IIR、UTPR 或 DMT 補充稅，仍須於原定繳納期限繳交，惟納稅義務人得另行申請繳納期限展延。

如果沒有獲准超過初始 30 天的申報延期，澳洲稅務局可能會考慮在短期內暫緩採取申報未履行的強制執行措施，但這可能適用有限度的執行暫緩措施。GIR 及外國申報通知不得延期，不過可能適用有限的執行暫緩，包括 2024 會計年度的外國申報通知可自動給予30 天的執行暫緩期。

資誠觀點

若沒有任何展延的情況下，會計年度於 2024 年 12 月 31 日（含）以前結束的企業，其首次澳洲支柱二申報截止日為 2026 年 6 月 30 日。澳洲稅務局對首年度支柱二申報提供期限展延的作法，反映其已認知到適用範圍內跨國企業在新制度上路時所面臨的複雜性及準備挑戰。同時，澳洲稅務局已明確區分申報期限展延與繳納義務不同。首年度補充稅並無任何自動繳納延期，此點顯示即使在遵循時程獲得展延的情形下，現金稅負的時點仍至關重要，企業仍須及早進行模擬分析及資金規劃。

首年度的進一步申報期限展延，或後續年度的任何期限展延，均須向澳洲稅務局提出申請。申請係以個案方式進行審查。

Australia
Pillar Two lodgment extensions in Australia

The ATO has indicated that it will provide automatic 30-day lodgment deferrals for the Australian IIR/UTPR Tax Return (AIUTR) and Australian DMT Tax Return (DMTR) for all in-scope taxpayers for fiscal years commencing in 2024, giving taxpayers additional time to prepare first-year Pillar Two filings. This deferral applies automatically and requires no action, but it is limited to the first year only. Importantly, the automatic relief applies only to lodgment and not to payment. Any IIR, UTPR or DMT top-up tax payable in the first year remains due by the original payment date, although taxpayers may separately apply for a payment deferral.

Where lodgment deferrals beyond the initial 30-day period are not granted, the ATO may consider suspending lodgment enforcement action for a short period. However, this is discretionary and generally limited. GIR and foreign lodgment notifications cannot be deferred, although limited enforcement suspension may apply, including an automatic 30-day suspension for foreign lodgment notifications for the 2024 fiscal year.

PwC observation:

In the absence of an extension, the first Australian pillar two lodgments are due by 30 June 2026 for those with a fiscal year ended on or before 31 December 2024. The ATO's approach to extend Pillar Two lodgments for the first year acknowledges the complexity and readiness challenges facing in-scope MNEs as the regime goes live. At the same time, the ATO has drawn a clear distinction between lodgment relief and payment obligations. The absence of any automatic payment deferral for first-year top-up tax underscores that cash tax timing remains critical, requiring early modelling and funding decisions even where compliance timelines are extended.

Any further lodgment deferrals for the first year, or any deferrals in later years, must be requested from the ATO. Requests are assessed on an entity-by-entity basis.

澳洲
公開國別報告程序最終確定

澳洲稅務局已發布最終版指南，說明如何編製澳洲公開國別（public country-by-country, CBC）報告。澳洲的公開國別報告制度要求特定大型集團公開揭露其在澳洲、特定國家及全球其餘營運的選定稅務及財務資訊。首份公開國別報告適用於 2024 年 7 月 1 日（含）以後開始的報告期間，截止日為 2026 年 6 月 30 日。

資誠觀點

最終版指南的發布，為受影響的集團提供了迫切需要的確定性及釐清，明確了澳洲公開國別報告制度下的揭露要求。受影響的集團將需仔細考量並審慎規劃即將到來的揭露義務。幾項重要提醒如下：

- 仔細確認集團是否在適用範圍內：申報義務歸屬於國別報告母公司，即合併年度全球收入達澳幣 10 億元以上的集團的最終母公司。在部分情況下，外國母公司即使在其所在國未達國別報告門檻，仍可能因達到澳洲門檻而須履行申報義務。
- 在申報前確認負責授權公開國別報告的人員，並記錄指定授權代表的內部流程。
- 澳洲制度在資料要求、適用門檻及揭露義務等面向，與其他國別報告制度有所不同。
- 及早備妥相關資料及流程。報告須可與經查核的合併財務報表勾稽，並以澳洲稅務局規定的 XML 格式進行申報。

Australia
Process for public country-by-country reporting finalised

The ATO has released final instructions to prepare Australia's public country-by-country (CBC) report. Australia's public CBC reporting regime requires certain large groups to publicly disclose selected tax and financial information for Australia, specified countries, and the rest of their global operations. The first public CBC report for reporting periods starting on or after 1 July 2024 is due by 30 June 2026.

This Tax Alert provides a comprehensive overview of Australia's public CBC reporting regime.

PwC observation:

Publication of the finalised instructions provides affected groups with much needed certainty and clarification on the required disclosures under Australia's public CBC reporting regime. Affected groups will need to closely consider and carefully plan for upcoming disclosures. A few key takeaways include:

- Check carefully whether the group is in scope – the obligation rests with the CBC reporting parent, which is the ultimate parent entity of a group with consolidated annual global income of AUD$1bn or more. In some cases, foreign parent entities may meet this threshold even if they fall below the CBC reporting threshold in their home jurisdiction.
- Identify who will be responsible for authorising the public CBC report prior to lodgment and document your internal processes for nominating the authorised representative(s).
- The Australian regime differs from other CBC reporting regimes in data requirements, jurisdictional thresholds, and disclosure obligations.
- Get your data and processes in order. Reports must be reconcilable to consolidated audited financial statements and lodged in the ATO's prescribed XML format.

法國
行政法庭就受控外國公司規定的歐盟安全條款作出判決

法國稅務機關對一家法國公司適用受控外國公司（controlled foreign corporation, CFC）規定，這個法國公司僅持有一家直布羅陀公司的少數股權，而其餘股份由集團內位於法國境外的成員持有。

納稅義務人主張，在 CFC 並非由法國實質控制的情況下，不應適用法國 CFC 規定；且歐盟安全條款（EU safeguard clause）要求稅務機關舉證存在旨在規避法國稅法的人為安排。

2026 年 2 月 13 日，Montreuil 行政法庭作出有利於納稅義務人的判決，確認舉證責任在於稅務機關。在本案中，稅務機關未能證明納稅義務人的營運導致法國課稅基礎的減少，亦未能證明 CFC 所取得之所得（即使間接地）與法國公司應稅利潤中扣除的利息費用相對應。

資誠觀點

本判突顯了蒐集適當文件的重要性，以證明納稅義務人的營運並未導致利潤移轉。

France
Tribunal rules on the EU safeguard clause for CFC provisions

French tax authorities applied controlled foreign corporation (CFC) provisions to a French company holding a minority interest in a Gibraltar company, while the remainder of the shares was held by the group outside France.

The taxpayer argued that French CFC rules could not be applied where the CFC was not controlled from France and that, in any case, the EU safeguard clause required tax authorities to demonstrate the existence of an artificial arrangement designed to circumvent French tax legislation.

On 13 February 2026, the Montreuil Administrative Tribunal ruled in favour of the taxpayer and confirmed that the burden of the proof lies on the tax authorities. In the present case, the authorities failed to demonstrate that the taxpayer's operations resulted in a reduction of the French taxable base or that the income received by the CFC corresponded, even indirectly, to interest expenses deducted from the taxable profits of the French company.

PwC observation:

This ruling highlights the importance of gathering the appropriate documentation to evidence the absence of profit shifting resulting from the taxpayer's operations.

義大利
義大利稅務局核准支柱二申報表格式

2026 年 2 月 6 日，義大利稅務局核准了支柱二的年度申報表格式，完成QDMTT、IIR及UTPR義務的遵循架構。

申報表包含一份封面頁及六個部分，涵蓋集團資料、有效稅率計算，以及各類補充稅（IIR、UTPR、QDMTT）的計算。2024 會計年度的首次申報截止日為 2026 年 6 月 30 日。

資誠觀點

適用範圍內的跨國及國內集團應儘速確認負責各類申報的實體，並評估可適用的避風港及簡化制度，以期降低補充稅負。即使符合避風港制度的集團，仍須完成申報。企業亦應確保內部流程及資料蒐集系統已到位，以因應即將到來的申報及繳納截止日。

Italy
IRA approves Pillar Two declaration model

On 6 February 2026, the Italian Revenue Agency approved the annual declaration model for Pillar Two, completing the compliance framework for QDMTT, IIR, and UTPR obligations.

The declaration model comprises a cover sheet and six sections covering group data, effective tax rate calculations, and the determination of each top-up tax type (IIR, UTPR, QDMTT). The first filing deadline for FY2024 is set for 30 June 2026.

For more information see our Tax Insight.

PwC observation:

In-scope multinational and domestic groups should promptly identify the entities responsible for filing each declaration type and assess the applicability of available safe harbor and simplified regimes to potentially reduce top-up tax liabilities. Even groups qualifying for safe harbour regimes are required to file the declaration. Companies should also ensure internal processes and data collection systems are in place to meet the upcoming filing and payment deadlines.

墨西哥
向適用優惠稅制的外國關係企業支付款項的限制

企業由於核課期間的關係，墨西哥稅務機關預計將從 2020 課稅年度開始啟動查核。因此，墨西哥企業納稅義務人應仔細檢視自身的遵循文件，特別是 2020 年依墨西哥所得稅法（Mexican Income Tax Law, MITL）第 28 條第 XXIII 款所引入的費用扣除限制，這是墨西哥版的 BEPS 反混合錯配規則。

這項限制規定，墨西哥居民支付給外國關係人的任何款項（不論直接或間接），只要所得在外國沒有被課徵所得稅，或者課稅稅負低於按墨西哥稅法計算應納稅額的 75%，就不能列為費用扣除。這類外國稅制就是所謂的「優惠稅制」。

在適用這項規則時，必須從逐筆交易的角度來進行，針對每一筆款項個別評估，而且需要依照墨西哥稅法做完整的可比較性分析。

這點之所以重要，是因為只要有任何國外稅額扣抵或費用扣除依墨西哥稅法不被認列，就可能觸發費用扣除限制，即使外國關係人適用的企業所得稅率已經達到墨西哥一般企業所得稅率（目前為 30%）的75%。換句話說，從外國稅務的角度來看，有效稅率必須達到 22.5% 或以上，才能避免落入這項限制的範圍。

不過，光是證明比較稅率還不夠，不足以支持費用扣除。納稅義務人必須記錄比較外國稅負與墨西哥稅負的稅務計算過程。這類詳細的文件，對於防範墨西哥稅務機關在查核中提出的潛在挑戰非常關鍵。

除了上述要求以外，這項限制還設有一個重要的例外。如果收款的外國關係人確實有在從事企業活動，而且有實質營運存在可以佐證（包括擁有執行商業營運所需的資產和員工）就可以適用這項例外。

不過，這項例外要生效，前提是外國關係人必須是與墨西哥簽有廣泛稅務資訊交換協定的管轄區居民。這個要求的目的，是為了確保各國稅務機關之間的透明度與合作，以防止避稅行為。

因此，強烈建議墨西哥實體備妥充分的文件，證明外國關係人具備符合條件的商業活動。證明款項可以扣除的舉證責任完全落在墨西哥納稅義務人身上，面對可能的稅務查核時，準確且完整的記錄保存絕對不可少。

如果涉及混合機制，遵循的複雜度還會更高。所謂的混合機制，是指墨西哥與外國稅法之間，在實體的認定處理、收入分類、資產所有權或特定款項的處理上存在差異。這些差異可能造成一種情況：在墨西哥可以列為費用扣除，但對應的款項在境外卻沒有被課稅（部分或全部都沒有）。

在這種情況下，支付給外國關係人的混合款項，通常會被排除在商業活動及實質營運例外的適用範圍之外。除非納稅義務人能夠證明所支付的款項在外國管轄區有被課稅，即使稅負並不是直接課在混合實體本身，否則這項排除會持續適用。

墨西哥
向適用優惠稅制的外國關係企業支付款項的限制(續)

混合機制的定義也突顯了一件事：墨西哥納稅義務人有必要仔細分析跨境安排，找出可能因性質認定或課稅差異所產生的錯配，進而導致費用扣除被否准或其他稅務調整。

到目前為止，墨西哥稅務機關尚未發布額外的釐清或正式法規，來說明外國關係人在什麼情況下會被認定具有足夠的資產和員工、進而符合實質營運例外的條件。因此，墨西哥納稅義務人必須採取逐案分析的方式，搭配詳細的事實及法律分析來進行評估。

在實務上，這代表某些情況下外國關係人可能會直接雇用人員。在這種情況下，納稅義務人應該保留適當的僱用合約以及相關費用的佐證文件，用來證明這個實體的營運實質。

另外，也有些外國關係人可能會把活動轉包給位於其稅務居住國以外的其他關係人。對於這類安排，就有必要進一步分析：轉包的服務在評估商業合理性及實質營運要求時，能不能被納入考量。墨西哥納稅義務人必須確認，在管轄區外進行轉包是否確實支持合理的營運需求，同時也要確保款項的可扣除性不會因此受到影響。

考量到墨西哥稅務環境的持續變化，加上墨西哥稅務機關對跨境集團內交易的關注日益加強，主動評估並整理好與支付給外國關係人款項相關的文件和分析，是非常重要的。

總結來說，墨西哥納稅義務人應該針對 2020 年引入的限制規定，全面檢視集團內的款項支付架構及相關文件，尤其要特別留意涉及混合機制的交易。

要確保每筆款項都能以充分的文件和有效的經濟實質來佐證，這對於在稅務查核中捍衛費用扣除的立場，將會是關鍵所在。

Mexico

Limitations on payments to preferred tax regime foreign related parties

Due to the statute of limitations, the Mexican Tax Authorities are expected to initiate audits starting from fiscal year 2020 onwards. Therefore, Mexican corporate taxpayers should carefully review their compliance documentation regarding the deductibility limitation introduced in 2020 under Section XXIII of Article 28 of the Mexican Income Tax Law (MITL), which is the Mexican version of the BEPS anti-hybrid rules.

This limitation disallows any type of payment, whether direct or indirect, made by Mexican residents to foreign-related party recipients, where these payments relate to income that is either not subject to income tax in the foreign jurisdiction or is taxed lower than 75% of the tax that would have been due if the payment had been taxed under Mexican tax rules. These foreign tax regimes are referred to as ‘preferred tax regimes.’

The test for applying this rule must be carried out from a transactional perspective, assessing each payment individually. It also requires a thorough comparability analysis based on Mexican tax rules.

This is important because any foreign tax credit or deduction disallowed under Mexican tax law can lead to triggering the limitation on deductibility, even if the foreign related party is subject to a corporate income tax rate that is at least 75% of Mexico’s general CIT rate, currently 30%. This means that for foreign tax considerations, the effective taxation should be 22.5% or higher to avoid falling under the limitation.

Note however, that merely demonstrating comparative tax rates is insufficient to support the deduction. Taxpayers are required to document the tax computations they use to compare foreign taxes against Mexican tax liabilities. This detailed documentation is key to safeguard against potential challenges during Mexican tax audits by the Mexican Tax Authorities.

In addition to these requirements, there is an important exception to the limitation. This exception applies when the foreign related party receiving the payment is engaged in an entrepreneurial activity supported by substantiated operational presence, which includes having the necessary assets and employees to carry out such business operations.

For this exception to be effective, the foreign related party must be a resident in a jurisdiction with which Mexico has a broad exchange of tax information agreement. This requirement aims to ensure transparency and cooperation between tax authorities to prevent tax avoidance.

Mexican entities are therefore strongly advised to maintain substantial documentation, demonstrating the foreign related party’s qualifying business activities. The responsibility to prove that the payments are deductible rests entirely with the Mexican taxpayer, making accurate and comprehensive record-keeping indispensable in the face of potential tax audits.

The complexity of compliance increases in situations where hybrid mechanisms are involved. Hybrid mechanisms arise when there are differences between Mexican and foreign tax legislations in the treatment of entities, revenue classification, ownership of assets, or specific payments. These differences can create scenarios where a deduction is allowed in Mexico, but the corresponding payment is not taxed, either partially or fully, abroad.

In such cases, hybrid payments to foreign related parties are typically excluded from the business activity and substance exception. This exclusion remains unless taxpayers can prove that the payments they make are subject to tax in the foreign jurisdiction, even if the tax is not levied directly on the hybrid entity itself.

Mexico
Limitations on payments to preferred tax regime foreign related parties(continued)

This definition of hybrid mechanisms emphasizes the need for Mexican taxpayers to carefully analyze cross-border arrangements to identify mismatches in characterization or taxation that could trigger denial of deductibility or other tax adjustments.

As of today, Mexican Tax Authorities have not yet issued additional clarifications or official regulations that provide detailed criteria regarding when a foreign related party can be deemed to have sufficient assets and employees to qualify for the substance exception. Consequently, Mexican taxpayers must approach these assessments on a case-by-case basis with detailed factual and legal analysis.

In practice, this means there are circumstances where foreign related parties may employ personnel directly. In such cases, taxpayers should retain proper employment agreements and supporting documentation of related expenses to evidence the entity's operational substance.

Alternatively, some foreign related parties may subcontract activities to other related parties located outside their tax- residence jurisdiction. For these arrangements, further analysis is necessary to evaluate whether the subcontracted services can be considered when assessing the business rationale and substance requirements. Mexican taxpayers must examine if subcontracting outside the jurisdiction supports the operational needs legitimately and protects the deductibility of payments.

Given the evolving tax landscape and the increasing focus of Mexican tax authorities on cross-border intercompany transactions, it is vital to proactively assess and organize documentation and analysis related to payments made to foreign related parties.

In conclusion, Mexican taxpayers should conduct a thorough review of intercompany payment structures and associated documentation in light of the limitations introduced in 2020. Particular attention is necessary for transactions involving hybrid mechanisms.

Ensuring that payments can be substantiated with robust documentation and valid economic substance will be essential to defend deductibility positions during tax audits.

要聞

Judicial
司法

比利時
歐盟法院裁定比利時在實施 CFC 規則時違反了反避稅指令

歐盟法院（Court of Justice of the European Union, CJEU）於 2 月 26 日作出判決，比利時未將反避稅指令（Anti-Tax Avoidance Directive, ATAD）第 8(7) 條納入國內法，從而未履行其在 ATAD 下的義務（Commission vs Belgium, C-524/23）。第 8(7) 條係 ATAD 第 7 條及第 8 條所規定的受控外國公司（Controlled Foreign Corporation, CFC）規則的一部分，要求歐盟會員國允許抵扣在 CFC 層級已繳納的稅款。

背景與事實

本案涉及比利時未轉換 ATAD 第 8(7) 條的情形。概括而言，ATAD 的 CFC 規則要求歐盟會員國，對由歐盟納稅義務人所控制且適用低稅負的外國實體或常設機構的特定未分配利潤課稅，前提為這些利潤被認定係自歐盟會員國人為移轉者。ATAD 要求歐盟會員國依據第 7 條及第 8 條引入 CFC 規則，並提供兩種實施選項：

- 模式 A（第 7(2)(a) 條）： 對 CFC 未分配的特定被動所得類別（如利息及權利金）課稅（實體法，Entity approach），或
- 模式 B（第 7(2)(b) 條）： 依據移轉訂價常規交易原則，對本質上為獲取稅務利益而設置的非真實安排所產生之所得課稅（交易法，Transactional approach）。

ATAD 第 8(7) 條要求歐盟會員國允許納稅義務人將 CFC 已繳納的稅款自其國內稅負中扣抵，扣抵金額依國內法計算。

比利時最初採用模式 B，透過非真實安排進行反濫用。比利時選擇不轉換 ATAD 第 8(7) 條有關 CFC 稅額扣抵的規定，其理由包括：依據 ATAD 第 3 條，ATAD 之目的僅在於達到最低限度之調和（harmonisation）。在涉及濫用的情況下不允許依第 8(7) 條進行稅額扣抵，可確保對國內企業所得稅稅基提供更強有力的保護。

歐盟法院的判決

法院認定比利時未履行其在 ATAD 下的義務，理由為未採行必要的立法、法規及行政規定以遵循第 8(7) 條，理由包括：

- 強制性稅額扣抵要求： ATAD 第 8(7) 條要求歐盟會員國允許納稅義務人將 CFC 已繳納的稅款自其國內稅負中扣抵。法院認為，這個規定的文字具有強制性，對歐盟會員國構成義務。
- 第 8(7) 條適用於所有 CFC 實施選項： 法院認定，第 8(7) 條適用於模式 A（第 7(2)(a) 條 實體法）及模式 B（第 7(2)(b) 條 交易法），而非僅適用於模式 A。
- 最低限度調和不構成豁免理由： 法院駁回比利時主張 ATAD 為允許更嚴格國內措施的最低限度調和指令的論點，認定歐盟會員國不得採行與指令所課予的具體義務（包括第 8(7) 條）相違背的措施。
- 平等待遇原則： 允許部分歐盟會員國不實施第 8(7) 條，將依據納稅義務人所適用的會員國法律，在納稅義務人之間造成不合理的差別待遇。

比利時
歐盟法院裁定比利時在實施 CFC 規則時違反了反避稅指令(續)

受影響對象

比利時依 2023 年 12 月 22 日法律，已自模式 B（交易法）轉換為模式 A（實體法），且新版比利時 CFC 規則設有 CFC 稅額扣抵機制。就比利時稅務目的而言，直接影響因此有限，尤其這個判決所涉及舊版比利時 CFC 規則適用範圍及實務上影響有限。然而，法院已明確指出，無論歐盟會員國依指令第7(2) 條選擇何種實施選項（模式 A 或模式 B），第 8(7) 條均須予以轉換。因此，本案可能影響所有決定未實施第 8(7) 條的歐盟會員國。

資誠觀點

在這個重要判決中，歐盟法院確認 ATAD 第 8(7) 條為強制性要求，歐盟會員國有義務允許納稅義務人將 CFC 已繳納的稅款自其國內稅負中扣除。法院駁回了「最低限度調和允許不予轉換」的論點，釐清更嚴格的國內措施不得凌駕指令的強制性條款。另外，歐盟法院裁定第 8(7) 條同時適用於第 7(2) 條的模式 A 及模式 B，確保無論採行何種方法，稅額扣抵機制均一致適用。儘管本案因其涉及舊版比利時 CFC 規則，對比利時現行 CFC 規則的直接影響有限，但本案對其他歐盟會員國可能產生重大影響。

Belgium
CJEU rules that Belgium infringed the ATAD when implementing the CFC rule

In its 26 February judgment, the CJEU ruled that Belgium failed to fulfil its obligations under the Anti-Tax Avoidance Directive (ATAD) by not transposing Article 8(7) of the ATAD (Commission vs Belgium, C-524/23). Article 8(7) forms part of the CFC rules contained in Article 7 and 8 of the ATAD and requires that EU Member States allow a credit for the taxes paid at the CFC level.

Background and facts

This case concerns Belgium's failure to transpose Article 8(7) of the ATAD. In general, the ATAD's CFC rules require an EU Member State to tax certain non-distributed profits of a foreign entity or permanent establishment that is controlled by an EU taxpayer and subject to low taxation, where those profits are considered to have been artificially diverted from the EU Member State. ATAD requires EU Member States to introduce CFC rules in line with Articles 7 and 8 and provides two options for implementing those rules:

- Model A (Article 7(2)(a)): Taxes certain passive income categories (such as interest and royalties) that have not been distributed by the CFC (Entity approach), or
- Model B (Article 7(2)(b)): Taxes income arising from non- genuine arrangements put in place essentially to obtain a tax advantage, based on the transfer pricing arm's length principle (Transactional approach).

Article 8(7) of the ATAD requires EU Member States to allow taxpayers to deduct the tax paid by the CFC from their domestic tax liability, with the deduction calculated in accordance with national law.

Belgium initially implemented Model B, targeting abuse via non-genuine arrangements. It chose not to transpose Article 8(7) on CFC tax deductions arguing, among others, that pursuant to Article 3 of the ATAD the aim of the ATAD is only to achieve a minimum level of harmonisation. By not allowing tax deductions under Article 8(7) of the ATAD in situations involving abuse, it ensures a stronger protection for domestic corporate tax bases.

The CJEU's judgment

The Court decided that Belgium failed to fulfil its obligations under the ATAD by not adopting the necessary legislative, regulatory and administrative provisions to comply with Article 8(7) based on the following arguments:

- Mandatory Tax Deduction Requirement: Article 8(7) of the ATAD requires EU Member States to allow taxpayers to deduct the tax paid by a CFC from their domestic tax liability. The Court held that the wording of this provision is imperative and creates an obligation on EU Member States.
- Article 8(7) Applies to All CFC Options: The Court concluded that Article 8(7) applies to both Model A (Article 7(2)(a) - Entity approach) and Model B (Article 7(2)(b) - Transactional approach), not just to Model A.
- No Exemption Under Minimum Harmonisation: The Court rejected the argument of Belgium that the ATAD is a minimum harmonisation Directive allowing stricter national measures, holding that EU Member States cannot adopt measures contrary to the specific obligations imposed by the Directive, including Article 8(7).
- Equal Treatment Principle: Allowing some EU Member States not to implement Article 8(7) would create unjustified differences in treatment among taxpayers based on which Member State's legislation applies to them.

Belgium
CJEU rules that Belgium infringed the ATAD when implementing the CFC rule (continued)

Who is affected

By the Law of 22 December 2023 Belgium switched from Model B (Transactional approach) to Model A (Entity approach) and the new Belgian CFC rules provide a tax credit for CFC taxes. For Belgian tax purposes the direct impact is hence limited, all the more so because the old Belgian CFC rules, which were at stake in the judgment, had a narrow scope and limited impact in practice. The Court made clear, however, that Article 8(7) must be transposed regardless of which option (Model A or Model B) an EU Member State chose under Article 7(2) of the Directive. Hence, the case could have an impact on all EU Member States that decided not to implement Article 8(7).

PwC observation:

In this important judgment, the CJEU confirmed that ATAD Article 8(7) is a mandatory requirement, obliging EU Member States to allow taxpayers to deduct tax paid by a CFC from their domestic tax liability. The Court rejected the argument that minimum harmonisation permits non-transposition, clarifying that stricter national measures cannot override mandatory provisions of the Directive. Furthermore, the CJEU decided that Article 8(7) applies to both Model A and Model B under Article 7(2), ensuring a consistent tax credit mechanism irrespective of the approach adopted. Although the direct impact on the application of the Belgian CFC rules is limited since it concerns the old Belgian CFC rules, the case can have important consequences for other EU Member States.

義大利
義大利最高法院就實質受益人身分作出判決

本案（義大利最高法院第 1635 號判決，2026 年 1 月 25 日）涉及一家義大利公司向其德國關係企業支付的集團內權利金，用於使用集團的商標及專有技術（know-how）。

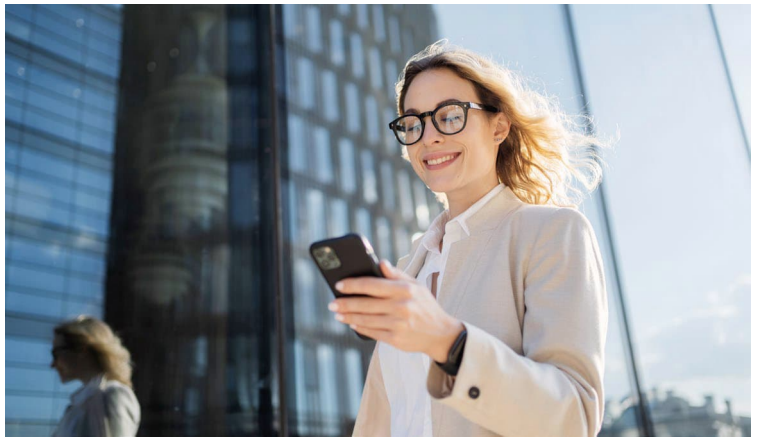
根據義大利稅務警察（Guardia di Finanza）的查核結果，美國母公司為這些權利金的實質受益人。因此，權利金應依義大利—美國租稅協定規定的較高扣繳稅率課稅。

本判決中，義大利最高法院重申了若通過以下測試，即可認定收取義大利來源所得（如權利金）的外國實體為所得的實質受益人：

- 實質營業活動測試（Substantive Business Activity Test）： 評估外國公司是否為虛設公司，或是確實有從事營業活動；
- 支配權測試（Dominion Test）： 驗證公司是否有權自由使用所收取的款項（即收取的權利金），或是負有將其轉付予第三方的義務；
- 商業目的測試（Business Purpose Test）： 審查收款公司是否屬於純粹為節稅目的而設立的導管公司，或是在款項流程中扮演著具有實質功能性角色。

資誠觀點

義大利最高法院自 2023 年起透過多項判決所確立的三項測試，提供支付利息、股利及權利金所得予非義大利居民公司的義大利實體作為的考量，以防止在稅務查核中因實質受益人身分遭質疑，或因義大利一般反避稅條款被援引而面臨 26% 或 30% 扣繳稅率補徵的風險。



Italy
Italian Supreme Court Decision on beneficial ownership status

This case (ISC decision no. 1635 of 25 January 2026) involves intercompany royalty payments from an Italian company to its German affiliate for the use of the group's trademarks and know-how.

According to the findings of the audit conducted by the Italian Tax Police (Guardia di Finanza), the US parent entity was the beneficial owner of the royalties. Consequently, the royalties should have been subject to the higher withholding tax rate provided under the Italy-United States tax treaty.

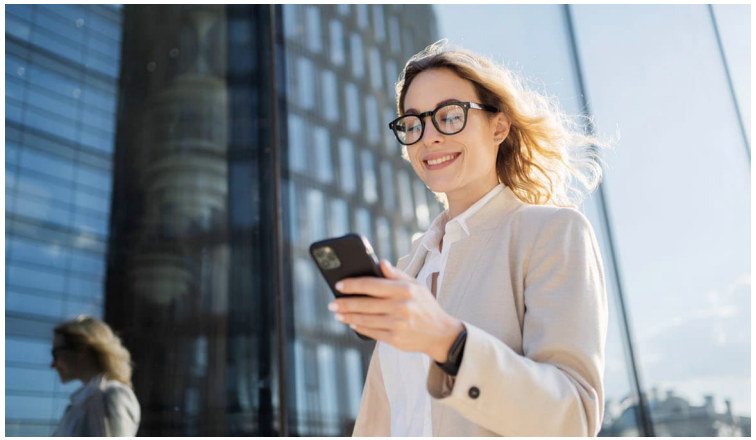
With this judgment, the ISC reaffirmed the tests that, if passed, identify the foreign entity receiving Italian-sourced income (such as royalties) as the beneficial owner of such income.

These include:

- The Substantive Business Activity Test, which assesses whether the foreign company is artificial or is actually engaged in a business activity;
- The Dominion Test, which verifies whether the company has the right to freely use the proceeds received (i.e., royalties received) or is instead obliged to pay them back to third parties;
- The Business Purpose Test, which examines whether the recipient company qualifies as a conduit company established solely for tax-saving purposes, or whether it plays a functional role in the payment flows.

PwC observation:

The threefold tests established by several ISC decisions beginning in 2023 shall be considered by the Italian entities paying interest, dividend, and royalty incomes to non-Italian resident companies in order to prevent challenges on the beneficial ownership status or based on the Italian GAAR triggering a risk of 26% or 30% WHT challenge upon tax audit.



義大利
義大利法院確認非歐盟企業得申請退還已繳的股利扣繳稅款

在一項具里程碑意義的判決中（第 93/2026 號判決，2026 年 2 月 17 日），義大利阿布魯佐（Abruzzo）第二審稅務法院（Corte di Giustizia Tributaria di secondo grado dell'Abruzzo）確認，控制義大利子公司的美國企業有權就股利申請退還扣繳稅款。法院認定，適用 5% 的扣繳稅率（依義大利—美國避免雙重課稅協定），而非歐盟/歐洲經濟區居民股東適用的 1.2% 稅率，構成對歐盟運作條約（Treaty on the Functioning of the European Union, TFUE）第 63 條資本自由流動的不當限制。

法院維持初審判決，命令義大利稅務機關退還 2018 年分配股利所多繳的 3.8% 超額扣繳稅款。

本判決對曾對義大利子公司收取股利、並以高於 1.2% 的稅率繳納扣繳稅款的非歐盟企業而言，代表一項重大的退稅機會。

法院的推論係將歐洲法院就資本自由流動所確立的原則，適用於第三國（非歐盟）股東，並確認僅以居住於歐盟以外為由，無法正當化歧視性的扣繳稅務處理。

這項請求權亦適用於不符合歐盟母子公司指令（指令對符合條件的歐盟持股提供完全免稅）資格的持股。

資誠觀點

重要結論及建議：

曾就義大利股利以超過 1.2% 的稅率繳納義大利扣繳稅款的非歐盟企業，可能有權獲得可觀的退稅。在義大利具重大投資的集團應評估其潛在影響。

48 個月的退稅請求時效意味著，與 2022 年初支付的股利相關的請求權，將於 2026 年初開始逾時效而失權。納稅義務人應立即審視其股利歷史紀錄。

另外，納稅義務人應考慮：

- 準備充分的文件： 義大利法院要求提供收款方為實質受益人、且符合實質營業活動測試、支配權測試及商業目的測試的證據。納稅義務人應在申請前蒐集完整的文件。
- 申請退稅無處罰風險：與由義大利配發股利的公司直接適用 1.2% 稅率（雙方均會面臨罰鍰及刑事風險）不同，透過退稅申請的方式，就不產生罰鍰或利息風險。

Italy

Italian court confirms that non-EU corporations may claim refunds on dividend withholding taxes paid

In a landmark decision (Sentenza n. 93/2026, dated 17 February 2026), the second-tier Italian court of Abruzzo (Corte di Giustizia Tributaria di secondo grado dell'Abruzzo) confirmed that a US corporation controlling an Italian subsidiary is entitled to a withholding tax (WHT) refund on dividends. The court ruled that the application of a 5% WHT rate (under the Italy-United States Double Tax Convention), rather than the 1.2% rate applicable to EU/EEA-resident shareholders, constitutes an unjustified restriction on the free movement of capital under Article 63 TFUE.

The court upheld the first-instance decision ordering the Italian Tax Authorities to refund the 3.8% excess withholding tax paid on dividends distributed in 2018.

This decision represents a significant refund opportunity for non- EU corporations that have received dividends from Italian subsidiaries and paid WHT at rates higher than 1.2%.

The court's reasoning applies the principles established by the European Court of Justice regarding the free movement of capital to third-country (non-EU) shareholders, confirming that discriminatory WHT treatment cannot be justified solely based on residence outside of the European Union.

The claim is available also for participations that do not qualify under the EU Parent-Subsidiary Directive (which provides a complete exemption for qualifying EU participation).

For more information see our PwC Tax Insight.

PwC observation:

Key takeaways and recommendations:

Non-EU corporations that have paid Italian WHT on dividends at rates exceeding 1.2% may be entitled to substantial refunds. Groups with material Italian investments should assess their exposure.

The 48-month limitation period means that claims relating to dividends paid in early 2022 will begin to become time- barred starting in early 2026. Taxpayers should review their dividend history immediately.

Additionally, taxpayers should consider:

- Preparing robust documentation: The Italian courts require evidence that the recipient is the beneficial owner and satisfies the substantive business activity, dominion, and business purpose tests. Taxpayers should gather comprehensive documentation before filing.
- No penalty risk for claiming refunds: Unlike a direct application of the 1.2% rate by the Italian distributing company (which would expose both parties to penalty and criminal risk), a refund claim carries no penalty or interest exposure.

墨西哥
近期關於實質受益人的司法判例

墨西哥近期的司法判例強化了在適用租稅協定減免時，對「實質受益人」採取以實質為基礎的解釋，使國內判例法與 OECD 標準及 BEPS 反避稅原則保持一致。法院確認，僅具有租稅協定締約國的稅務居民身分，不足以適用降低的扣繳稅率或股利及利息的免稅待遇。

相關判例釐清，若中間實體對所得缺乏實質的經濟控制權、於契約上或事實上負有轉付資金的義務、或作為被動的控股或融資導管公司運作（特別是當最終所有權人位於非協定國管轄區時），租稅協定優惠得予以否准。

重要的是，法院明確認可強制使用 OECD 註釋（OECD Commentary）來解釋實質受益人的概念，允許稅務機關依據事實及情況推定義務及限制條件，而非僅憑形式文件。

判例亦確認，實質受益人身分係租稅協定下股利免稅的不可或缺且須與最低持股門檻等要件一併滿足，且舉證責任在於納稅義務人，尤其是在申請退還墨西哥扣繳稅款的情形中。

整體而言，相關判例顯示墨西哥稅務機關在租稅協定分析上明顯轉向更技術性、更具協調性及更重視經濟實質的方向，加強對控股架構、背對背融資（back-to-back financings）及被視為間接協定濫用（treaty shopping）安排的審查。

資誠觀點

判例顯著提高了涉及墨西哥的租稅協定適用立場所面臨的審查強度，並確認不僅經濟實質，對所得之控制權等要素亦為分析的核心。仰賴中間控股或融資實體的架構（特別是最終所有權人位於非協定國管轄區者）若缺乏證明實際決策權或經濟自主性的文件，將更容易遭到質疑。

跨國集團應重新評估其現有控股公司架構，尤其是股利及融資安排，以確保實質受益人身分能獲得充分的實證支持，不僅限於形式上的居住地或法律所有權。這包括審視公司治理、實質存在、現金流機制，以及任何轉付資金的契約或實際的義務。

Mexico
Recent isolated beneficial ownership legal precedents

Recent Mexican judicial precedents reinforce a substance-based interpretation of ‘beneficial ownership’ for treaty relief purposes, aligning domestic case law with OECD standards and BEPS anti- abuse principles. The courts confirmed that formal residence in a treaty jurisdiction is not sufficient to access reduced withholding tax rates or exemptions on dividends and interest.

The rulings clarify that treaty benefits may be denied where an intermediate entity lacks real economic control over the income, is contractually or factually required to retransmit the funds, or operates as a passive holding or financing conduit, particularly when ultimate ownership resides in a nontreaty jurisdiction.

Importantly, the courts explicitly endorsed the mandatory use of OECD Commentary to interpret the concept of beneficial ownership, allowing the tax authority to infer obligations and restrictions based on facts and circumstances, rather than formal documentation alone.

These precedents also confirm that beneficial ownership is an indispensable and cumulative requirement—together with minimum shareholding thresholds—for dividend exemptions under tax treaties, and that the burden of proof rests with the taxpayer, especially in refund claims of Mexican withholding tax.

Overall, the decisions signal a clear shift toward a more technical, coordinated, and economically grounded treaty analysis by the Mexican tax authority, increasing scrutiny over holding structures, back-to-back financings, and arrangements perceived as indirect treaty shopping.

PwC observation:

These precedents significantly increase the level of scrutiny applicable to treaty positions involving Mexico and confirm that not only economic substance, but also control over income, among other items, are now central to the analysis. Structures that rely on intermediate holding or financing entities—particularly where ultimate ownership is in a nontreaty jurisdiction—are more likely to be challenged if they lack documentation to support the real decision- making authority or economic autonomy.

Multinational groups should reassess their existing holding company structures, especially its dividend and financing arrangements to ensure that beneficial ownership can be robustly evidenced, beyond formal residence or legal ownership. This includes reviewing governance, substance, cash-flow mechanics, and any contractual or factual obligations to retransmit funds.

印度
最高法院就競業禁止費用及利息費用扣除作出判決

最高法院就兩項重要議題作出詳細判決：(i) 競業禁止費用的稅務處理；以及 (ii) 以借入資金進行投資及墊款所支付利息的費用扣除的允許性。

就第一項議題，最高法院認定，納稅義務人為限制他方不得在同一營業領域經營而支付的競業禁止費用，並未導致任何新資產的創造或獲利能力的增加，因此不屬於資本性質。這些支出僅保護或提升現有事業的獲利能力，並促進事業的更有效經營，應得依 1961 年所得稅法（Income tax Act, 1961，簡稱「本法」）第 37(1) 條作為收益性支出予以扣除。

最高法院重申，即使某項支出產生的利益可能持續一段期間，只要利益不屬於資本領域，而僅係促進事業更有效率地經營、且未改變固定資本結構者，仍應認屬收益性質。

適用上述原則，法院認定，競業禁止費用的支付本質上係為使潛在競爭者退出市場，並使付款方獲得商業上的「先發優勢」，對納稅義務人而言，屬收益性質。

就第二項議題，納稅義務人借入資金並支付利息，依本法第 36(1)(iii) 條主張費用扣除。資金係用於：(a) 投資子公司股份以取得控制性持股；以及 (b) 無息墊款予姊妹公司及其董事。稅務官員否准利息扣除，主張股份的取得並非取得收益而係為取得控制權，故相關利息不得扣除，另主張借入資金已被用於非營業目的，即墊款予關係人。

最高法院援引其先前在 SA Builders Ltd. 案中的判決，重申本法第 36(1)(iii) 條的決定性測試為「商業合理性」（commercial expediency）及與營業目的之關聯性，關聯性不必侷限於納稅義務人自身的直接業務，且稅務機關不得代替經營者判斷這些決策的合理性或獲利性。法院支持所得稅上訴審判庭及孟買高等法院的一致見解，認定投資子公司股份以取得從事類似營業的公司的控制性持股，明顯係基於商業合理性，因此用於投資的借入資本所支付的利息，得依本法第 36(1)(iii) 條扣除。

另外，延伸適用同一原則，最高法院認定墊款予姊妹公司及其董事亦符合商業合理性，並維持用於墊款的借入資金利息的可扣除性，駁回稅務機關的上訴，並作出有利於納稅義務人的判決。

印度
最高法院就競業禁止費用及利息費用扣除作出判決(續)

資誠觀點

最高法院的判決就兩項反覆出現的爭議領域提供重要釐清。

首先，就競業禁止費用，最高法院明確從商業實質的角度出發進行分析，凡這些支出僅保護或提升現有事業的獲利能力、未創造新的資本資產或擴大獲利能力者，即使其保護效果可能持續數年，仍應視為收益性支出。這對於依本法第 37(1) 條主張競業禁止費用扣除而遭否准的納稅義務人應有所助益。

其次，最高法院重申並強化了本法第 36(1)(iii) 條下的「商業合理性」原則，確認以借入資金取得子公司控制性持股或資助集團實體或董事所支付的利息得予扣除，前提為納稅義務人能證明具有真實的營業目的及與其整體商業利益的關聯性，即使資金的直接用途係在另一集團實體而非納稅義務人自身的營運。進行策略性投資或集團內墊款的納稅義務人，仍應確保備有充分的文件記錄商業合理性及集團層級的商業考量，以經得起審查。

India

Supreme Court rules on non-compete fees and interest deductions

The Supreme Court has delivered a detailed decision on two important issues: (i) the tax treatment of non-compete fees; and (ii) allowability of a deduction for interest paid on borrowed funds used for investment and advances.

On the first issue, the Supreme Court held that a non-compete fee paid by a taxpayer to restrain another party from operating in the same business segment does not result in the creation of any new asset or accretion to the profit-earning apparatus and, therefore, is not capital in nature. Such a payment merely protects or enhances the profitability of the existing business and facilitates more efficient conduct of that business and should be allowable as a revenue expenditure under section 37(1) of the Income-tax Act, 1961 (the Act).

The Supreme Court reiterated that even where an expenditure yields an advantage that may endure over a period, it should be treated as revenue in nature if the advantage is not in the capital field and merely facilitates the carrying on of business more efficiently, without altering the fixed capital structure.

Applying these principles, it held that non-compete fees, paid essentially to keep a potential competitor out and to give the payer a commercial 'head start' are revenue in nature in the hands of the taxpayer.

On the second issue, the taxpayer had borrowed funds on which interest was paid and claimed as a deduction under section 36(1)(iii) of the Act. Such funds were used for (a) investment in the shares of a subsidiary to obtain a controlling interest; and (b) interest-free advances to a sister concern and its directors. The Tax Officer disallowed the interest, asserting that where shares are acquired not as an income-yielding investment but to acquire control, the related interest is not deductible, further alleging that the borrowed funds had been used for non-business purposes in making advances to related parties.

Relying on its earlier decision in the case of SA Builders Ltd., the Supreme Court reaffirmed that the decisive test under section 36(1)(iii) of the Act is one of 'commercial expediency' and nexus with the purposes of business, which need not be confined to the taxpayer's own immediate business, and that tax authorities cannot step into the shoes of the businessperson to decide the reasonableness or profitability of such decisions. It endorsed the Income-tax Appellate Tribunal's and Bombay High Court's concurrent finding that the investment in the subsidiary's shares, made to acquire controlling interest in a company engaged in a similar line of business, was clearly driven by commercial expediency and, therefore, interest on the borrowed capital used for such investment was allowable as a deduction under section 36(1)(iii) of the Act.

Furthermore, extending the same principle, the Supreme Court held that advances made to the sister concern and its directors were also covered by commercial expediency and upheld the allowability of interest on the borrowed funds utilised for such advances as well, dismissing the Revenue's appeal on this issue and deciding the question in favour of the taxpayer.

India

Supreme Court rules on non-compete fees and interest deductions (continued)

PwC observation:

The Supreme Court's decision provides important clarity on two recurring controversy areas.

First, for non-compete payments, the Supreme Court has firmly located the analysis in commercial reality — where such payments merely protect or enhance the profitability of an existing business, without creating a new capital asset or enlarging the profit-earning apparatus, they should be viewed as revenue expenditure, even if the protection lasts for multiple years. This should help taxpayers facing disallowances on non-compete fees claimed under section 37(1) of the Act.

Secondly, the Supreme Court reiterates and strengthens the 'commercial expediency' doctrine for interest deductions under section 36(1)(iii) of the Act, confirming that interest on borrowings used to acquire a controlling stake in a subsidiary or to fund group entities or directors can be deductible, provided the taxpayer can demonstrate a real business purpose and nexus with its overall commercial interests, even if the immediate use lies in another group entity and not in the taxpayer's own operations. Taxpayers making strategic investments or intra-group advances should, however, ensure robust documentation of business rationale and group-level commercial considerations to withstand scrutiny.

要聞

Treaties
租税協定

賽普勒斯
賽普勒斯與阿曼簽署首份租稅協定

賽普勒斯與阿曼之間的首份租稅協定於 2024 年 12 月 8 日簽署，2025 年 3 月 5 日生效。協定自 2026 年 1 月 1 日起適用。

賽普勒斯財政部於簽署時發布的聲明指出，協定「係以 OECD 消除所得及資本雙重課稅示範公約及聯合國租稅協定範本為基礎，並納入 OECD/G20 所發布的稅基侵蝕與利潤移轉（Base Erosion and Profit Shifting, BEPS）計畫的所有最低標準。」

協定條款概述

1. 股利適用 0% 扣繳稅率。

2. 利息適用 0% 扣繳稅率。

3. 權利金就總額適用 8% 扣繳稅率。

本協定所稱「權利金」係指因使用或有權使用任何文學、藝術或科學作品（包括電腦軟體、電影膠片，或供廣播電台或電視台播放使用的影片、錄音帶或光碟）的著作權、任何專利、商標、設計或模型、計畫、秘密配方或製程，或因使用或有權使用工業、商業或科學設備，或因提供工業、商業或科學經驗的資訊，而收取的任何性質的對價。

儘管協定規定 8% 的權利金扣繳稅率，依賽普勒斯國內稅法，賽普勒斯對支付予非賽普勒斯稅務居民的權利金不課徵扣繳稅款，但以下情形除外：

a) 權利金係源自在賽普勒斯境內使用的權利；或

b) 適用歐盟所謂「列入黑名單」管轄區的相關規定者；阿曼目前未被歐盟列入「黑名單」管轄區（阿曼曾於 2018 年至 2020 年期間被歐盟列入「黑名單」）。

阿曼國內稅法則規定較高的 10% 扣繳稅率。

4. 資本利得

賽普勒斯稅務居民處分阿曼公司股份時，賽普勒斯保有專屬課稅權；但不包括持有阿曼境內不動產的公司股份，或其價值的大部分直接或間接源自阿曼特定離岸權利/財產的公司股份。

同樣地，賽普勒斯稅務居民處分賽普勒斯公司股份時，阿曼保有專屬課稅權；但不包括持有賽普勒斯境內不動產的公司股份，或其價值的大部分直接或間接源自賽普勒斯特定離岸權利/財產的公司股份。

本協定就資本利得未納入「以不動產為主要價值來源」（property rich clause）。

賽普勒斯
賽普勒斯與阿曼簽署首份租稅協定(續)

5. 享有利益資格

就任何一項所得或資本，若安排或交易的主要目的之一是直接或間接取得協定利益者，則其相關所得不得適用協定利益。除非可證明在此情況下給予利益仍符合本協定相關條款的宗旨及目的。

資誠觀點

賽普勒斯與阿曼之間的首份租稅協定，將有助於促進兩國貿易及經濟關係的進一步發展。

Cyprus
Cyprus and Oman sign their first tax treaty

The first tax treaty between Cyprus and Oman, signed 8 December 2024, entered into force 5 March 2025. The treaty is effective as of 1 January 2026.

A Cyprus MoF announcement at the time of signature stated that the treaty “is based on the OECD Model Convention for the Elimination of Double Taxation on Income and on Capital and on the UN Model Tax Agreement, and incorporates all the minimum standards of the Base Erosion and Profit Shifting (BEPS) project, as issued by the OECD/G20.”

Overview of the treaty’s provisions

1. Dividends

A 0% withholding tax (WHT) rate applies.

2. Interest

A 0% WHT rate applies.

3. Royalties

An 8% WHT rate applies on the gross amount of royalties.

The term ‘royalties’ for the treaty means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including computer software, cinematograph films, or films or tapes or discs used for radio or television broadcasting, any patent, trademark, design or model, plan, secret formula or process, or for the use of, or the right to use industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience.

Irrespective of the 8% royalty WHT rate that the treaty provides, according to Cyprus domestic tax legislation, no Cyprus WHT applies on royalty payments to non-Cyprus tax residents except in cases where:

a) the royalties are earned on rights used within Cyprus, or

b) provisions relating to the EU so-called ‘blacklisted’ jurisdictions apply; Oman is not currently listed by the EU as a ‘blacklisted’ jurisdiction (Oman was previously ‘blacklisted’ by the European Union in the period 2018-2020).

Oman’s own domestic tax legislation provides for a higher WHT of 10%.

4. Capital gains

Cyprus retains the exclusive taxing rights on disposals of Oman company shares made by Cyprus tax residents (except for shares of companies which own Oman-situated immovable property or deriving the greater part of their value, directly or indirectly, from certain Oman offshore rights/property).

Likewise, Oman retains the exclusive taxing rights on disposals of Cyprus company shares made by Cyprus tax residents (except for shares of companies which own Cyprus situated immovable property or deriving the greater part of their value, directly or indirectly, from certain Cyprus offshore rights/property).

The treaty does not include a ‘property rich clause’ with respect to capital gains.

Cyprus
Cyprus and Oman sign their first tax treaty

5. Entitlement to benefits

A benefit under the treaty shall not be granted, in respect of an item of income or capital, should this benefit be one of the principal purposes of any arrangement or transaction that resulted directly or indirectly in that benefit, unless it can be established that granting that benefit in these circumstances would be in accordance with the object and purpose of the relevant provisions of this treaty.

PwC observation:

This first tax treaty between Cyprus and Oman will contribute to further development of trade and economic relations between the two States.

Glossary

Acronym	Definition
ATAD	Anti-Tax Avoidance Directive
BEPS	Base Erosion and Profit Shifting
CFC	controlled foreign corporation
CIT	corporate income tax
DAC6	EU Council Directive 2018/822/EU on cross-border tax arrangements
DST	digital services tax
DTT	double tax treaty
ETR	effective tax rate

Acronym	Definition
EU	European Union
MNE	Multinational enterprise
NID	notional interest deduction
OECD	Organisation for Economic Co-operation and Development
PE	permanent establishment
R&D	Research & Development
VAT	value added tax
WHT	withholding tax

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- 兩岸與國際租稅Update (川普2.0：OECD Pillar 2的新走向) https://youtu.be/PEvZEGCIRVI
- 台灣稅務與投資法規Update-外國專業人才就業保險與勞退新制擴大適用 https://youtu.be/KfuH3iLcIW4

2026 資誠前瞻研訓院線上講堂 (2月)：

美國關稅因應重點 https://youtu.be/J3_jsXbpUFI

台商赴美投資策略 https://youtu.be/suSnM6wyza4

台灣資本市場資訊揭露新里程 https://youtu.be/hAjqaKSyIEg

ESG勞資關係新趨勢：勞工人權盡職調查 https://youtu.be/33O_XPNHXpE

國際稅務法令更新及因應 https://youtu.be/GF8FNdaOStU

東南亞稅務法令更新及因應：越南X泰國X印尼X印度 https://youtu.be/piJsHQEDrOo

台灣稅務法令更新及因應 https://youtu.be/chdRoLqsjo0

兩岸稅務法令更新及因應 https://youtu.be/wTlPUMuXTg0

會計暨審計法令更新 https://youtu.be/ELRypBkxipc

智財法令新近發展 https://youtu.be/5xe1dYXEuUE

勞動法令新近發展 https://youtu.be/4E1C9TMqZ98

中華產業國際租稅學會 敬邀加入會員

本會為依法設立、非以營利為目的的社會團體，以建構產業稅務專業人士的交流平台，研究產業稅務問題，促進公平合理課稅為宗旨。在台灣稅務界，本會成已為稅務專業的意見領袖，產、官、學界的主要諮詢機構。

本會除例行會員集會，相互交換國際稅務新知與經驗交流外，每月提供會員最新國際、國內及大陸之稅務新規，每年舉辦國際與兩岸租稅專題研討會，邀請兩岸稅務機關首長及稅務官員蒞會演講、座談及研討，與業界會員雙向溝通，共同分享最新租稅相關議題。

歡迎兩岸財稅法學者、專家及在工商界服務的稅務專業精英加入本會會員，入會相關事宜可到學會網站(連結如下)。

http://www.industries-tax.org.tw

與我們專業國際租稅團隊聯絡：

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