

# 國際租稅要聞

## International Tax Newsletter

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資誠



# 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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## 專論

# OECD發布關於支柱二的行政指引以及GloBE資訊申報表

## 摘要

經濟合作暨發展組織(OECD)/二十國集團(G20)之BEPS包容性框架(Inclusive Framework, IF)於 2023 年 7 月 17 日發布一系列與支柱二解決方案相關的文件，其中包括針對支柱二法規架構(Model Rules)的第二份行政指引(Administrative Guidance，以下簡稱「指引」)。第一份行政指引是在 2023 年 2 月發布。

此指引涵蓋相關利益團體尋求進一步釐清的議題，包括合格國內最低稅負制(Qualified Domestic Minimum Top-Up Tax, QDMTT)和過渡性稅收不足支付原則(Undertaxed Payment Rule, UTPR)的避風港、可轉讓稅收抵免的處理、基於實質所得排除(Substance-Based Income Exclusion, SBIE)的應用等。此指引與其更詳細的釋例，將納入預計於今年年底發布的修訂版逐條註釋(Commentary)中。OECD也同步發布GloBE資訊申報表(GloBE Information Return, GIR)的更新版本。

## 要點

此指引針對可轉讓稅收抵免、兩種新的避風港、以及非跨國集團的成員實體(Constituent Entity, CE)適用QDMTT的情況提供釐清。然而，有些問題還是存在。像是於過渡性豁免的好處、其他未解決的過渡期議題、貨幣換算規則的實際應用，以及各國是否會將此最新指引納入當地全球反稅基侵蝕(Global Anti-Base Erosion, GloBE)規則實施。

## 內文

### UTPR避風港

此指引提供新的避風港，目的在 GloBE 規則生效的兩年內，在最終母公司(Ultimate Parent Entity, UPE)的租稅管轄區內提供 UTPR 過渡性豁免(過渡性 UTPR 避風港)。根據過渡性 UTPR 避風港規定，如果基於法定稅率和地方稅收後的企業所得稅稅率至少為 20%，則過渡期內每年為 UPE 管轄區計算的 UTPR 補充稅金額應被視為零。

過渡期是指不超過12個月，始於2025年12月31日或之前，且終於2026年12月31日之前的會計年度。此指引指出，符合多個過渡避風港資格的跨國集團，可以選擇在該管轄區要適用的避風港規則。重要的是，過渡性 UTPR 避風港並沒有取消適用“一旦退出，永遠退出”的原則，例如國別報告(Country-by-Country Report, CbCR)的避風港(亦即，若企業在當年度不符合該管轄區過渡性CbCR避風港，則後續年度也無法適用該管轄區的避風港規則)。

## 專論

# OECD發布關於支柱二的行政指引以及GloBE資訊申報表

### 資誠觀察

此指引說明，過渡性 UTPR 避風港的過渡期不會延長。對於跨國集團來說，重要的是確認集團是否符合多個過渡性避風港，並可以選擇以過渡性 CbCR 避風港，代替過渡性 UTPR 避風港，因為過渡性 CbCR 避風港可能適用始於2026年底或之前的會計年度(即過渡性 UTPR 避風港後的一個會計年度)。

### QDMTT 避風港

此指引包含 QDMTT 避風港 - 當跨國集團符合該管轄區的避風港時，則該管轄區的補充稅將為零。若適用此避風港，跨國集團無需在計算QDMTT後，再根據 GloBE 規則進行第二次計算。管轄區的 QDMTT 要符合 QDMTT 避風港，除了現有規則外，還必須滿足三個標準：(一) QDMTT 會計準則；(二)一致性標準；(三)行政標準。

(一) QDMTT 會計準則：管轄區的 QDMTT必須是以UPE的財務會計準則或當地財務會計準則為基礎。如果該管轄區選擇以當地財務會計準則為基礎，則其適用性存在一些限制(例如，如果當地財務報表年度與合併財務報表年度不同，則當地財務會計準則不能作為QDMTT的基礎)。此外，如果該管轄區選擇當地財務會計準則為基礎，跨國集團就不能使用合併財務報表為基礎。

(二)一致性標準：QDMTT 計算規則要與 GloBE 規則的要求相同，除非QDMTT相關指引要求差異或允許選擇。

(三)行政標準：QDMTT的管轄區要繼續滿足持續監控流程的要求。

雖然 QDMTT 避風港資格是以管轄區為基礎考量，但在某些情況下，該管轄區可能無法將 QDMTT 適用於某些企業或成員實體。為此，一致性標準規定某些特定情況下可以不適用QDMTT，而是適用關閉規則(Switch Off Rule)，使因不適用 QDMTT而受益的跨國集團，也不能從 QDMTT 避風港中受益。

### 資誠觀察

QDMTT 避風港比2023/2發布的一般 QDMTT 指引更為嚴格，因為要求管轄區的 QDMTT 使用與 GloBE 規則相同的計算，除非經行政指引或包容性架構特別授權。然而，QDMTT 避風港允許管轄區使用當地財務會計準則進行QDMTT立法，這可能會產生與根據 GloBE 規則計算結果不同的補充稅，導致管轄區間的影響可能變得更加複雜。最後，因指引中說明需要透過同儕審查來確定管轄區的 QDMTT 是否符合避風港資格，將導致豁免範圍的不確定性。

## 專論

# OECD發布關於支柱二的行政指引以及GloBE資訊申報表

### 納入可轉讓稅收抵免

此指引導入可銷售可轉讓的稅收抵免 (Marketable Transferable Tax Credits, MTTCs)，作為可退還的稅收抵免(Qualified refundable tax credit, QRTC) 之外的一種新的稅收抵免類別。此稅收抵免被視為 GloBE 收入的一部分，而不是涵蓋稅額的減少。

對於稅收抵免的購買者，只有來自稅收抵免的淨收益才包含在 GloBE 所得中(如果是 MTTC)或是被視為所涵蓋稅額的減少(如果是除 MTTC 之外的可轉讓稅收抵免)。要符合 MTTC 的資格，稅收抵免必須滿足合法轉讓性標準和銷售性標準，這些標準會針對稅收抵免原有者和購買者而有所不同。一般來說，如果稅收抵免可以由原有者或購買者轉讓給無關連的第三方，則符合合法轉讓性標準；如果稅收抵免由原有者或購買者以至少80% 的淨現值價格轉讓，則通常滿足銷售性標準。

此指引也解釋了逐條注釋和2023/2行政指引中有關稅收抵免的不明確之處。

- 修改對合格穿透稅務優惠(Qualified Flow Through Tax Benefits, QFTBs)的認列時點及用以收到QFTBs的合格所有權權益(Qualified Ownership Interests, QOI)的定義。
- 允許在特定情況下將 QRTCs 計入GloBE課稅所得的替代時點。
- 規定不符合 QRTCs 或 MTTCs 資格，但出於財務會計目的仍被視為收入而非稅額減少的稅收抵免(例如 4 年後可退還的稅收抵免)，必須從 GloBE 損益的計算中全額扣除。
- 說明不符合 QRTCs 或 MTTCs 資格的稅收抵免將被視為涵蓋稅額的減少，而用以抵扣其他涵蓋稅額負債的退稅款，將被視為調整後涵蓋稅額的減項。

### 資誠觀察

導入MTTCs是可轉讓稅收抵免領域的重大發展，證實在許多情況下這些抵免將被稅收抵免原有者視為額外收入，而不是涵蓋稅額的減少，且購買者僅在淨收益範圍內認列。儘管如此，納稅人應仔細考慮其可轉讓稅收抵免是否滿足指引中的詳細定義，且各國是否會將其轉化為當地法律還有待觀察。此指引並未修改 QRTC 的資格或認列方式(除了計入所得的時點)，但提出考慮以進一步的指引解決 QRTCs 和其他稅收抵免的過渡性議題和遞延所得稅的影響。

## 專論

# OECD發布關於支柱二的行政指引以及GloBE資訊申報表

### 基於實質所得排除

此指引包含修訂逐條註釋中有關 SBIE的應用，具體範圍包括(1)跨轄區的資產和員工(2)簡化(3)股份基礎給付(4)租賃(5)減損損失，以及(6)根據第 7.2 條的減項(即 UPE 須遵守可扣除股息制度)。

- 針對位於多個管轄區的薪資及資產提供簡化規定，允許當超過 50% 的合格薪資或合格有形資產位於CE管轄區時可以全額排除，以及認列某個管轄區的部分(但不是全部)合格薪資和合格有形資產。
- 確認計算合格薪資時對股份基礎給付的調整，不會受到第 3.2.2 條選擇的影響。
- 規定若資產與出租人位於同一管轄區，則出租人可以將合格有形資產用以營業租賃的部分帳面價值納入 SBIE 計算中。儘管這對出租人來說較有利，但對合格部分的計算是有詳細規定。
- 闡明計算合格有形資產帳面價值時的減損損失處理，使財務報表中減損損失的處理和認列時點與SBIE保持一致。
- 釐清根據第 7.2 條的可扣除股息制度而排除UPE的GloBE所得，合格薪資成本和合格有形資產的帳面價值，也將按比例減少。

### QDMTT

此指引補充2023/2行政指引中關於QDMTT的特定議題的說明，包含 QDMTT 機制在合資企業、合資子公司、被少數控股的成員實體、穿透實體(Flow Through Entities，FTEs)和身為穿透實體的UPEs等實體的情況，以及符合條件的分配稅制度等情形。

此指引還包括 QDMTT 管轄區的新申報義務，特別是允許 QDMTT 管轄區以 GIR 以外的格式蒐集資料，以計算 GloBE的納稅義務。

此指引指出，若跨國集團集團基於憲法理由或國際投資協議(或基於與政府的具體協議)而對QDMTT 的應用有任何直接或間接異議，則異議的金額不應被視為應付的QDMTT。根據 QDMTT 應付的補充稅並不會將GloBE的補充稅減至零，因此可能根據GloBE規則由其他管轄區徵收。

### 資誠觀察

這種規定似乎削弱OECD的創始條約，即其(創始)成員承諾以「符合參加的其他國際組織、機構、或協議中所承擔義務的方式」行事。

## 專論

# OECD發布關於支柱二的行政指引以及GloBE資訊申報表

### 貨幣換算

為了確保有效採用GloBE 規則，此指引說明與跨國集團進行貨幣換算相關的四個具體議題，包括：

- GloBE 計算和 GIR 揭露應使用的貨幣：跨國集團將需以跨國集團合併財務報表的報導貨幣進行 GloBE 計算並在 GIR 內揭露金額；
- 將GloBE 計算的金額換算為報導貨幣：跨國集團集團必須使用授權財務會計準則中，編制合併財務報表所適用的外幣換算規則(即相當於 IAS 21 或 ASC 830 以及其他相關部分)，以計算財會淨損益或其他相關 GloBE ；
- 將適用於 IIR或 UTPR 補充稅金額，從報導貨幣轉換為GloBE納稅義務的貨幣換算規則：在這種情況下，管轄區可以選擇合理的基礎進行轉換(詳提供釋例)，但指引建議在立法時採用具體規則以便跨國集團遵循；及
- 跨國集團的報導貨幣與國內法中規定GloBE門檻所使用的貨幣之間的差異：該金額必須根據平均匯率從報導貨幣換算為國內法中使用的貨幣。一般情況下，以該曆年前 12 月(即該會計年度開始)的歐洲央行平均匯率做換算。該規則僅限於確認門檻，而不是為了GloBE計算目的而進行換算，而是為了符合2023/2行政指引的規定，即每年重新將 GloBE 貨幣性門檻，從歐元換算為當地貨幣。
- QDMTT 計算的貨幣換算規則：此指引同時也為以下三種情況的 QDMTT 計算訂定貨幣換算規則。(1)使用 UPE 的會計準則和報導貨幣計算 QDMTT(2) 使用當地貨幣計算QDMTT，且所有相關CE使用相同的當地貨幣，以及(3) QDMTT 管轄區內的CE使用多種功能貨幣。

### GloBE資訊申報表

除了指引外，IF 還發布了 GIR。正如之前的稅務快訊所述，2022 年 12 月的GIR諮詢文件中要求申報大量的資料可能過於繁重，尤其是 GIR 第 3.4 節中關於 CE 計算所需的資料。

更新後的 GIR 規定過渡性簡化管轄區申報框架(簡化框架)作為一項臨時措施，允許對會計年度始於2028 年 12 月 31 日當日或之前者進行簡化申報(但不包括會計年度終於 2030 年 6 月 30 日之後者)。在簡化框架下，跨國企業集團通常不需要按CE申報財會淨損益、當期所得稅費用或遞延所得稅的調整，所有調整都可以按淨額申報。簡化框架僅適用於(1)無補充稅義務或 (2)有補充稅義務但不需要按 CE 分配的管轄區。

## 專論

# OECD發布關於支柱二的行政指引以及GloBE資訊申報表

IF 採用「有針對性」的傳播方法來交換每個跨國集團的資料，其中：

- 提供整份GIR給UPE 管轄區；
- 提供GIR 的相關章節給有GloBE 規則徵稅權的管轄區；以及
- 提供總體資料和企業架構給所有CE 實施管轄區。

簡化框架並不會對稅務機關要求企業提供額外資料的權利產生限制。

### 資誠觀察

簡化框架將是一個受歡迎的改變，但尚未確定未來是否會有更永久的改變。如果永久性沒有在短期明確，則簡化框架的好處可能會被抵消，因為企業認為有必要在過渡期結束之前，對企業資源規劃(Enterprise Resource Planning, ERP) 數據收集系統進行轉型。同時值得注意的是，此指引明確指出，稅務機關可以隨時要求企業提供更詳細的 CE 層級資料，因此，該規定的好處在實務中可能會減少。

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## 專論

# 歐盟外國補貼條例(FSR)：通知程序的新指南提供簡化措施

## 摘要

歐盟委員會在7月10日通過了一項歐盟法規(Implementing Regulation，以下稱「實施法規」)，針對可能扭曲歐盟內部市場的非歐盟補貼規定了通知程序。實施法規中特別規定了通知的形式、信息匯總程度以及適用歐洲議會和理事會在2022年11月通過的外國補貼條例(Foreign Subsidies Regulation，以下簡稱「FSR」)時的一些例外情況。

FSR在2023年7月12日起適用。2023年10月12日起，公司必須就合併及收購(歐盟法規中稱Concentrations，以下稱「集中」)或參與公共採購招標進行申報通知，前提是這些活動涉及外國資金投入(Foreign financial contributions，以下簡稱「財務投入」)、符合相關申報門檻且不屬於新的例外情況。在其他情況下，根據委員會職權調查進行的申報將依具體情況而定。

## 主要內容

### 概要

歐盟委員會採取實施法規(正式名稱為歐盟委員會根據歐洲議會和歐盟理事會條例(EU)2022/2560 議項詳細安排的條例)的權責規定在FSR中。

2022年11月通過的FSR引入了三種評估扭曲(Distortion)的工具：其中兩種是事前通知工具和一種是基於職權調查的工具。有關程序規則的意見諮商，包括了需要通知哪些內容以及如何通知的具體細節，也通過書面資料提交獲得了大量反饋。同時也就通知涵蓋程度的可行性進行了多次交流。實施法規中包括兩個附件，其中一個是關於集中的情形，另一個關於公共採購招標。

FSR規定公司有義務在以下情況下通知外國財務投入：

- 合併公司、被收購公司或合資中至少有一家公司的歐盟營業額達到5 億歐元，且交易涉及的各方在過去三年中從非歐盟國家獲得至少5,000萬歐元的外國財務投入。
- 投標公共採購合約估計價值達2.5億歐元，且投標人(包含集團成員、投標下包商或供應商)在過去三年中從各個非歐盟國家獲得至少400萬歐元的外國財務投入。

實施法規消除了上述情況須進行通知的複雜度，詳細內容如下文。實施法規還規定了委員會調查程序(依照事先通知或職權)、補救承諾提交、機密資訊保護、時間限制以及文件的傳輸和簽署。

## 專論

# 歐盟外國補貼條例(FSR)：通知程序的新指南提供簡化措施

### 微量原則(De minimis)的門檻為每筆財務投入100萬歐元

有通知義務的一方必須對過去三年每筆100萬歐元或以上的財務投入執行通知報告程序。

適用FSR第5條中規定最可能扭曲市場的補貼，規定要求逐項通知報告，例如給予有困難的企業、無限擔保、出口活動，或允許以較低的價格集中/投標。下文將進一步說明。

### 依第三國和依類型匯總

不屬於最可能扭曲市場類別(上文提及的類別)的補貼應報告財務投入。依據第三國家和類型歸類申報過去三年資料，申報級距分別為：4,500萬至1億歐元、1億至5億歐元、5億至10億歐元以及超過10億歐元。

依國家別的申報門檻也適用在這地方：集中為4,500萬歐元(低於5,000萬歐元的FSR總門檻)，公共採購招標為400萬歐元(與FSR總門檻相同)。

在這裡類型區分為直接給予、貸款/融資工具/可償還墊款、稅務優惠、擔保、風險資本工具、股權干預、債務註銷、為企業非經濟活動提供的財務投入或其他等不同類型。

FSR對每類財務投入的目的和提供財務投入的實體要求的一般說明，FSR提供了以下示例：「產品A的生產和研發活動免稅」、「為X目的向國有銀行貸款」、「為支付運營費用/研發活動與國有投資機構的若干融資措施」、「向X公司注入公共資本」。

除了受「微量原則」排除的財務投入外，各方也無需在匯總數據中包含以下資訊(但在類屬最具扭曲性的財務投入時，應需要包含這些資訊)：

- 稅收或社保繳款、稅收赦免、免稅期、一般折舊或虧損扣抵(如這些項目屬普遍性適用而不是適用在特定領域)
- 為避免雙重課稅而提供的稅收減免
- 在正常經營過程中以市場條件提供/購買商品/服務(金融服務除外)。

### 集中情形下的通知

FORM FS-CO適用在集中的情形，附件1的表1提供了匯總說明。

## 專論

### 歐盟外國補貼條例(FSR)：通知程序的新指南提供簡化措施

逐項申報(line-by-line reporting)要求提供大量具體資訊，包括對歐盟單一市場的影響以及標的公司有歐盟業務的前五大競爭對手詳細聯繫資訊。這些資訊是為了補充以下問題：

- 標的公司的各項業務範圍或活動、說明每個業務範圍或活動所提供的產品和/或服務的類別，以及面向哪些客戶
- 通知方是否從事相同或相關的活動或業務

其中有一章節給予通知方有機會說明集中將帶給歐盟的任何益處，以給予歐盟委員會平衡考量的正面和負面影響。

針對由投資基金或投資基金控制實體，收購控制權或成立合資企業的行為，有一項除外規定。如果企業能證明符合特定條件，則通知內容不需要包括給予其他投資基金的外國財務投入，前提是這些財務投入是由同一投資公司管理且投資基金有多數為不同投資方(依獲得利潤的權利判斷)，或這些財務投入是給予基金控制的投資組合公司。

#### 公共採購投標通知

表格FS-PP適用於公共採購投標，附件2表1提供了匯總說明。

在逐項申報中，有大量問題涉及財務投入的要素、性質、目的和經濟合理性，以及財務投入是否有任何附帶條件。

其中一章節給予通知方有機會說明投標帶給歐盟帶來的任何益處，以給予歐盟委員會平衡考量正面和負面影響。

通知方也有機會證明投標不存在不適當的優勢，如：

- 製造過程、提供的服務或施工方法的經濟效益
- 所選擇的技術或投標人在提供產品、服務或工程方面所能得到的任何特別有利條件
- 投標人提出的工程、供應貨品或服務的獨創性
- 環境、社會和勞動法合規義務
- 轉包含規義務

## 專論

# 歐盟外國補貼條例(FSR)：通知程序的新指南提供簡化措施

### 結論

每筆財務投入100萬歐元的微量原則門檻在某種程度上可以簡化資料收集程序。儘管歐盟委員會可能會要求提供更多資訊，但實施法規中澄清並簡化初期報告的要求。就算有了這些改進，FSR依然將大大增加歐盟以外希望投資或以其他方式進入歐盟內部市場企業的合規負擔。

評估FSR是否會對企業的情況產生影響，並思考合適的進一步行動相當重要。實施法規進一步提倡使用草案版本相關表格進行預先討論(Pre-notification discussions)。

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## 專論

# 英國移轉訂價文據：新法生效，發布指導原則

## 摘要

英國頒布的《2023年春季財政法案》(Spring Finance Bill 2023)在7月獲得批准成為《2023年第2號財政法案》(Finance (No.2) Act 2023)(以下簡稱《法案》)，正式結束了歷時兩年多更新英國移轉訂價文據規定的過程。這個規定在2021年3月發佈公開諮詢稿後出現了許多建議；其中一些建議已經被納入新法，另一些建議則被擱置或是在不久後會再進一步的徵詢。

基本上，新規定將使英國對移轉訂價文據的規範更貼近經濟合作暨發展組織(OECD)的範本，這個範本是根據稅基侵蝕與利潤移轉(BEPS)第13號行動計劃制定的。針對集團全球合併收入達7.5億歐元國別報告(CbCR)門檻的大型集團，新增了OECD集團主檔報告和移轉訂價報告的要求。法律要求的文件格式及內容並直接引用OECD發布的指導原則。

針對公司稅法案的生效日期為2023年4月1日或之後開始的會計期間；所得稅的部分，該法案將從2024年4月6日開始適用。

英國稅務海關總署(以下簡稱《HMRC》)能依據該法案具體說明對移轉訂價文據的規定，關於該規定的細節則依據單獨的法定文書《2023年移轉訂價文據條例》(The Transfer Pricing Records Regulations 2023) (以下簡稱《條例》)中提供指引。除此之外，這個法案還說明了納稅人違反新規定的罰則，包括增加巨額罰鍰的風險，以及HMRC在獲取移轉訂價文據和相關資訊的額外權力。

同時，HMRC在其國際手冊中移轉訂價的部分發布了隨附資料，可針對上述法案和條例的應用及解釋，為HMRC官員和納稅人提供了指引。

**行動：**納稅人應根據新的法規和指引檢閱其現有的英國移轉訂價文據(且必須檢查其原本有的政策和流程)，並且分析是否需要採取任何行動來更新和改進公司所出具的文件及相關文件的準備之流程。適當的謹慎態度對於公司在申報相關文件時來說非常重要，尤其是考慮到如果沒有按照條例和相關指引準備和提供文件，都可能因此受到處罰。我們預計HMRC將依據其取得資訊的權力，在稅務調查期間將比過往更頻繁的要求移轉訂價文據。

## 詳細內容

### 範圍和生效日期

如果英國公司屬於達到「跨國企業CbCR門檻」(即特定會計年度全球合併收入超過7.5億歐元)的跨國企業集團的一部分，則將屬於新規定的適用範圍。當英國公司和所屬的跨國企業集團的會計年度不一致時，此次發布的指引為公司確認是否達到CbCR門檻提供了指引。

## 專論

# 英國移轉訂價文據：新法生效，發布指導原則

根據2022年OECD移轉訂價指導原則，在特定會計年度期間達到跨國企業CbCR門檻的英國公司必須保留同一會計期間的具體移轉訂價文據，包括集團主檔報告和移轉訂價報告。對於需繳納公司稅的英國公司，這項規定適用於2023年4月1日或之後開始的會計年度；對於需繳納所得稅的英國個體，此要求適用從2024年4月6日開始的財政年度。

## 觀察

雖然英國是最早提出準備和提交國別報告的要求來協助HMRC進行風險評估的國家之一，但迄今為止，都沒有任何讓納稅人按照BEPS第13號行動計劃的格式及內容準備移轉訂價文據的正式規定。雖然正式規定的引入減少了英國之前法律的靈活性，但這些規定能夠使英國與許多已採用第13號行動計劃下集團主檔報告和移轉訂價報告的國家保持一致。此次立法中英國直接引用OECD的指導原則，而沒有效仿某些國家擁有自己詮釋的第13項行動計畫的版本，應該有助於促進一致性。

對於大部分的納稅人來說，採用OECD標準和準備文件上受到的法律限制，許多跨國企業感受到的影響應該相對有限，因為已經有多跨國企業編製過集團主檔報告和移轉訂價報告。然而在實務上，HMRC的移轉訂價調查越來越重視和關注納稅人從政策制定到正確實施移轉訂價(重要性寫在新指引中)的原有流程和行為。這個發展是對提供具體事實和支持性證據以支持英國公司所採用的分析和政策的補充要求，因此應積極地將其納入英國任何現行規範的評估中。這不僅對於證實移轉訂價立場至關重要，罰鍰和法定時效也有助於公司採取合理謹慎態度的重要性，如下所述。

如果英國公司未達到CbCR門檻跨國企業集團，HMRC強調，該公司仍必須保留適當的賬簿和記錄，以提交正確且完整的所得稅申報表。此外，雖然法律上並未正式要求此類英國公司準備前述規定的集團主檔報告和移轉訂價報告，但HMRC認為，這兩種文件可以提供適當的方式來證明公司有遵守常規交易原則以及遵守準備和保留足夠的賬簿和記錄的要求。這一觀點也與新法令頒布之前的立場和期望一致。

## 可申請豁免

### 英國對英國的交易

一般來說，同一跨國企業集團內的英國公司之間進行的交易可能會被排除在移轉訂價報告之外。但是，如果交易的公司之一或以上(1)已提出專利租稅優惠的要求，或(2)正在進行圍欄交易(ring-fenced trade)(與石油相關的貿易)，則此項豁免並不適用。

### 現有預先訂價協議

根據所有預先訂價協議豁免，如果英國企業在移轉訂價記錄生效日期之前已有預先訂價協議，則受控交易的詳細資訊無需包含在移轉訂價報告中。然而，在此次新規定生效之日之後達成的任何預先訂價協議，受控交易的完整細節需要包含在移轉訂價報告中。

## 專論

# 英國移轉訂價文據：新法生效，發布指導原則

### 觀察

納稅人需要記錄他們為何或如何滿足上述豁免條件。如果英國公司滿足上述一項或兩項豁免，則沒有義務保留和保存與其相關的移轉訂價記錄，但納稅人仍需要證明所得稅申報內容是正確的。

### 新指引

HMRC在其國際手冊中移轉訂價的部分發布了隨附資料，針對英國移轉訂價要求的應用和解釋，為HMRC官員和納稅人提供了指引。該指引很有幫助，公司遵照該指引時應全面性考慮，以下概述了一些重點。

### 檢視頻率

HMRC在指引中明確規定，公司應至少每年檢視一次移轉訂價文據，並在必要時進行更新，特別是功能和經濟分析。如果這些分析沒有發生『重大變化』，則可以繼續沿用。

在利潤指標分析方面，HMRC引用了2022年OECD移轉訂價指導原則(第三章可比較分析)第3.82段，以幫助納稅人確認是否需要進行新的利潤指標分析。HMRC表示，用於可比較分析的財務數據應每年更新，以確認常規交易原則結果是可靠的。而對於預先訂價協議涵蓋的受控交易，則無需更新可比較數據。

### 移轉訂價報告 – 比例性和“英國移轉訂價報告”

HMRC強調特定受控交易的複雜性及重大性與資訊提供的同樣重要。

雖然移轉訂價報告是針對公司的文件，公司個體應逐一準備，但HMRC表示，公司可以準備一份合併的英國特定的移轉訂價報告(英國移轉訂價報告)。納稅人應針對以上這兩種方法(或組合)進行成本效益分析。

### 受控交易 - 類型、匯總和重大性

就重大性而言：

- HMRC已指出，如果同一受控交易類型(所有同一類型的受控交易相加)低於100萬英鎊(最低限額)，則可以將該受控交易類別排除在移轉訂價報告之外。

## 專論

### 英國移轉訂價文據：新法生效，發布指導原則

- 如果同一受控交易類型高於最低限額，則應根據具體情況考慮交易的重大性。HMRC沒有制定單一規則，而是列出了在確定受控交易類別是否重大時需要考慮的因素。
- HMRC列出了一個特定的交易類別清單，認為由於其性質和複雜性，這些交易始終被視為重要交易，因此無論其價值如何，都應一直包含在移轉訂價報告中。此清單包括：
  - 使用利潤分割法訂價的交易
  - 有關移轉或授權無形資產的交易
  - 有關難以評價之無形資產的交易
  - 有關轉讓、使用、授權使用能使企業繼續經營所必需的主要或策略性資產的交易
  - 有關全球或區域策略性或領導性服務的交易
  - 有關成本分攤協議或成本貢獻協議的交易
  - 有關企業組織重組的交易，包括在重組期間內將組織功能、資產或風險移入或移出英國的情況
  - 在相關期間內之交易的開始或終止。
- 如果一筆交易被認為不具重大性，HMRC強調公司仍然必須按照常規交易原則訂價。納稅人還需要清楚記錄他們如何確定何項交易為重大交易。

除了提供指引和範例來確定構成符合移轉訂價報告目的之受控交易的重大類別(包括與金融交易相關的單獨指南)，HMRC特別標註了低附加價值服務。如果符合2022年OECD移轉訂價指導原則第7.45段的條件，HMRC參考了其國際手冊上的相關內容，表示低附加價值服務可以被視為單一受控交易，HMRC進一步支持簡化低附加價值服務的分析方法。

HMRC表示，如果滿足與金融案件有關的TIOPA 2010第4部分第161和162節的共同行動條件(acting together conditions)，則不會將條款視為受控交易。在這種情況下，這些條款不需要包含在移轉訂價報告中。

## 專論

# 英國移轉訂價文據：新法生效，發布指導原則

### 觀察

HMRC的指引是實用的，並提供了有用的範例和注意事項在準備移轉訂價文據的過程中。指引也強調了根據完整的移轉訂價文據，應建立及時且健全的和文據流程，以便在完整的移轉訂價文據的基礎上，正確、準確地提交納稅申報表。

納稅人需要建立一個框架，用於審查其業務並及時確定其業務和產業背景有無重大變化。納稅人評估文據的複雜性和重大性時的過程和邏輯也很重要。該指引辨認了一些HMRC認為因其本質和複雜性而被視為重大(即高風險)的具體項目 - 參閱INTM450104。納稅人應審查屬於這些類型的任何安排，並評估相關的移轉訂價分析和文件是否可靠。

### 法令的其他變革

#### 關於罰鍰與未能保留和保存具體的移轉訂價文據

如果納稅人未能進行必要的工作來維護或在要求提交文據之相關紀錄，最重大的潛在影響是HMRC對行為的評估，HMRC是否發現在申報中其移轉訂價文據有不準確的地方，在審查後出現調整的情況。

如果提交的稅務申報不準確，並且未保存法律要求的具體記錄(包括移轉訂價報告)和(或)納稅人管理移轉訂價(包括設定和實施移轉訂價)的流程不充分，將假定公司有“粗心”的行為。同樣，如果HMRC發現與移轉訂價相關的稅務評估不足且特定紀錄未被保留的情況下，也將假定為粗心行為。這將影響到與任何移轉訂價調整金額相關的罰鍰與HMRC在發現情況後能往前追溯評估的時間。

未能保留或保存移轉訂價文據也可能導致相關人員被開罰高達£3,000的固定罰款。HMRC的指引也表明，維護特定的移轉訂價文據是高級會計主管(SAO)職責的一部分。

#### 何時提供具體移轉訂價文據

除了在正式調查的一部分要求具體的移轉訂價文據外，HMRC有時也會非正式要求這些文據(例如，作為稅務合作風險評估的一部分)，但納稅人並不承擔任何義務提供HMRC。新規定賦予了HMRC發布正式通知的權力，可以在進行調查以外時要求提供相關的移轉訂價文件。這是對資訊請求的長期立法的重大變革，表明了HMRC正在將移轉訂價視為關鍵的策略風險領域。

在HMRC發出正式通知後，納稅人在30天內提供指定的移轉訂價文據。正式通知可以從該會計期間稅務申報的提交日那天開始發出，因為HMRC預計這些相關文據都已經準備好，以便準確和合理地提交稅務申報。不遵照資訊通知可能會導致罰款，罰款金額為£300的初始罰款和每日罰款最高可達£60。

## 專論

# 英國移轉訂價文據：新法生效，發布指導原則

### 所有權或權力

關於HMRC資訊權力的法律規定，資訊通知只要求納稅人提供其擁有或在權力範圍內的文件。新規定在移轉訂價文據方面引入了一個重要的例外情況，如果指定文件由屬於同一跨國企業集團的另一成員的權力範圍或擁有，則所有權或權力的限制不再適用。因此，即使該文件是由集團內其他成員持有，而不是由納稅人本身持有，資訊通知仍可以要求納稅人提供移轉訂價文件。

### 觀察

罰則中明確規定，未能建立和維護完整的移轉訂價文件，以及未能建立從政策制定到實施，充分的移轉訂價管理流程，都有可能為納稅人帶來處罰，納稅人會需要承擔舉證責任以駁回處分。這是一個重要的轉變，因為在英國稅法中，通常是由HMRC來承擔舉證責任，以證明納稅人的粗心行為。被認定未遵守新規定的英國納稅人很有可能在移轉訂價調整時受到處罰，除非他們能清楚地證明自己已經採取了合理的謹慎措施。罰鍰的金額可能很大，並可能對企業的現金流出產生實際影響，因此記錄和證明遵守新規定相當重要。

這些記錄需要在收到要求後30天內提供給HMRC，因此必須在提交申報表時就準備好。如果不這樣做，可能會導致更嚴格的審查，包括假定企業存在粗心的行為，這也會影響HMRC能夠評估的年限，而且(至少)會增加被罰款的風險。

HMRC有權在正式調查之外要求提供移轉訂價文件，這將大幅加快HMRC在公司提交所得稅申報後要求提供文件的時間，而將所有權或有權的標準擴展到跨國企業集團的其他成員，將提高英國納稅人與其海外關聯企業之間的協調與合作水平。

### 未來發展

儘管最終確定的法案成果和兩年多前就開始的公開諮詢意見磋商後的大部分生效，但未來可能還會有更多的發展。這次的新規定也賦予了HMRC權力，要求受影響的公司製作簡要審計追蹤(Summary Audit Trail, SAT)，HMRC最初將其描述為 "一份簡短、簡潔的文件，總結企業在移轉訂價文據中得出結論時已經開展的作業"。這份描述後來被一項SAT措施所取代，要求公司填寫一份調查問卷，詳細說明他們在準備移轉訂價文據時所採取的主要行動，但這兩種方法都沒有公佈更多細節。

HMRC將SAT視為鼓勵公司採用充分作業以支持其移轉訂價政策的一種方式，並最終協助HMRC進行風險評估。HMRC目前尚未實施SAT，但已指出打算在 2023年稍晚的時候針對這一附加規定進行公開諮詢。

提供國際交易明細表(International Dealings Schedule, IDS)的要求也還在審查當中，國際交易明細表是一份以結構化格式來報告集團內部跨境交易數據的文件。

## 專論

# 英國移轉訂價文據：新法生效，發布指導原則

### 觀察

SAT的格式和內容仍有待觀察，HMRC之前曾表示，它希望設計出既能實現目標，又不會給公司造成過重負擔的文件。其格式可能會從調查問卷變為更形式更自由的文件，並就適當的內容提供指引。HMRC已表明願意就新規則的發展和實施進行諮詢，而針對SAT的諮詢為納稅人提供了另一個就任何額外要求提供其意見的機會。

儘管迄今為止提供的有關SAT的說明都強調了移轉訂價報告的準備，但這在很大程度上取決於關於移轉訂價政策制定和實施的現有流程和管理。

### 重點

HMRC鼓勵所有必須適用移轉訂價的納稅人採取相同的文件編制方法，這反映了HMRC認為編制集團主檔報告和移轉訂價報告的方法是最佳方法。在實務操作上，新規定為HMRC對所有英國公司移轉訂價文件的期望設定了標準，而不僅僅只是針對那些達到法定門檻的企業集團。

各種稅務行政上的修改傳達了一個訊息，就是HMRC希望納稅人遵守新法規，反映了HMRC在移轉訂價管理方面期望納稅人遵守最低標準，採取了更嚴格的立場，包括文件記錄，並且那些不遵守法規的納稅人將會面臨後果。

公司應繼續視情況發表意見，特別是與任何額外SAT要求有關的意見，以獲得關於流程充分性和SAT文件方面的指導。任何SAT要求都應能夠以務實和具有成本效益的方式下達成，特別是考慮到新的粗心推定及其對任何處罰金額的影響。

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要聞

Legislation

立法

## 葡萄牙

### 2024 年國家預算法提案提交給議會

2023 年 10 月 10 日，2024 年國家預算法提案提交給議會。一些租稅修正案和擬議措施包括：

- **降低新創企業的稅率**：應稅所得的前 50,000 歐元的適用 12.5% 的企業稅率(需滿足條件)。
- **商譽的稅上扣除**：企業合併中取得商譽的收購成本，在開始確認後的前 15 個課稅年度(目前為 20 個)，應等額作為稅上的可扣除成本(適用在從 2024 年 1 月 1 日或之後開始確認的商譽)。
- **投資支持稅制的新增的合格支出**：僱用具有碩士或博士學位的員工所產生的薪資成本現在可享受投資支持稅制(「Regime Fiscal de Apoio ao Investimento」或 RFAI)。該制度規定，在應繳納的企業所得稅(CIT，應繳企業稅的 50% 的上限內)可扣除合格投資金額的 30%(針對合格投資金額低於 1500 萬歐元的部分)或 10%(針對合格投資金額超過該限額的部分)。

- **公司資本化獎勵的審查**：允許的年度企業所得稅扣除額，應按照一個變動利率來計算，該利率等於相關課稅年度歐元區銀行同業拆款利率(Euribor)12 個月平均的稅率，加上 1.5 個百分點或 2 個百分點(取決於是中小型企業還是市值在小型股本或中型股本的規模)。在 2024 年、2025 年及 2026 課稅年度分別給予 50%、30% 及 20% 的附加扣除額。這項租稅優惠允許對符合條件的股權淨增長進行名義利息扣除。
- **對電影和視聽製作的租稅優惠**：政府將能夠為電影和視聽製作提供租稅優惠。獎勵措施是基於在葡萄牙實現的電影製作費用的租稅減免。每部電影或視聽作品或每季劇集的合格費用必須至少為 100 萬歐元。

#### 資誠觀點

議會正在討論 2024 年國家預算法提案。鑒於政府在議會中擁有多數席位，租稅措施可能會按提案實施。然而，根據議會討論以及利害關係人和經濟機構的意見，最終文件中可能會包含額外的租稅措施。所強調的租稅措施顯示葡萄牙如何尋求為新創公司提供友善的稅制(與最近發布的針對新創公司和規模化企業的法律架構一起)。媒體業也受到電影和視聽製作租稅優惠的青睞。

## Portugal

### 2024 State Budget Law proposal submitted to Parliament

The 2024 State Budget Law proposal was submitted to the Parliament on 10 October 2023. Some of the tax amendments and proposed measures include:

- **Reduced corporation tax rate for startups:** 12.5% Corporation Tax rate on the first EUR 50,000 of taxable income (conditions apply).
- **Tax deductibility of goodwill:** the acquisition cost of goodwill acquired in a business combination shall be allowed as a tax-deductible cost, in equal amounts, during the first 15 tax years (currently, 20) after its initial recognition (it shall apply to goodwill whose initial recognition occurs from 1 January 2024 onward).
- **New eligible expenses for investment support scheme:** salary costs incurred with the hiring of employees with a master degree or a PHD will now be eligible for the purposes of the tax regime for investment support ('Regime Fiscal de Apoio ao Investimento,' or RFAI). This regime provides for a deduction against CIT otherwise payable (capped at 50% of the Corporation Tax due) of 30% (for qualified investments lower than EUR 15 million) or 10% (for the part of qualified investments exceeding that limit) of the qualified investment (See PwC Portugal 2023 Tax Guide -Tax Benefits to Resident Entities).

- **Review of the incentive for capitalization of companies:** the annual CIT deduction allowed shall result from applying a variable rate corresponding to the average 12 month Euribor rate in the tax year concerned, increased by a spread of 1.5 percentage points or 2 percentage points in the case of small and medium-sized companies and small mid-caps. An additional deduction of 50%, 30% and 20% is granted, respectively, in the 2024, 2025 and 2026 tax years. This tax incentive allows for a notional interest deduction on the net increase in eligible equity (See PwC Portugal 2023 Tax Guide -Tax Benefits to Resident Entities).
- **Tax incentives to cinematographic and audiovisual production:** the government will be able to create a tax incentive to cinema and audiovisual production. The incentive would be a tax deduction based on cinema production expenses realised in Portugal. Eligible expenses must be at least EUR 1 million per cinematographic or audiovisual work or season of episodes.

#### PwC observation:

Parliament is discussing the 2024 State Budget Law proposal. Given the government's parliamentary majority, the tax measures likely will be enacted as proposed. However, additional tax measures may be included in the final documents as a result of the Parliamentary discussion, as well as inputs from stakeholders and economic agents. The tax measures highlighted indicate how Portugal seeks to provide a friendly tax regime for startups (alongside with the recently published legal framework for startups and scaleups). The media industry is also favored with the tax incentives for cinematographic and audiovisual productions.

## 比利時

### 比利時宣布增加收入的新措施和新來源

10月9日，比利時達成聯邦預算協議。目前的預算階段(budget round)很重要，因為預算需要額外的資金。總共涉及17億歐元，其中三分之一來自新的收入來源(其餘來自開支節約和一次性收入)。為了取得新的收入，政府宣布了以下綜合措施：

- **修正比利時受控外國公司(CFC)規則：**反避稅指令(ATAD)要求各國引入CFC規則。該指令提供了兩種選擇方案。2017年，比利時政府選項方案B，對非實質交易的安排(non-genuine arrangements)產生的未分配盈餘課稅，這些安排的主要目的是取得租稅優惠。基本上，選擇方案B要求與CFC所得相關的重要人員職能需位於比利時。然而，比利時政府改變了立場，將實施ATAD指令的選擇方案A。這意味著新的CFC規則將考慮對被動所得課稅，即利息、權利金、股利和股票處分所得，這些所得在國外的稅率很低(定義為在比利時規則下稅率的一半)，除非納稅人能證明在當地有足夠的經濟實質。
- **銀行稅：**透過以下措施增加金融部門的稅捐：(i)不可扣除銀行稅、信貸機構稅和投資基金稅，以及(ii)銀行稅的累進稅率，大型金融機構繳納更多的稅捐。

- **加強針對國際逃稅的反濫用措施：**將修正支出的扣除規定，涉及授予使用專利、製造流程和其他類似權利而支付的利息、補償及費用，或用於供應或服務的付款。新措施將顛倒舉證責任，特別是比利時稅務機關必須證明付款發生在關係公司之間。但納稅義務人可以提出反證。
- **修正比利時所得稅法第344條第2款：**該條款(向低租稅管轄區的法人實體轉讓資產無效)，另該條款也將擴大到涵蓋間接轉讓。
- **修正投資扣除：**大幅增加永續和社會責任投資的扣除額。
- 基於審計法院(Rekenhof / Cour des Comptes)的報告，**加強開曼稅(Cayman Tax)**。
- **長期租賃(erfpacht/emphytéose)的登記費**將從2%提高至5%，自2024年1月1日起生效
- **加強對非營利組織(法人實體所得稅)、企業所得稅的特殊制度、體育行業和經紀人的稅務查核。**

#### 資誠觀點

接下來，達成協議的措施必須制定成法律並透過必要的議會程序，然後才能公布到官方公報(Belgisch Staatsblad / Monite

## Belgium

### Belgium announces new measures and new sources to increase receipts

The Belgian Federal Government agreed on the federal budget on 9 October. The current budget round was important, as the budget needed additional funds. The total effort is 1.7B EUR, of which one third was found in new income sources (with the rest from savings and one offs). In order to obtain the new receipts, the government announced the following combined measures:

- **Change to the Belgian Controlled Foreign Companies (CFC) rules:** The Anti-Tax Avoidance Directive (ATAD) obliges countries to introduce a CFC rule. The directive provides two options. In 2017, the Belgian Government opted for the taxation of the non-distributed income arising from non-genuine arrangements which have been put in place for the essential purpose of obtaining a tax advantage (option B). Basically, this option required that the significant people functions in respect of the CFC income were located in Belgium. However, the Belgian Government has changed position and instead will implement option A of the ATAD directive. This means that the new CFC rule would envisage taxing passive income, namely interest, royalties, dividends, and income from share disposals, which is subject to low taxation abroad (defined as half of the taxation that would occur under the Belgian rules), unless the taxpayer can prove that sufficient substance is available locally.
- **Banking tax:** increased contribution of the financial sector via (i) non deductibility of the banking tax, the tax on the credit institutions and the tax on the investment funds and (ii) a progressive rate of the banking tax envisaging a larger contribution of the largest financial institutions.
- **Tightening of the anti-abuse measures against international tax evasion:** The provision regarding deductibility of the payment of interest, compensation or fees for granting use of patents, manufacturing processes and other similar rights or payments for supplies or service would be amended. The new measure would provide for a reversal of the burden of proof, notably that Belgian tax authorities have to prove that the payment occurred between affiliated companies. The taxpayer would be able to bring counter-proof.
- **Changes to article 344, §2, of the Belgian Income Tax Code:** this provision (which renders unenforceable the transfer of assets to a legal entity located in a low-tax jurisdiction) would be extended to also cover indirect transfers.
- **Changes to the investment deduction:** significant increase to the deduction for sustainable and socially-responsible investments.
- **Strengthening of the Cayman Tax** based on the report of the Court of Audit (Rekenhof / Cour des Comptes)
- **Registration duties** on long lease (erfpacht/emphytéose) would increase from 2% to 5% effective 1 January 2024
- **Strengthening of the tax audits** on the non-profit organizations (legal entity income tax), special regimes in the corporate income tax, sport sector and brokers.

#### PwC observation:

Next, the agreed-upon measures have to be put into law and go through the required parliamentary procedures before they will be published into the Official Gazette (Belgisch Staatsblad / Moniteur belge) and enter into force.

## 賽普勒斯

### 塞普勒斯同意支柱二過渡性 CbCR 避風港規則，提高研發成本的租稅減免

塞普勒斯已同意支柱二過渡性CbCR避風港。此外，議會最近投票修正了賽普勒斯所得稅(IT)法第9(1)(d)條，該條規定對科學研究和研發支出給予租稅減免。最後，賽普勒斯財政部宣布，賽普勒斯-荷蘭租稅協定將在2024年1月1日生效。

#### 資誠觀點

如果符合支柱二過渡性CbCR避風港條件，支柱二範圍內的跨國企業的新設立和現有的賽普勒斯公司，可能在2026年之後才會受到支柱二的影響。此外，符合條件的賽普勒斯無形資產(IP)公司應考慮120%的研發「超級扣除」，因為該規定適用於透過成本分攤協議開發的任何類型的IP。最後，架構中現有和擬設立荷蘭實體的賽普勒斯納稅人，應分析即將生效的賽普勒斯-荷蘭租稅協定的條款。



## Cyprus

# Cyprus consents to Pillar Two Transitional CbCR Safe Harbour Rules, enhances tax deduction for R&D costs

Cyprus has consented to the Pillar Two Transitional CbCR Safe Harbour. In addition, Parliament recently voted to amend Article 9(1)(d) of the Cyprus Income Tax (IT) Law, which grants a tax deduction for expenditures incurred for scientific research and R&D. Finally, Cyprus Ministry of Finance announced that the Cyprus-Netherlands tax treaty will be effective 1 January 2024.

Read the full [PwC Tax Insight](#) here.

### PwC observation:

By consenting to the Pillar Two Transitional CbCR Safe Harbour, new and existing Cyprus companies of Pillar Two-eligible MNEs may not be impacted by the Pillar Two rules until after 2026. Also, eligible Cyprus intangible property (IP) companies should consider the 120% R&D 'super-deduction,' as this provision can apply to any type of IP developed via a cost sharing agreement. Finally, Cyprus taxpayers with existing and prospective Dutch entities in their structures should analyze the provisions of the soon-to-be-effective Cyprus-Netherlands tax treaty.



## 賽普勒斯

### 賽普勒斯就跨國企業集團和大型國內集團最低稅負立法草案徵詢意見

10月3日，賽普勒斯財政部(MoF)就賽普勒斯將2022年12月14日頒布的歐盟指令納入國內法進行公開諮詢，該歐盟指令旨在確保跨國企業集團和大型國內集團的全球最低稅負水平。該指令的制定依據是OECD/G20 BEPS包容性架構的支柱二示範規則(Model Rules)。公開諮詢邀請有興趣的各方在2023年10月31日之前提交意見。

財政部發布了希臘文的法案草案。該草案與指令基本一致，並包含一個附加文本，以說明迄今為止已發布的OECD/G20包容性架構BEPS行政指南(AG)的某些要素。該法案草案還包括行政規定，這些規定在OECD的GloBE資訊申報表(GloBE Information Return)之外，是按國家確定的。

該法案草案將引入合格所得涵蓋原則(QIIR)，將在2024年生效；合格徵稅不足之支出原則(QUTPR)，在2025年生效；賽普勒斯國內最低補充稅將在2025年生效。

#### 資誠觀點

該法案草案的通過不會修改賽普勒斯的企業所得稅(CIT)立法。相反，法案草案將引入額外的租稅法規，在CIT和其他相關稅制之後適用。

鑒於賽普勒斯QIIR即將實施，範圍內的集團應立即考慮採取積極措施。範圍內的集團也應分析法案草案的潛在影響，並評估現有數據、系統、技術和流程是否足以支持支柱二的要求。此外，範圍內的集團應審閱提交給賽普勒斯財政部的意見。

## Cyprus

### Cyprus consults on draft legislation for minimum tax on MNE groups and large-scale domestic groups

The Cyprus Ministry of Finance (MoF) opened on 3 October a public consultation on Cyprus' transposition into its national law of the EU Directive aimed at ensuring a global minimum level of taxation for multinational enterprise groups and large-scale domestic groups (the Directive) dated 14 December 2022. The Directive itself was developed from the OECD/G20 Inclusive Framework on BEPS Pillar Two Model Rules (the Model Rules). The public consultation invites comments from interested parties until 31 October 2023.

The MoF has published the text of a Draft Bill in Greek. This text generally aligns with the Directive, and includes additional text to account for certain elements of the OECD/ G20 Inclusive Framework on BEPS Administrative Guidance (AG) that has been released to date. The Draft Bill also includes administrative provisions, which, outside of the OECD's GloBE Information Return are determined on a per-country basis.

The Draft Bill would introduce a Qualified Income Inclusion Rule (QIIR), effective in 2024; a Qualified Undertaxed Payments Rule (QUTPR), effective in 2025; and a Cyprus domestic minimum Top-up Tax, effective in 2025.

#### PwC observation:

Adoption of the Draft Bill would not modify Cyprus' corporate income tax (CIT) legislation. Instead, the Draft Bill would introduce additional tax legislation to be applied subsequently to the application of CIT and other relevant taxes.

Given the fast-approaching implementation of the Cyprus QIIR, in-scope groups should consider proactive measures now. In-scope groups also should analyze the potential implications of the Draft Bill and assess whether their existing data, systems, technology, and processes can adequately support the Pillar Two requirements. Also, in-scope groups should review the comments submitted to the Cyprus MoF.

## 法國

### 法國將支柱二納入國內法

2024年財政法案基本上與歐盟指令2022/2523的規定保持一致，該歐盟指令要求所有27個成員國在2023年12月31日之前實施支柱二。然而，法國進行了一些調整，旨在納入示範規則(Model Rule)的注釋(Commentary)或OECD/G20集團包容性架構在2023年2月1日至7月13日通過的行政指南(administrative guidance)的部分內容。

法國的補充稅將透過國內最低補充稅和兩個額外的機制課徵：

- 所得涵蓋原則(IIR)，在母公司層級徵收的補充稅；和
- 徵稅不足之支出原則(UTPR)，如果在IIR下無法徵收全部的此類稅款，剩餘的補充稅將被重新分配給實體所在的租稅管轄區。它將採取額外課稅的形式，而不是像指令中規定的，拒絕從企業稅基中扣除費用。

將額外的國內稅扣抵到IIR和UTPR下計算的稅額中，可以避免雙重課稅。最低年度稅額(包括國內最低補充稅、IIR和UTPR)將完全獨立於法國的企業所得稅。

#### 資誠觀點

根據該法案，國內最低補充稅和IIR將適用在2023年12月31日或之後開始的財務年度，而UTPR一般適用在2024年12月31日或之後開始的財務年度。範圍內的集團應立即評估和模擬支柱二的影響。



# France

## France implements Pillar Two into domestic law

The Finance Bill for 2024 essentially aligns the provisions of EU Directive 2022/2523 requiring all 27 member states to implement the Pillar Two rules by 31 December 2023. However, France included a few adjustments designed to incorporate fragments of the Commentary on the Model Rules or the administrative guidance adopted by the OECD/G20 Inclusive Framework on 1 February and 13 July 2023.

France's share of Top-up Tax would be collected through the domestic minimum Top-up Tax and two additional mechanisms:

- an Income Inclusion Rule (IIR) ('Règle d'inclusion du Revenu') consisting of an additional tax levied at the parent entity level; and
- an Undertaxed Profits Rule (UTPR) ('Règle relative aux Bénéfices Insuffisamment Imposés') consisting of reassigning to a jurisdiction in which an entity is located a residual amount of Top-up Tax if the full amount of such tax could not be collected under the IIR. It would take the form of an additional levy and not, as authorized by the Directive, a denial to deduct expenses from the corporate tax base.

Double taxation would be avoided by crediting the additional domestic tax against tax calculated under the IIR and UTPR. The minimum annual taxation (which would include the domestic minimum Top-up Tax, the IIR and the UTPR) would be fully independent of French CIT.

### PwC observation:

Under the bill, the domestic minimum Top-up Tax and IIR would apply to financial years beginning on or after 31 December 2023, while the UTPR would generally apply to financial years beginning on or after 31 December 2024. Groups within scope should urgently evaluate and model the impacts of Pillar Two.



## 馬來西亞

### 馬來西亞預計於2025年實施全球最低稅負制

2024年財政預算案引入了旨在建立在可持續的基礎、推動未來成長並確保人民安定的關鍵措施。在沒有任何可以大幅增加政府收入措施的情況下，財政部長在這些限制條件下努力將預算赤字降低到4.3%。

#### 全球最低稅負制

馬來西亞仍致力於履行BEPS支柱二下的義務。馬來西亞打算實施基於GloBE規則的跨國補充稅以及合格的國內最低稅負制。政府預計將在2025年實施全球最低稅負制，與該地區的許多租稅管轄區一致，包含新加坡和泰國。這使得馬來西亞能夠與競爭外國投資的鄰國保持相似的地位。

#### 資誠觀點

2024年預算在政府收入不變的限制下，實施了一個發揮作用的策略。實施時間表為受影響的企業提供了更多時間，以準備遵守複雜的全球最低稅負制規則，這將需要在數據、人員、技術和流程方面做出努力。



## Malaysia

### Malaysia expects to implement global minimum tax in 2025

Budget 2024 introduces key measures that aim to build a sustainable foundation, drive future growth, and ensure the stability of the Rakyat. In the absence of any measures that would increase government revenues significantly, the Finance Minister has worked within these constraints to target a lower budget deficit of 4.3%.

#### Global Minimum Tax

Malaysia remains committed to fulfilling its obligations under BEPS Pillar Two. Malaysia intends to implement a multinational Top-up Tax based on the GloBE rules, as well as a qualified domestic minimum tax. The government expects to implement the global minimum tax in 2025, consistent with many jurisdictions in the region, including Singapore and Thailand. This allows Malaysia to remain on similar footing as neighboring countries that compete for foreign investments. For more details see the [full statement](#).

#### PwC observation:

Budget 2024 delivers on a strategy working within the constraints of fairly flat government revenue. The implementation timeline provides impacted businesses with more time to prepare to comply with the complex global minimum tax rules, which will require efforts across data, people, technology and processes.



## 荷蘭 荷蘭推進支柱二

荷蘭2024年最低稅負制(Minimum Taxation Act 2024，也稱為支柱二)草案規定大型國際企業(年營業額超過7.5億歐元)在每個租稅管轄區的最低有效稅率為15%。最低稅負制將在2023年12月31日生效，並首先適用在該日期或之後開始的財務年度。該草案報告的答復備忘錄(Memorandum)在2023年9月11日發布。財政部國務秘書(State Secretary of Finance)在備忘錄中回答了國會各派系提出的問題。該備忘錄涉及幾個有趣的面向，包括支柱二與企業稅之間的相互作用，以及法案草案與租稅協定的兼容性。

答復備忘錄是將支柱二導入荷蘭國內法的下一步。不久，將會有一份修正備忘錄，其中將添加包容性架構在7月達成協議的避風港規則。之後，該草案將在眾議院進一步討論。考慮到即將到來的選舉休會，這將在未來幾週內發生，之後參議院將進一步推動立法草案。該立法草案的國會立法程序將與2024年租稅一攬子計劃一起進行。

### 與企業所得稅的一致性

備忘錄指出，2024年最低稅負制與1969年企業所得稅法存在衝突。儘管有可能在企業所得稅中納入支柱二，但考慮到其困難度，因此選擇了單獨的稅法。然而，這種選擇並不能消除兩種稅制之間的衝突。由於荷蘭企業所得稅常規稅率為25.8%，荷蘭的有效稅負普遍高於最低稅負。在特定情況下，有效利率可能會較低，例如，如果適用清算損失方案(liquidation loss scheme)、創新盒(innovation box)或噸位稅制度(tonnage regime)等。備忘錄指出，只有在非常特殊的情況下，有效稅率才會低於最低水平，因為納稅人幾乎總是產生需要按正常稅率納稅的利潤。政府將持續關注此事。

### 與租稅協定的兼容性

說明(note)指出，該指令和立法草案是以包容性架構內的國際協議為基礎的。該說明指出，應OECD的要求，包容性架構已規定租稅協定並不排除課徵扣繳稅。這是參考了OECD示範公約(Model Convention)的注釋(Commentary)，該注釋指出租稅協定允許CFC措施，並且與所得涵蓋扣繳稅(income inclusion withholding)類似。OECD也認為，所得涵蓋扣繳稅和低稅利潤扣繳稅(under-taxed profit withholding)不會加重低稅管轄區的集團實體的負擔。說明指出，既然該指令已經通過，可以推斷成員國以及政府都同意這一立場。因此，從說明中可以推斷，不相容的問題將被解決。不過，PwC預計該議題仍將在國會辯論中討論。

### 爭端解決

不同國家的稅務機關可能會就支柱二中的特定解釋(interpretations)進行討論。備忘錄指出，支柱二是對利潤課稅，因此屬於租稅協定的範圍。可以在多邊協議的基礎上設計相互協商和解決爭端的可能性。政府正在尋求這項選擇。然而，所有這些仍需要在包容性架構內的後續階段進一步闡述。

### 資誠觀點

支柱二的複雜性、新穎性和不確定性將給跨國企業遵守法規帶來挑戰。跨國公司可能需要調查在全球範圍內是否有計算有效稅率所需的數據，以及是否需要準備好系統、技術和流程，以確保全球法律合規。

# The Netherlands

## Netherlands advances Pillar Two

The Netherlands Draft Bill Minimum Taxation Act 2024, also known as Pillar Two, provides for a minimum effective tax rate of 15% per jurisdiction for large international enterprises (annual turnover exceeding 750 million euros). The law will come into effect on 31 December 2023, and will first apply to financial years starting on or after this date. The Memorandum in response to the Report on this draft bill was published on 11 September 2023. In it, the State Secretary of Finance answers questions from the various parliamentary factions. The memorandum addresses several interesting aspects, including the interaction between Pillar Two and corporate tax, and the compatibility of the draft bill with tax treaties.

The Memorandum in response to the Report is the next step towards the implementation of Pillar Two in the Dutch tax legislation. Soon, an Amendment Memorandum will follow, in which, among other things, the so-called safe harbour rules will be added, on which the Inclusive Framework reached an agreement in July. After that, the draft law will be further discussed in the House of Representatives. With the upcoming elections recess in mind, this will happen in the coming weeks, after which the Senate will further the legislative proposal. The parliamentary law-making proceedings of the draft legislative act will be combined with the Tax Plan 2024 package.

### Coherence with Corporate Income Tax

The memorandum indicates that the Minimum Tax Law 2024 interferes with the Corporate Income Tax Law 1969. Despite the possibility of implementing Pillar Two in the corporate income tax, a separate tax law has been chosen due to the difficulties it entails. However, this choice does not eliminate the interference between both laws. Due to the regular Dutch corporate income tax rate of 25.8%, the effective tax burden in the Netherlands is generally above the minimum level. In specific cases, the effective rate may be lower, for example, if the liquidation loss scheme, the innovation box, or the tonnage regime are applicable. The memorandum indicates that only in very specific cases will the effective rate fall below the minimum level, as taxpayers almost always also generate profits that are subject to taxation at the regular rate. The government will continue to monitor this.

### Compatibility with Tax Treaties

The note indicates that the Directive and the draft legislation are based on international political agreements within the Inclusive Framework. The note states that, at the request of the OECD, the Inclusive Framework has stated that tax treaties do not preclude the imposition of withholding taxes. This is with reference to the commentary on the OECD Model Convention, which states that CFC measures are allowed under tax treaties and are comparable to income inclusion withholding. The OECD has also argued that income inclusion withholding and under-taxed profit withholding do not burden the group entity in the low-tax jurisdiction. The note points out that, now that the Directive has been adopted, it can be inferred that the Member States, as well as the government, share this position. Therefore, it can be inferred from the note that the issue of incompatibility will be resolved. However, PwC expects that the topic will still be discussed in parliamentary debate.

### Dispute Resolution

There likely will be discussions between tax authorities of different countries regarding certain interpretations within Pillar Two. The memorandum indicates that Pillar Two is a tax on profits and therefore falls within the scope of tax treaties. A possibility of mutual agreement and dispute settlement can be devised on the basis of a multilateral agreement. The government is pursuing this option. However, all of this still needs to be further elaborated at a later stage within the Inclusive Framework.

**PwC observation:**  
The complexity, novelty, and uncertainty associated with Pillar Two will pose a challenge when complying with the rules for multinational enterprises. Multinationals may need to investigate whether the necessary data to calculate the effective tax rate is available worldwide, and whether systems, technology, and processes need to be prepared to ensure global legal compliance.

## 挪威

### 挪威發布預算，計劃引入全球最低稅負制

今年的預算在稅務領域幾乎沒有改變。個人和企業的稅率只有微小的變動。企業所得稅稅率仍維持在22%，並且沒有修改的提議。相關的一些改變包括：

**營運資產直接費用化的限額：**政府提議將與取得營運資產相關的直接費用限額從15,000克朗提高到30,000克朗。這也適用在餘額的折舊。

**修正利息限制規則：**2023年4月，財政部(Ministry)就稅法第6-41條第9段中關係人之間EBITDA規則的修正，以及應在稅法第6-41條第3段規定的扣除限額中扣除的集團捐款類型的調整，發布提案並公開徵詢意見。提案的目的是使規則更加穩健，以防止不必要的調整。根據徵詢的意見，財政部在國家預算中提議，當第6-41條第9段中關係人之間的EBITDA規則適用於集團公司時，在計算淨利息支出時，不包含集團內的淨利息所得。財政部提議修正立即生效，自2024年所得年度起立即實施。

**稅務豁免實務的立法：**政府建議對根據免稅重組規則發展起來的實務操作進行立法。新規則將涵蓋合併與分拆、轉換以及集團內轉讓。以前的規則規定，財政部可在特定情況下可以免除資本利得稅，預算建議將這些規則立法，以在最大程度地以法律或法規的形式，而不是行政決定的形式，給予稅法下資本利得稅的例外情況。該規則擬自2023年所得年度起生效。財政部建議對某些典型案例進行免稅立法。

**公司私人消費稅特殊規則延至2025年：**財政部在2022年春季提交了公司私人消費稅特別規定的徵求意見稿，目標是新規定從2024年起實施。政府打算繼續對已提交徵詢的提案進行調整，目前沒有提出對公司私人消費徵稅的特殊規則。相反，目標是在2024年提出更具針對性的特殊規則提案，並在2025年生效。

**大型企業的全球最低稅負制：**在挪威，一項在挪威國內法中納入支柱二規則的提案最近正在進行公開徵詢意見。該部目前正在審閱徵詢的意見，政府打算在2023年底提交一份法案，提議自2024年起(包含2024年)對大型企業實行全球最低稅負制。預計支柱二的導入短期內不會帶來可觀的稅收。然而，對於稅務機關和受影響的納稅人來說，支柱二的導入將帶來巨大的實施、申報和合規成本。

#### 資誠觀點

政府計劃在2024年所得年度對企業稅進行小幅調整。對總營業額超過7.5億歐元集團課徵15%全球最低稅，將在今年底單獨提出，將從2024年所得年度開始生效。

## Norway

### Norway releases Budget, plans to introduce a global minimum tax

This year's budget includes few changes in the tax area. There are only insignificant changes in tax rates for individuals and businesses. The corporate income tax rate remains at 22% and there is no proposal to change it. Some of the corporate changes include:

**The limit for direct expensing of operating assets:** The government proposes to increase the limit for direct expensing of costs related to the acquisition of operating assets, from 15,000 to 30,000 kroner. This also applies to the depreciation of the remaining balance.

**Changes in the interest limitation rules:** The Ministry sent a proposal for consultation in April 2023 on rule changes related to the EBITDA rule between related parties in section 6-41 ninth paragraph of the Tax Act, as well as adjustments to the types of group contributions that should be deducted in the deduction limit under section 6-41 third paragraph of the Tax Act. The proposals were intended to make the rules more robust against undesirable adjustments. Based on the consultation, the Ministry proposes in the state budget not to include net intra-group interest income in the calculation of net interest expenses when the EBITDA rule between related parties in section 6-41 ninth paragraph applies to companies in a group. The Ministry proposes that the changes enter into force immediately with effect from and including the income year 2024.

**Legislation of tax exemption practice:** The government proposes to legislate the practice that has been developed under the rules on tax-free reorganisations. The new rules will cover mergers and demergers, conversions and intra-group transfers. Where the rules previously have given the Ministry of Finance authority to consent to exemption from capital gains taxation in specific cases, the budget proposes to legislate these rules, so that exceptions from the Tax Act's rules on capital gains taxation are given to the greatest possible extent in the form of law or regulation, and not administrative decisions. The rules are proposed to enter into force with effect from and including the income year 2023. The Ministry proposes to legislate tax exemptions for certain typical cases.

#### **Special rules on taxation of private consumption in companies postponed to 2025:**

The Ministry of Finance sent a proposal for special rules on taxation of private consumption in companies for consultation in the spring of 2022. The aim was that the new rules would enter into force from 2024. The government wants to continue working on adjustments to the proposal that was sent for consultation, and does not now propose special rules for taxation of private consumption in companies. Instead, the aim is to present a proposal for more targeted special rules in 2024, with entry into force in 2025.

#### **Global minimum taxation of large corporations:**

In Norway, a proposal to implement the Pillar Two rules in Norwegian law has recently been subject to consultation. The ministry is now reviewing the consultation responses, and, later in 2023, the government intends to present a bill with proposals to introduce a global minimum taxation of large corporations with effect from and including 2024. The introduction of the rules is not expected to generate significant tax revenues in the short term. However, the introduction of the rules will entail significant costs for implementation, reporting and compliance, both for the tax authorities and the affected taxpayers.

#### PwC observation:

The government plans small changes in the corporate tax area for the income year 2024. The global minimum tax of 15% for groups with a total turnover of more than 750 million EURO will be presented as a separate matter later this year and the rules will take effect from the income year 2024.

## 羅馬尼亞

### 羅馬尼亞最低營收稅(minimum turnover tax)

羅馬尼亞政府公布了一項緊急法令草案，對上一年營業額超過5000萬歐元的納稅人課徵最低營收稅。

如果納稅人的企業所得稅低於根據特定公式計算的最低營收稅，或有虧損的，應按照最低營收稅額繳納企業所得稅。

最低營收稅額是根據總收入(扣除特定項目)的1%計算。



#### 資誠觀點

財政部代表表示，最低營收稅應符合支柱二示範規則(Model Rules)所定義的所得稅。

## Romania

### Romania minimum turnover tax

The Romanian Government published a draft Emergency Ordinance, which introduces a minimum turnover tax on taxpayers with turnover of more than 50 million Euros in the previous year.

Taxpayers whose corporate income tax is lower than the minimum turnover tax established according to a stated formula, or who have a fiscal loss, are obliged to pay the corporate income tax at the level of the minimum turnover tax.

The value of minimum turnover tax is computed as 1% applied to the total revenues, from which certain elements are deducted.

#### PwC observation:

Ministry of Finance representatives have stated that the minimum turnover tax should qualify as an income tax, as defined by the Pillar Two Model Rules.

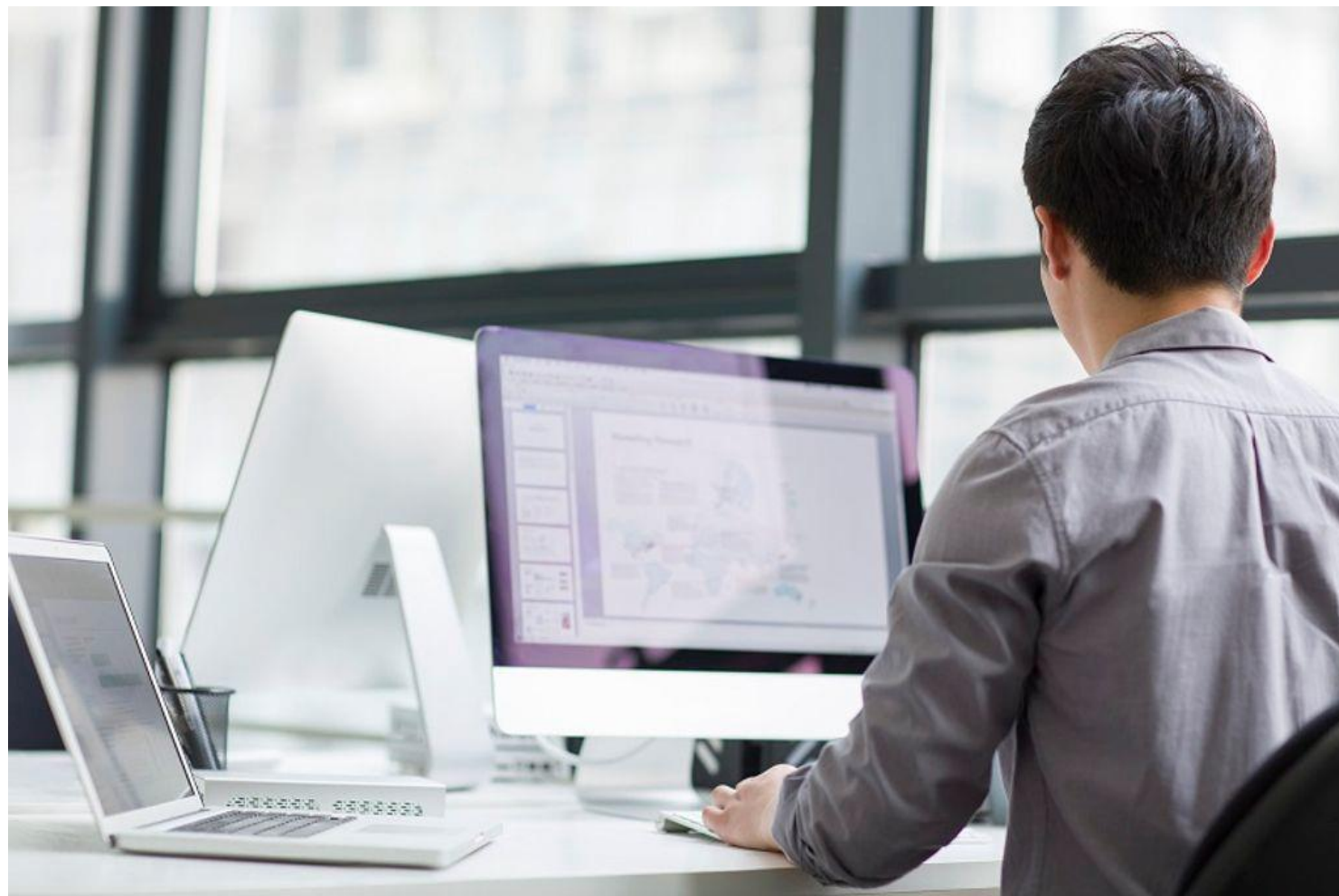


## 羅馬尼亞 羅馬尼亞公布支柱二立法草案

10月4日，羅馬尼亞公布了支柱二立法草案，以實施歐盟最低稅指令。

根據立法草案，支柱二全球反稅基侵蝕(GloBE)規則將適用在2024年1月1日或之後開始的財務年度(QDMTT和IIR)。UTPR將適用在2025年1月1日或之後開始的財務年度。

該立法草案規定，OECD GloBE的注釋(Commentary)以及其他OECD指南，例如現有或將要發布的行政指南和避風港規則，將被用作羅馬尼亞支柱二GloBE規則「說明和解釋」的來源。



## Romania

### Romania publishes draft Pillar Two legislation

Romania published draft Pillar Two legislation on 4 October, in order to implement the Minimum Tax EU Directive.

Based on the draft legislation, the Pillar Two Globe Rules would apply for financial years starting on or after 1 January 2024 (QDMTT and IIR). The UTPR would apply to financial years starting on or after 1 January 2025.

The draft legislation provides that the OECD GloBE Commentary, as well as other OECD guidance such as the Administrative Guidance and Safe Harbour rules existing -or that will be published -are to be used as a source of 'illustration and interpretation' for the application of the Pillar Two Globe Rules in Romania.



## 斯洛伐克 斯洛伐克實施歐盟支柱二指令

2023年8月，斯洛伐克財政部提交了一份關於補充稅法(Top-up Tax Act)的草案，供政府機構和其他相關機構討論和徵詢意見。預計將於2023年12月31日生效的補充稅法，實施了2022年12月14日的歐盟理事會指令(2022/2523)，該指令旨在確保歐盟跨國企業集團和大型國內集團的全球最低稅負制水平(支柱二)。

補充稅法將適用在跨國企業集團或大型國內集團的斯洛伐克實體，包括非居民企業的斯洛伐克常設機構，前提是該集團母公司合併財務報表中的合併年營收在分析年度之前的四個會計期間中至少兩個會計期間達7.5億歐元以上。歐盟指令規定，如果實際稅負低於最低水平，則將透過應用主要的所得涵蓋原則(IIR)或次要的徵稅不足之支出原則(UTPR)來補足15%。該指令下的一種可選方法是透過合格國內最低稅負制(QDMTT)來課徵補充稅。

鑒於很少有集團總部設在斯洛伐克，財政部決定採用該指令中一個選項，以推遲IIR和UTPR規則的適用。然而，鑒於許多子公司是斯洛伐克稅務居民，補充稅法引入了QDMTT，以避免由於母公司或其他位於國外的實體適用強制性的IIR和UTPR規則而在其他國家對這些實體課稅。

補充稅的課稅期間是集團母公司編制合併財務報表的期間，或在某些情況下是一個日曆年。提交補充報申報表(通知)的截止日期不得延長或豁免，法律規定了在截止日期前未提交申報表的罰則。

補充稅法最大部分規定了有效稅率和補充稅的計算程序，具體規定了計算這些實體的符合條件的所得(或損失)和經調整的涵蓋稅的詳細規則。該法還規定了無需繳納補充稅所得的計算方法，並為在進行經濟活動期間報告規定薪資成本和有形資產成本的實體提供了例外情況。如果年營收達到補充稅法規定的營業額標準的同一個集團在斯洛伐克有多個實體，則這些實體在準備補充報申報表時必須密切合作，因為計算超額利潤補充稅的基本指標將在同一集團位於斯洛伐克的所有實體的共同基礎上確定。

### 資誠觀點

根據集團規模標準符合補充稅法範圍的斯洛伐克實體將有義務在應納稅期間結束後的13個月內提交補充稅申報表和包含法律要求資訊的通知，以計算稅額。如果多個斯洛伐克實體屬於同一集團，他們可以選擇並授權其中一個實體代表所有實體履行通知義務。然後，斯洛伐克財政局(Financial Directorate)將在網站上公布補充稅申報表和通知這兩份文件。

補充稅法不適用在豁免實體，例如國際組織、非營利組織、退休基金和投資基金(如果它們位於所有權架構的頂端)。

## Slovakia

### Slovakia addresses the EU Directive on Pillar Two

The Slovak Ministry of Finance submitted in August 2023, a draft act on an additional amount of tax (Top-up Tax) for discussion and comments from governmental bodies and other relevant institutions. The Top-up Tax Act, expected to be effective as of 31 December 2023, implements Council Directive (EU) 2022/2523 of 14 December 2022 on ensuring a global minimum level of taxation for multinational enterprise groups and large-scale domestic groups in the Union (Pillar Two).

The Top-up Tax Act will apply to Slovak entities, including Slovak permanent establishments of tax non-residents, that are part of a multinational group of enterprises or a large-scale domestic group (group) if the consolidated annual revenue of such a group reported by the main parent entity (parent entity) in its consolidated financial statements is €750+ million in at least two of four accounting periods preceding the analysed accounting period. The EU Directive stipulates that if actual taxation is below the minimum level, a top-up to 15% will be made by either applying the primary Income Inclusion Rule (IIR), or the secondary Undertaxed Profits Rule (UTPR). An optional method under the Directive is additional taxation via the Qualifying Domestic Minimum Top-Up Tax (QDMTT).

Given that very few parent entities are headquartered in Slovakia, the Ministry has decided to apply an option in the Directive to delay application of the IIR and UTPR rules. However, given the higher number of subsidiary entities that are Slovak tax residents, the Top-up Tax Act introduces QDMTT to avoid taxation of these entities in other countries as a result of application of the mandatory IIR and UTPR rules by parent or other entities seated abroad.

The taxable period for the Top-up Tax is the period for which the group's parent entity prepares the consolidated financial statements, or in some cases, a calendar year. The deadline for filing a Top-up Tax return (notification) may not be extended or waived, and the law stipulates sanctions for not submitting them by the given deadline.

The most extensive part of the Top-up Tax Act stipulates the procedure for calculating the effective tax rate and the potential Top-up Tax of entities concerned by specifying detailed rules for the calculation of the qualifying income (or loss) and adjusted covered taxes of these entities. The law also defines the method for calculating income not subject to Top-up Tax, and provides an exception for entities that report defined payroll costs and defined costs of tangible assets during the performance of their economic activities. If several entities are part of the same group in Slovakia that meet the turnover criteria for the application of the Top-up Tax Act, their cooperation in the preparation of tax returns will have to be intensive, as the basic indicators for the calculation of the potential Top-up Tax on the excess profit will be determined on a common basis for all entities of the same group located in Slovakia.

#### PwC observation:

Slovak entities that fall under the scope of the Top-up Tax Act based on the size criteria of their groups will be obliged to file a Top-up Tax return and submit a notification containing information required by law for the assessment of this tax within 13 months of the end of the taxable period. If a number of Slovak entities are part of the same group, they may select and authorise one of them to fulfil this notification duty for all of them. The Financial Directorate of the Slovak Republic will then post both documents – the Top-up Tax return and the notification – on its website.

The Top-up Tax Act will not apply to exempted entities, e.g. international organizations, NPOs, pension funds, and investment funds if they are at the top of the ownership chain.

要聞

Administrative  
行政

## 澳洲

### 澳洲稅務局(ATO)企業稅務透明度資料檢查

稅務局局長(Commissioner)需要公布一些企業納稅人的特定所得稅資訊(包括總所得、課稅所得、應納稅額)以及實體應繳納的石油資源租金稅(PRRT)。ATO表示，計劃在2023年11月初公布今年的企業稅務資訊年度報告。該報告將包括2021-22年所得稅申報表中的資訊(如果之前未公布，則還包括前幾年的申報表)。今年報告中包含的納稅人包括：

- 總所得達1億澳元或以上的澳洲公共或外資實體
- 總所得達2億澳元或以上的澳洲居民私人公司，以及
- 申報應繳PRRT的實體。

#### 資誠觀點

ATO公布大型公司申報的資訊。公布數據旨在為企業稅制的公開辯論提供資訊，並有助於：

- 提高認識
- 增加社會對企業繳納正確的稅額的信心
- 鼓勵自願遵守。

## Australia

### ATO corporate tax transparency data check

The Commissioner of Taxation is required to publish certain income tax information of some corporate taxpayers (including total income, taxable income, tax payable) as well as Petroleum Resource Rent Tax (PRRT) payable by an entity. The Australian Taxation Office (ATO) has indicated that it plans to release this year's annual Report of corporate tax information in early November 2023. The report will include information reported in 2021–22 income tax returns (and returns for earlier years if not previously published). The taxpayers to be included in this year's report include:

- Australian public or foreign owned entities with total income of \$100 million or more
- Australian resident private companies with total income of \$200 million or more, and
- Entities reporting PRRT payable.

#### PwC observation:

The ATO publishes information that is reported by large corporations. The data is published to inform public debate about the corporate tax system and helps to:

- improve awareness
- increase community confidence that corporations are paying the right amount of tax
- encourage voluntary compliance.

## 澳洲

### 澳洲稅務局(ATO)致力於支柱二的管理

澳洲稅務局負責國際、支援和計劃的副局長 Hector Thompson最近發表一次演講，概述了ATO即將實施支柱二改革的方法，以因應經濟數位化的挑戰。

具體而言，ATO已經成立了一個專門的項目小組，負責實施擬議的支柱二全球最低稅負制和國內最低稅負制，包括制定合規方法、為適用範圍內的納稅人和顧問提供指導、開發系統以允許申報和交換GloBE資訊申報表(GIR)，並開發數據和分析能力。

其他特別值得注意的是：

- 雖然OECD正在制定GIR，但ATO需要制定單獨的納稅申報表，以計算歸屬於澳洲的GloBE或國內最低稅負制下的任何補充稅負。
- ATO將考慮使用已經在GIR中報告的GloBE計算的資訊要素，以盡量減少合規負擔。
- 財務年度截至2024年12月31日的跨國公司，預計將在2026年6月30日之前提交首份申報表。

- 在GloBE的最初幾年，ATO沒有計劃遵循傳統的合理信任方法 (justified trust methodology)，以確保納稅人繳納了正確的稅額，但仍尋求一定程度的信心，以確保義務得到履行。

#### 資誠觀點

ATO正在過渡到GloBE規則的實施階段，並正在加大投入和參與力度，特別關注與跨國公司和專業服務公司的諮詢和合作。



## Australia

### ATO working on administration for Pillar Two

A recent speech given by Hector Thompson, Deputy Commissioner, International, Support and Programs at ATO, outlined the ATO's approach to the forthcoming Pillar Two reforms to address the challenges of the digitalisation of the economy.

Namely, the ATO has already established a dedicated project team for the implementation of the proposed Pillar Two global minimum tax and domestic minimum tax, including developing its compliance approach, providing guidance to in-scope taxpayers and advisers, developing systems to allow for lodgement and exchange of the GloBE information return (GIR), and to develop data and analytics capabilities.

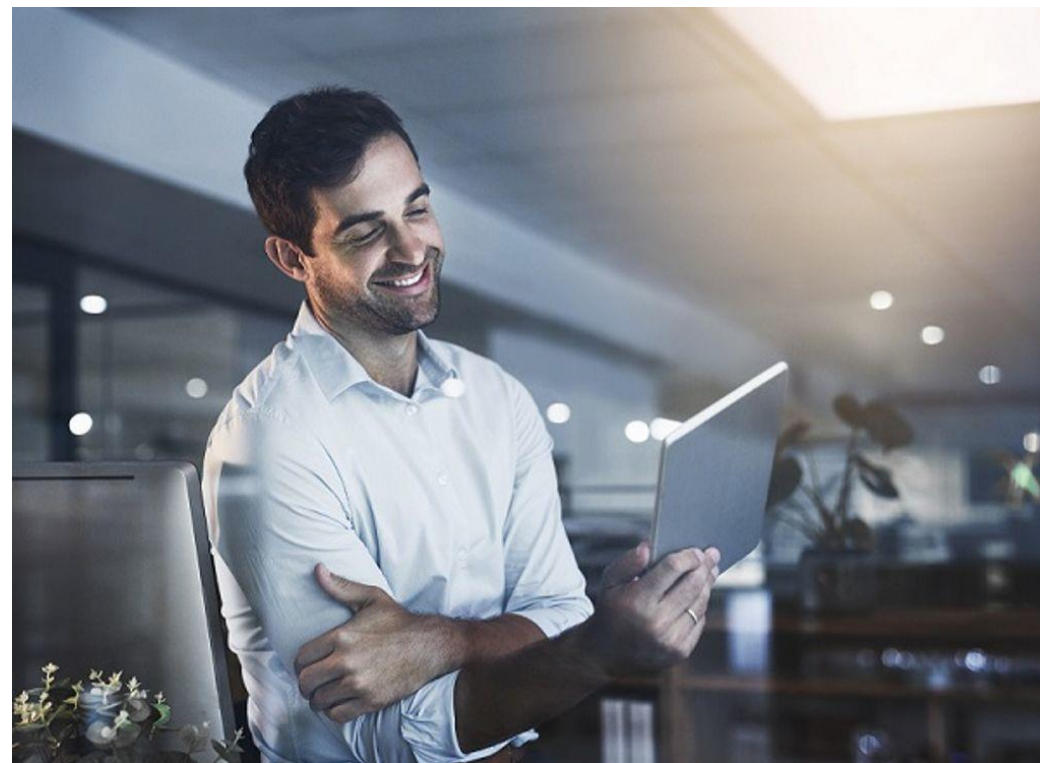
Other comments of particular note were:

- While the GIR is being developed by the OECD, separate tax returns will need to be developed by the ATO to enable the assessment of any Top-up Tax liability for GloBE or Domestic Minimum Tax attributable to Australia.
- The ATO will seek to minimize the compliance burden by considering the use of the informational elements of the GloBE computations that will already be reported in the GIR.
- The first returns are expected to be due for filing by 30 June 2026 for multinationals with fiscal years ending 31 December 2024.

- The ATO has no plan to follow a traditional justified trust methodology for the initial years of GloBE to obtain assurance that taxpayers have paid the correct amount of tax, although it will still seek a level of comfort or confidence that obligations are met.

#### PwC observation:

The ATO is transitioning to the implementation phase of the GloBE Rules and is increasing its investment and engagement efforts, with particular focus on consulting and collaborating with multinational companies and professional services firms.



## 奧地利

### 奧地利財政部公布最低稅負法的公開徵詢意見稿

10月3日，奧地利財政部(BMF)發布了實施全球最低稅負制(支柱二)的最低稅負法的公開徵詢意見稿。徵詢期於10月20日結束。最低稅負法將在2024年1月1日生效。最低稅負法將全球最低稅負制的歐盟指令以及OECD示範規則(model rules)的複雜架構轉化為國內法。一些要點包括：

**適用範圍：**只有在過去四個財務年度中至少有兩個年度淨銷售額達到至少7.5億歐元的大型企業集團才適用。無論是純國內企業集團或跨國企業集團都適用。

**課徵機制：**透過2024年的所得涵蓋原則(IIR)和2025年開始的徵稅不足之支出原則(UTPR)確保全球最低稅負15%。對於有效稅負低於15%的國內實體，在IIR和UTPR之前，先適用合格國內最低稅負制(QDMTT)。QDMTT可以防止國內稅基流出到外國最終母公司實體(UPE)所在的租稅管轄區。另一方面，QDMTT要求外國企業集團的奧地利實體必須遵守相應的奧地利合規義務。

**避風港規則：**為了簡化管理，最低稅負法包含以下避風港規則：

- 合格(外國)國內補充稅避風港
- 過渡性CbCR避風港(小型微利測試、有效稅率測試、例行利潤測試)
- 簡化非重要成員實體的CbCR避風港計算。

在確定避風港要求時，應採取以國家為基礎的方法。如果避風港獲准，相應租稅管轄區的補充稅金額將減少至零，並且不需要計算複雜的一般架構下的有效稅率(ETR)。然而，這並不影響合規義務，例如提交支柱二申報表。過渡性CbCR避風港僅適用在前三個財務年度(從2024年開始)。重大的簡化是，對於這些測試，使用企業已有的CbCR和財務資訊。

#### 資誠觀點

徵詢意見稿很大程度上遵循了歐盟指令、OECD示範規則和OECD出版品，例如行政指南和避風港規則，為過渡期提供了重大的簡化。受影響的公司面臨的挑戰是在短時間內實施這個全新的架構，取得許多數據，使內部流程適應新的要求，並將其整合到系統中。

## Austria

### Austrian Ministry of Finance publishes consultation draft for Minimum Tax Act

The Austrian Ministry of Finance (BMF) published on 3 October a consultation draft for an act to ensure a Global Minimum Tax (Pillar Two). The consultation period ended on 20 October. The new regulations will enter into force as of 1 January 2024. The Minimum Tax Act transposes into domestic law the complex framework of the EU Directive on a global minimum level of taxation as well as of the OECD's model rules. Some of the key points include:

**Scope:** Only large company groups reaching a minimum of EUR 750 million in net sales in at least two of the four past financial years fall within the personal scope. It is irrespective whether it is a solely domestic or a multinational company group.

**Levy of the Top-up Tax:** The global minimum tax rate of 15% is ensured via the income inclusion rule (IIR) in 2024 and the undertaxed profits rule (UTPR) beginning in 2025. For domestic Constituent Entities subject to less than a 15% effective tax rate, a domestic Top-up Tax (QDMTT) is introduced preceding the IIR and UTPR. This prevents an outflow of domestic tax base to a foreign Ultimate Parent Entity's (UPE's) jurisdiction. On the other hand, the domestic Top-up Tax results in the requirement of Austrian Constituent Entities of foreign company groups to comply with corresponding Austrian compliance obligations.

**Safe harbour rules:** In order to simplify administration the following safe harbour rules are included in the Minimum Tax Act:

- Safe harbour for qualified (foreign) domestic Top-up Taxes
- Transitional CbCR safe harbour (de minimis test, effective tax rate test, routine profits test)
- Simplified calculation of CbCR safe harbour for non-material Constituent Entities.

When determining the safe harbour requirements, a country-based approach should be taken. If a safe harbour is granted, the Top-up Tax amount is reduced to zero for the respective tax jurisdiction, and determining the ETR according to the complex general framework is not required. However, this does not affect compliance obligations, e.g., filing a Pillar Two tax return. The transitional CbCR safe harbours do only apply for the first three financial years (starting in 2024). The significant simplification is that for these tests the CbCR and financial information (already available within the company) is used.

#### PwC observation:

The consultation draft largely follows the EU Directive, the OECD model rules, and OECD publications, such as the administrative guidance and safe harbour rules, which provide significant simplifications for the transition period. The challenge for affected companies is to implement this completely new framework within a short time period, derive many data points, adapt the in-house processes to the new requirements, and integrate them into their systems.

## 韓國

### 政府考慮創建有租稅優惠的機會區(opportunities zones)

政府可能會創建特殊機會區，區內的投資者可以從企業所得稅、購置稅(acquisition tax)等優惠中受益。這涉及提供10多種獎勵措施，正如區域發展新倡議總統委員會(Presidential Council on New Initiative for Regional Development)所概述的，這些獎勵措施有別於現有經濟區目前所提供的獎勵措施。

設立這些特殊機會區的目的是解決現有經濟區獎勵措施的限制。考慮為特殊機會區投資者提供的租稅優惠包括：

- 如果公司在出售房地產後搬遷至機會區，則可推遲繳納因出售房地產而產生的個人或企業所得稅，直至其處分在該區域內取得的任何房地產；以及在該區內創業或新設營業場所的前五年享受100%的個人或企業所得稅減免，隨後兩年減徵50%；
- 對企業遷入或開辦企業新購置的房地產，前五年享受購置稅100%減免和財產稅100%減免，隨後五年減徵50%；和
- 對於取得家族企業繼承優惠的公司，大幅放寬為繼續享受這些優惠而必須遵守的後續管理要求。

#### 資誠觀點

創建這些機會區的首要目的是促進相對不發達地區的經濟發展和創造就業機會。



## Korea ROK (South)

### Government considers the creation of opportunities zones with tax incentives

The government may create special opportunities zones where investors in these zones could benefit from corporate income tax, acquisition tax incentives, etc. This initiative involves providing more than 10 types of incentives, which are distinct from those currently available in existing economic zones, as outlined by the Presidential Council on New Initiative for Regional Development.

The introduction of these special opportunities zones aims to address the limitations of incentives available in existing economic zones. Tax incentives under consideration for investors in special opportunities zones include:

- Where a company relocates to an opportunities zone after selling its real estate, the deferral of individual or corporate income tax on gains arising from the sale of the real estate until it disposes of any real estate acquired within such a zone, as well as 100% individual or corporate income tax exemption for the first five years for a business startup or a new business place in such a zone, followed by a 50% reduction for the two subsequent years;
- With respect to real estate newly acquired by a company relocating to or starting a business in such a zone, 100% acquisition tax exemption and 100% property tax exemption for the first five years, and a 50% reduction for the next five years; and
- For companies that received family business succession benefits, substantial relaxation of the follow-up management requirements to remain eligible for these benefits.

#### PwC observation:

The primary goal of creating these opportunities zones is to stimulate economic development and job creation in relatively underdeveloped local regions.



## 美國

# IRS 通知提供了額外的臨時最低公司稅(Corporate Alternative Minimum Tax, CAMT) 指南

2022年頒布的降低通膨法案(Inflation Reduction Act)根據「適用公司(applicable corporation)」調整後的財務報表所得(adjusted financial statement income, AFSI)·對2022年12月31日之後開始的課稅年度徵收最低公司稅(corporate alternative minimum tax, CAMT)。2023年9月12日·財政部和國稅局發布了第2023-64號通知·這是另一輪對CAMT的實質性指南。

該通知就幾個重要問題提供了臨時指導。其中包括確定納稅人適用的財務報表(AFS)和計算AFSI及相關調整·例如折舊和攤銷所需的調整·以及防止重複和遺漏所需的其他調整·包括在財務會計原則中財務會計調整和變更的處理。此外·該指南還闡明了納稅人應如何確定受CAMT約束的適用公司·處理財務報表淨營業虧損(FSNOL)以及計算CAMT國外稅額扣抵(FTC)。

2023-64號通知指出·對於在聯邦公報(Federal Register)中發布即將頒布的擬議法規之時或之前結束的課稅年度·納稅人可以依賴該通知中提供的指南。預計這些法規適用於2024年1月1日或之後開始的課稅年度。對於2024年1月1日之前開始的任何課稅年度·納稅人還可以依賴通知所述的臨時指南。

### 資誠觀點

由於CAMT適用於2022年12月31日之後開始的課稅年度·因此可能受CAMT約束的納稅人應考慮通知中的指南如何影響他們基於對法規和先前臨時指南的合理解釋而採取的先前立場。通知的發布之際·正值曆年制的企業正在完成2022課稅年度的聯邦所得稅申報表·並繳納2023課稅年度的第三季度預估聯邦所得稅(federal income taxes)。在這方面·第2023-42號通知豁免了2022年12月31日之後·2024年1月1日之前開始的課稅年度中與CAMT有關的第6655(a)條規定的稅款附加(addition to tax)。

## United States of America (the) IRS Notice provides additional interim CAMT guidance

The Inflation Reduction Act, enacted in 2022, imposes a corporate alternative minimum tax (CAMT) based on adjusted financial statement income (AFSI) of an 'applicable corporation' for tax years beginning after 31 December 2022. Treasury and the IRS on 12 September 2023 released Notice 2023-64 in another round of substantive guidance on the CAMT.

The Notice provides interim guidance on several important issues. These include the identification of a taxpayer's applicable financial statement (AFS) and the computation of AFSI and related adjustments, such as those required for depreciation and amortization, as well as others necessary to prevent duplications and omissions, including treatment of financial accounting adjustments and changes in financial accounting principles. Additionally, the guidance clarifies how taxpayers should determine the applicable corporation that is subject to the CAMT, treat financial statement net operating losses (FSNOLs), and compute CAMT foreign tax credits (FTCs).

Notice 2023-64 states that taxpayers may rely on the guidance provided in the Notice for tax years ending on or before the publication of forthcoming proposed regulations in the Federal Register. These are expected to apply for tax years beginning on or after 1 January 2024. A taxpayer also may rely on the interim guidance described in the Notice for any tax year that begins before 1 January 2024.

For more information see our [PwC Insight](#).

### PwC observation:

As the CAMT is effective for tax years beginning after 31 December 2022, taxpayers potentially subject to the CAMT should consider how guidance in the Notice may impact previous positions taken based on a reasonable interpretation of the statute and prior interim guidance. Issuance of the Notice comes as calendar-year corporations are finalizing their federal income tax returns for the 2022 tax year and making the third quarterly installment of estimated federal income taxes for the 2023 calendar tax year. In this regard, Notice 2023-42 waived the addition to tax under Section 6655(a) relating to the CAMT for a tax year that begins after 31 December 2022, and before 1 January 2024.

## 美國

### 擬議的法規涉及三角重組和入境不認可交易

10月5日，財政部和國稅局發布了擬議法規，為跨境三角重組和相關交易的稅務處理提供指南。這些擬議法規修正了之前在2014-32號通知和2016-73號通知中公布的法規。2014-32號通知涉及財政部認為是利用2011年5月19日根據第367(b)節(2011年最終法規)發布的最終法規某些方面的交易。

2016-73號通知包含了額外的規則，以解決財政部視為是利用2011年最終法規的交易，該法規根據2014-32號通知中公布的規則進行了修改，並宣布將根據第367節發布額外的法規。

關於2014-32號通知中所述的規則，擬議的法規一般適用在2014年4月25日或之後完成的交易，但有少數例外。對於2016-73號通知中所述的規則，擬議法規一般適用在2016年12月2日或之後完成的交易。如果擬議法規包含之前未在2016-73號通知中公布的規則，則擬議法規將適用於2023年12月6日或之後完成的交易，即擬議法規在聯邦公報上呈交的日期。徵詢意見的截止日期為2023年12月5日。

#### 資誠觀點

財政部和國稅局發布了各種指南(法規和通知)，以解決對跨境背景下使用「三角B型重組」(triangular 'B' reorganizations)的某些顧慮。擬議的法規基於先前的通知並進行了修正，因此對未來交易的影響可能很小。考慮到與過去交易有關的持續訴訟，政府可能希望頒布最終法規，在這些訴訟中，政府根據2014-32號通知和2016-73號通知中所述的規則提出立場。如果最終確定，擬議法規將具有法律約束力，並可能根據第7805(b)(1)(C)節的規則具有追溯效力，該法規規定，向公眾發布對該法規內容的充分描述的通知，則該法規可適用於通知發布日之後的課稅期間。擬議法規還包含原通知中沒有的新規則。

## United States of America (the)

# Proposed regulations address triangular reorganizations and inbound nonrecognition transactions

Treasury and the IRS on 5 October issued proposed regulations providing guidance on the taxation of cross-border triangular reorganizations and related transactions. These Proposed Regulations modify regulations previously announced in Notice 2014-32 and Notice 2016-73. Notice 2014-32 addressed transactions that Treasury viewed as exploiting certain aspects of final regulations published on 19 May 2011 under Section 367(b) (the 2011 Final Regulations).

Notice 2016-73 contained additional rules to address transactions that Treasury viewed as exploiting the 2011 Final Regulations, as modified by the rules announced in Notice 2014-32, and announced that additional regulations would be issued under Section 367.

With respect to the rules described in Notice 2014-32, the Proposed Regulations generally would apply to transactions completed on or after 25 April 2014, subject to limited exceptions. For the rules described in Notice 2016-73, the Proposed Regulations generally would apply to transactions completed on or after 2 December 2016. To the extent the Proposed Regulations contain rules not previously announced in Notice 2016-73, the Proposed Regulations would be applicable to transactions completed on or after 6 December 2023, the date the Proposed Regulations are filed in the Federal Register. Comments are due by 5 December 2023.

### PwC observation:

Treasury and the IRS issued various guidance (regulations and notices) to address certain concerns it had with the use of triangular 'B' reorganizations in the cross-border context. The Proposed Regulations, based on prior notices with modifications, therefore may have minimal impact on future transactions. The government may wish to issue final regulations in light of ongoing litigation with respect to past transactions, where the government is asserting positions based on rules contained in Notices 2014-32 and 2016-73. The Proposed Regulations would be legally binding if finalized and might be given retroactive effect based on the rule contained in Section 7805(b)(1)(C), which provides that a regulation may apply to taxable periods ending after the date on which a notice substantially describing the contents of the regulation is issued to the public. The Proposed Regulations also contain new rules that were not part of the original notices.

## 波蘭

### 波蘭發布扣繳稅(WHT)解釋的新草案

9月28日，波蘭財政部發布了期待已久的關於扣繳稅稽徵規則的解釋草案。該項目的重點是澄清實質受益的概念、相關實質要求和穿透法(look-through approach)。該指南應在檢查是否適用扣繳稅優惠待遇後進行考慮。

在分析付款的收款人是否應被視為實質受益人後，公司應檢查以下內容：

- 收款人是否在移轉支付中確認的利潤很低；
- 收款人是否對所收到的應收帳款的所得實際課稅；或者
- 應收帳款是否進一步移轉給無法享有租稅協定或歐盟指令規定的租稅優惠的實體。

財政部之前於2019年發布了關於扣繳稅稽徵規則的解釋草案。該草案旨在解釋2019年1月1日生效的個人所得稅(PIT)和企業所得稅(CIT)修正案引入的繳稅和退稅機制規定所涵蓋的關鍵概念。然而，儘管對該草案進行了公開徵詢和討論，但該項目始終未能生效。

目前的扣繳稅解釋草案是對扣繳稅稽徵概念的部分審視，重點在於實質受益人的概念。扣繳稅解釋草案還涉及適用在不同成員國關係公司之間支付利息和權利金的稅務共同指令(the IR Directive)。最後，扣繳稅解釋草案涵蓋了適用在不同成員國的母公司和子公司的稅務共同指令(the Parent-Subsidiary Directive)。

#### 資誠觀點

扣繳稅解釋草案對滿足實質受益人條件提出了限制性觀點。特別地，扣繳稅解釋草案列出了一份前提條件的示例清單，這些前提條件可以表明付款的收款人不是實質受益人，而僅充當所得的管理者。根據扣繳稅解釋草案，例如，前提是中介機構在移轉支付中確認了很小的利潤，或應收帳款在短時間內移轉給另一個實體。

該草案明確指出，就股利而言，實質受益人要求應作為盡職調查的一部分進行檢查。此外，根據該草案，這個要求應適用在所有的租稅協定，無論協定的措詞是否包含實質受益人條款。

扣繳稅解釋草案還表明，未展開實質商業活動的實體不應被給予租稅協定和指令規定的優惠。當一個實體進行實質的商業活動，但它所參與的交易與收款人的功能不相稱或不合理時，該交易也可能會出現人為的性質。扣繳稅解釋草案說明，就租稅協定和指令而言，應遵循波蘭稅制下的實質受益人的定義。

扣繳稅解釋草案強調了有效課稅的必要性。這似乎是該項目帶來的主要挑戰之一，特別是對於有被動所得(例如股利)的歐洲控股實體或永久或最近遭受租稅虧損的實體。

## Poland

### Poland publishes new draft of WHT explanations

The Ministry of Finance in Poland published on 28 September the long-awaited draft of withholding tax (WHT) explanations regarding the rules for WHT collection. The project focuses on clarifying the beneficial owner concept, related substance requirements and the look-through approach. The guidelines should be considered after checking whether preferential WHT treatment might apply.

After analyzing whether the recipient of the payments should be treated as the beneficial owner, companies should check whether:

- the recipient realizes a small margin on the transferred payments;
- the recipient has no actual taxation of income from received receivables; or
- the receivable is further transferred to an entity that would not benefit from preferential taxation provided for in tax treaties or EU directives.

The Ministry of Finance previously published draft WHT explanations regarding the rules for collecting WHT in 2019. The prior explanations were meant to explain the key concepts covered by pay and refund mechanism regulations introduced by the act amending the PIT and CIT taxation as of 1 January 2019. However, despite public consultations and discussion on the draft, the project never entered into force.

The current draft WHT explanations is a partial look at the concept of WHT collection, focusing on the beneficial owner concept. It also addresses the Directive on a common system of taxation applicable to interest and royalty payments made between associated companies of different Member States (the IR Directive). Finally, it covers the Directive on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States (the Parent-Subsidiary Directive).

#### PwC observation:

The project provides a restrictive view on meeting the beneficial owner condition. In particular, it includes an exemplary list of premises that may indicate that the payment recipient is not its beneficial owner, but only acts as an income administrator. In the light of the project, the premises are that, for example, the intermediary realizes a small margin on the transferred payments, or receivables are transferred to another entity within short time periods.

The draft explicitly states that, with respect to dividends, the beneficial owner requirement should be examined as part of due diligence. Moreover, according to the draft, this requirement should apply to every tax treaty, regardless of whether its wording includes the beneficial owner clause.

The draft WHT explanations also indicate that preferences under tax treaties and directives should not be granted to entities that do not conduct actual business activity. An artificial nature may also occur when an entity conducts real business activity, but the transaction in which it participates is artificial in light of the functional profile of the recipient. The draft WHT explanations indicate that for the purposes of both tax treaties and directives, the beneficial owner definition under the Polish tax provisions should be followed.

The draft WHT explanations stressed the need for effective taxation. This seems to be one of major challenges arising from the project especially for European holding entities with passive income (e.g., dividends) or entities who permanently or recently incurred tax losses.

## 墨西哥

### 出口製造業的租稅優惠

10月11日，聯邦行政部門在墨西哥官方公報上發布了一項法令，為從事出口製造業以及電影和視聽內容製作的公司提供獎勵措施。這些獎勵措施包括對上述公司取得的特定固定資產進行加速折舊，以及對增加的培訓成本進行25%的扣除。該法令的規定於2023年10月12日生效。

該法令為出口製造商提供特定類別固定資產可以加速折舊的租稅優惠，前提是這些製造商參與特定類型商品的生產、加工或工業製造。這類商品包括製藥儀器的原料和燃料發動機等。此外，此獎勵措施也適用於電影和視聽內容的製作者。

此獎勵措施包括比墨西哥所得稅法規定的直線法年度扣除更高的折舊率(根據固定資產類型介於56%到86%之間)。為了取得加速折舊優惠，納稅人應考慮以下事項：

- 適用這種折舊方法的固定資產是指2023年10月12日至2024年12月31日期間新購買(即在墨西哥首次使用)的固定資產，前提是這些資產在連續兩年內使用。
- 此獎勵措施不適用在購買家具和辦公設備、內燃機驅動的車輛、汽車防彈裝置、其他不可單獨識別的資產以及與用於空中噴灑的飛機不同的飛機。

- 在計算每月暫估預繳所得稅以及固定資產不再有用或因意外損失的情況下，有特殊的規則。

此外，屬於上述行業的公司在2023-2025財務年度所得稅申報表中可以取得加計扣除額。這項加計扣除額等於員工培訓相關支出與上一個財務年度相比增加的25%。這項加計扣除額應在墨西哥社會保障機構(Mexican Social Security Institute, IMSS)登記。

為了取得扣除的優惠，公司必須滿足一定的要求如下：

- 沒有被列入墨西哥聯邦稅法(Mexican Federal Tax Code)的黑名單；沒有墨西哥稅務機關確定的納稅評估(tax assessments)；不受墨西哥稅務機關稅務查核程序的約束；其數位印章和電子發票憑證不受限制或取消；並且不處於清算期。
- 必須在納稅人登記處(Taxpayers' Registry, RFC)註冊；可以取得積極的稅務合規意見，並根據墨西哥租稅規定就此項扣除的適用提交通知。

#### 資誠觀點

這些租稅優惠對特定行業的公司來說是絕佳機會，特別是對考慮追加投資的公司。這類公司應考慮是否符合法令所列的要求。

## Mexico

### Tax incentives for the exportation manufacturing industry

The Federal Executive published on 11 October in the Mexican Official Gazette a Decree granting an incentive for companies engaged in the exportation manufacturing industry and in the production of cinematographic and audiovisual content. The incentives include accelerated depreciation of certain fixed assets acquired by said companies and a 25% deduction on the increased training costs. The provisions of the Decree entered into force on 12 October 2023.

The Decree grants a tax incentive to the exportation manufacturers an accelerated depreciation for certain categories of fixed assets provided these manufacturers are involved in the production, elaboration, or industrial manufacturing of certain types of goods. Such goods include, among others, raw material for the pharmaceutical instruments, and fuel motors. In addition, the incentive is aimed at producers of cinematographic and audiovisual content.

The incentive consists of higher depreciation rates (ranging from 56% to 86%, depending on the type of fixed asset) than those set forth in the Mexican Income Tax Law for purposes of the annual deduction under the straight-line method. In order to access the accelerated depreciation, the taxpayers should consider the following:

- The fixed assets subject to this depreciation method are those newly acquired (i.e., used for the first time in Mexico) during the 12 October 2023, to 31 December 2024 period, provided that these assets are used during a consecutive two-year period.

- The incentive should not be applied for the acquisition of furniture and office equipment, vehicles propelled with an internal combustion engine, car bullet-proofing, other assets not individually identifiable, and airplanes different from those used for aerial spraying.
- There are special rules for purposes of determining the monthly estimated advanced income tax payments and cases in which the fixed assets are no longer useful or are lost due to a fortuitous cause.

Furthermore, companies belonging to the aforementioned industries can access an additional deduction for purposes of the FYs 2023-2025 annual income tax returns. This additional deduction equals 25% of the increase over the previous fiscal year for expenses related to employee training. This should be registered with the Mexican Social Security Institute (IMSS).

In order to take the deduction, companies must meet certain requirements:

- They are not blacklisted under the Mexican Federal Tax Code; they do not have tax assessments determined by the Mexican Tax Authorities; they are not subject to tax audit review procedures from the latter; their digital seals and electronic invoicing certificates are not restricted or cancelled; and they are not in a liquidation period.
- They must be registered before the Taxpayers' Registry (RFC); they can obtain a positive tax compliance opinion and they file a notice regarding the application of this deduction in the terms of the Mexican tax provisions.

#### PwC observation:

These tax incentives are great opportunities for the companies belonging to the identified industries, especially for those contemplating additional investments. Such companies should consider whether they can meet the requirements listed in the Decree.

要聞

Judicial  
司法

## 墨西哥

### 「承諾費」被判決在稅上不可扣除

聯邦行政法院上院(Upper Chamber)判決，承諾費(因為沒有使用原先承諾的信貸額度而補償債權人，從而產生的財務費用)不符合「絕對不可或缺」的要求，不可在所得稅下扣除。法院得出此結論的依據是，該費用只有在信用額度沒有被使用的情況下才可執行；在這種情況下，該財務費用與公司的商業目的無關，本質上是信貸額度參與者之間約定的罰款。



#### 資誠觀點

納稅人應分析其貸款合約，以確定任何約定的承諾費。

## Mexico

### 'Commitment fees' ruled non-deductible for tax purposes

The Upper Chamber of the Federal Administrative Court ruled that the commitment fee (a financial charge resulting from the non-use of the credit line in order to compensate the creditor) did not meet the 'strictly indispensable' requirement to be considered deductible for income tax purposes. The Court reached this conclusion on the basis that this fee is only enforceable if the credit line is not used; in that case it is not related to the company's business purpose, being in nature an agreed penalty between the participants in the credit line.



#### PwC observation:

Taxpayers should analyze their loan agreements in order to identify any agreed-upon commitment fees.

## 波蘭

### 股利扣繳稅採用穿透法(look-through approach)的可能性

華沙省行政法院(Provincial Administrative Court in Warsaw)在2023年9月14日的判決(ref. III SA/Wa 1513/23)中確認了股利扣繳稅豁免採用穿透法的可能性。這是波蘭實施歐盟母子公司指令(EU Parent-Subsidiary Directive)的規則。該判決涉及對個人稅務判決(對納稅人不利)的上訴，以確定是否可以採用穿透法，並對與母公司位於同一歐盟國家的間接股東適用股利扣繳稅豁免。

2023年，稅務機關發布了幾項稅務不利判決，拒絕納稅人和扣繳義務人在類似情況下適用豁免的能力，從而拒絕了適用穿透法的可能性。根據波蘭實施歐盟母子公司指令的文字措辭，豁免僅適用在直接持有支付股利的波蘭公司至少10%股份的實體。儘管如此，這方面的判例並不統一。

在2022年的一項稅務判決中，稅務機關確認向間接股東支付股利可以採用穿透法，並在透過中間人向位於歐盟(歐洲經濟區EEA)國家的實質受益人支付股利的情況下，適用租稅優惠。到目前為止，財政機關尚未普遍同意這一觀點。

稅務機關最近對納稅人不利的立場應被視為與波蘭實施歐盟母子公司指令條款的文字解釋一致。然而，這些條款並沒有規定收款人必須具有股利的實質受益人的身分，而稅務機關同時要求這一點。

上述判決是首個法院案例，允許將穿透法適用在波蘭支付股利豁免扣繳稅的目的，這對納稅人和扣繳稅繳款人來說是具有積極意義的判例。

#### 資誠觀點

納稅人對於是否可以在支付股利時適用扣繳稅豁免仍存在不確定。許多人希望，對股利採用穿透法的可能性不僅會得到行政法院的額外判例，而且得到最高行政法院(Supreme Administrative Court)確認，以及財政部準備的最終(具有約束力)扣繳稅解釋(新解釋的草案在2023年9月28日發布)的確認。根據解釋草案目前的措辭，稅務機關沒有義務適用穿透原則。雖然這一立場減少了對納稅人的保護，但扣繳稅解釋草案正在公開徵詢意見，最終內容可能會發生改變。短期內，納稅人應觀察行政法院的做法，以確定是否為納稅人建立一個有利的判例路線。

## Poland

### Possibility of applying a look-through approach in relation to withholding tax on dividends

The Provincial Administrative Court in Warsaw in its judgment on 14 September 2023, (ref. III SA/Wa 1513/23) confirmed the possibility of applying the look-through approach in relation to the exemption from withholding tax on dividends, pursuant to the Polish rules implementing the EU Parent-Subsidiary Directive. The judgment concerned the appeal of an individual tax ruling (negative for the taxpayer) to determine whether it is possible to use the look-through approach and apply the withholding tax exemption on dividends towards the indirect shareholder, located in the same EU country as the parent entity.

In 2023 the tax authorities issued several negative tax rulings, denying taxpayers and tax remitters the ability to apply the exemption in similar situations and thus negating the possibility of applying the look-through approach. Based on the literal wording of the Polish rules implementing the EU Parent-Subsidiary Directive, the exemption may be applied only towards an entity directly holding at least 10% of the shares in the Polish company paying the dividend. Still, the jurisprudence in this respect is not uniform.

In a 2022 tax ruling, the tax authorities confirmed the admissibility of using the look-through approach to dividend payment to an indirect shareholder and applying preferential taxation / tax exemption in a situation where the payment is made through an intermediary to the beneficial owner established in the EU (EEA) country. Until now this view was not commonly shared by the fiscal authorities.

The tax authorities' recent unfavorable position should be considered consistent with the linguistic interpretation of the Polish provisions implementing the EU Parent-Subsidiary Directive. However, these provisions do not introduce the requirement that the recipient have the status of beneficial owner in relation to dividends, which is at the same time required by the tax authorities.

The above judgment is the first court case allowing the application of the look-through approach for purposes of the WHT exemption of dividends paid from Poland and a sign of positive jurisprudence for the taxpayers and WHT remitters.

#### PwC observation:

Taxpayers remain uncertain about the possibility of applying the WHT exemption in relation to paid dividends. Many hope that the possibility of applying the look-through approach to dividends will be confirmed by not only by additional jurisprudence of administrative courts, but also the Supreme Administrative Court, as well as by final (binding) WHT explanations prepared by the Ministry of Finance (a draft of new explanations was published on 28 September 2023). According to the draft explanations' current wording, the tax authorities will not be obliged to apply the look-through principle. While this position reduces taxpayer protection, the WHT explanations draft is in public consultation and its final content may change. In the short term, taxpayers should observe the practice of administrative courts in order to determine whether a preferential line of jurisprudence for taxpayers will be established.

要聞

OECD/EU  
經合組織/歐盟

## 歐盟

### 歐盟理事會批准修改歐盟稅務不合作名單

歐洲財政部長以歐盟理事會的身分批准了歐盟行為準則小組關於更新的稅務不合作名單的建議。安地卡及巴布達、貝里斯和塞席爾等三個租稅管轄區被列入附件一(所謂的歐盟黑名單)。英屬維京群島、哥斯大黎加和馬紹爾群島已從先前的附件一名單(2023年2月發布)中移除。

附件二(灰名單國家)也進行了更新，移除了四個租稅管轄區：泰國、蒙塞拉特島、約旦和卡達。

#### 資誠觀點

企業應檢視更新後的名單，並考慮對名單內租稅管轄區的實體的可能影響。



## European Union

### Council of the EU approves changes to the EU list of non-cooperative jurisdictions

The European Finance Ministers, sitting as the Council of the EU, approved the recommendations of the EU Code of Conduct Group in relation to the updated list of non-cooperative jurisdictions. Three jurisdictions, Antigua and Barbuda, Belize, and Seychelles were all added to Annex I (the so-called EU blacklist). British Virgin Islands, Costa Rica, and Marshall Islands were removed from the previous Annex I list (published in February 2023).

Annex II of the list (greylisted countries) was also updated with four jurisdictions removed from the state of play document: Thailand, Montserrat, Jordan and Qatar.

For more details see our [PwC Tax Policy Alert](#).



#### PwC observation:

Businesses should review the updated lists and consider the potential consequences for entities located in impacted jurisdictions.

## 歐盟

### 歐盟普通法院判決，西班牙的商譽扣除不是非法的國家援助(state aid)

9月27日，歐盟普通法院(GCEU)作出判決，支持西班牙政府和幾家公司針對歐盟委員會(EC)的決定提起的幾項上訴，該決定宣布西班牙關於間接收購外國公司股權扣除額的租稅計劃是非法的國家援助。因此，GCEU撤銷了EC的決定。

#### 資誠觀點

歐盟委員會是否會將這一判決上訴至歐盟法院(CJEU)還有待觀察。然而，在此同時，對於EC撤銷先前決定的能力以及合法期望原則的，GCEU提供了富有洞察力的觀察。企業應繼續關注國家援助的進展情況，並評估最近判決的可能影響。國家援助仍然是一個動態的領域，我們期待看到更多有趣的判決。



## European Union

### EU General Court rules Spain's goodwill deduction not unlawful State aid

The General Court of the European Union (GCEU), on 27 September delivered its judgment upholding several appeals brought by the Spanish Government and several companies against the European Commission's (EC's) decision that declared the Spanish tax scheme on the deduction for indirect acquisitions of shareholdings in foreign companies to be unlawful State aid. As a result, the GCEU annulled the EC's decision.

For more information see our [PwC Tax Policy Alert](#).

#### PwC observation:

It remains to be seen whether the EC will appeal this judgment to the Court of Justice of the EU (CJEU). In the meantime, however, the GCEU provides insightful observations on both the ability of the EC to revoke earlier decisions and the principle of legitimate expectations. Companies should continue to track state aid developments and assess the potential impact of recent judgments. State Aid remains a dynamic area and we expect to see more interesting judgments delivered.



要聞

Treaties  
租稅協定

## 墨西哥

### 德國-墨西哥租稅協定修約

德國-墨西哥所得稅和資本稅協定修約議定書(2021年10月8日簽署)將在2024年1月1日生效。該議定書包括以下主要修正：

- **前言**：聲明該協定的目的是防止雙重課稅，而不是透過逃稅或避稅創造雙重不課稅或減稅的機會。
- **常設機構**：引入了一項明確要求，即所有「常設機構」的例外情況都涉及準備或輔助性質活動。
- **股利**：增加了365天的持有期要求，因此只要股份的實質受益所有人直接持有分配股利的實體的至少10%的股本並且滿足持有期間的要求，則將適用5%的扣繳稅稅率。
- **資本利得**：議定書規定，如果在處分之前的365天內任何時間，股份或類似權益超過50%的價值直接或間接來自在他方領域的房地產，則處分股份或類似權益所取得的利得可能需要在在他方領域納稅。

- **相互協議程序**：取消了10年的限制。相反，議定書規定，達成的任何協議應予執行，不受國內法任何期間規定之限制。
- **特殊情況下租稅協定的適用**：議定書包括一項新條款，允許在居民取得某項所得時拒絕享受租稅協定優惠，且該所得：*i*) 歸屬於第三個租稅管轄區的常設機構(PE)，*ii*) 歸屬於此類常設機構的利潤在居住地租稅管轄區免稅，且*iii*) 第三個租稅管轄區對該所得的課徵的稅款低於居住地租稅管轄區應繳稅款的60%。
- 還包括積極的貿易或業務例外以及主要目的測試。

#### 資誠觀點

儘管該協定不是OECD《實施租稅協定相關措施以防止稅基侵蝕和利潤移轉的多邊公約》(MLI)所涵蓋的協定，該公約在2023年7月1日在墨西哥生效，但修正墨西哥-德國協定的目的協定的目的是採取多邊工具中體現的防止稅基侵蝕和利潤移轉的措施。因此，與墨西哥和德國居民進行交易的納稅人需要評估修正後的協定的潛在影響。

# Mexico

## Amendment to Protocol to Germany-Mexico Tax Treaty

The amending protocol to the Germany-Mexico income and capital tax treaty (signed on 8 October 2021) will become effective 1 January 2024. The protocol includes the following main changes:

- **Preamble:** States that the treaty's purpose is to prevent double taxation without creating opportunities for non-taxation or reduced taxation through tax evasion or tax avoidance.
- **Permanent establishment:** Introduces an express requirement that all exceptions to a 'permanent establishment' involve preparatory or auxiliary activities.
- **Dividends:** A 365-day holding period requirement is added, so the 5% withholding tax rate will apply whenever the beneficial owner of the shares holds directly at least 10% of the capital of the entity and such holding period is met.
- **Capital gains:** The protocol provides that gains derived from the disposition of shares or comparable interests may be subject to taxation in the treaty partner jurisdiction if, at any time within the 365 days preceding the disposition, the shares or comparable interests derive more than 50% of their value, directly or indirectly, from real estate located in that other jurisdiction.
- **Mutual agreement procedure:** The 10-year limit was eliminated. Instead, the protocol provides that any agreement reached will be implemented regardless of the time limits provided in the domestic legislation.
- **Application of the tax treaty in special cases:** The Protocol includes a new provision that allows the denial of treaty benefits whenever a resident derives an item of income and such item of income: i) is attributable to permanent establishments (PEs) in a third jurisdiction, (ii) the profits attributable to such PE are exempted in the residence jurisdiction and (iii) an income on which the tax in the third jurisdiction is less than 60% of the tax that would be due in the residence jurisdiction.
- An active trade or business exception and a principal purpose test was also included.

### PwC observation:

Although the treaty is not a covered agreement for purposes of the OECD's Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (MLI) that entered into force for Mexico on 1 July 2023, the purpose of the amending Mexico-Germany protocol is to adopt the measures to prevent tax base erosion and profit shifting embodied in the MLI. Therefore, taxpayers conducting transactions with residents in Mexico and Germany would need to assess the potential impact of the amended protocol..

## Glossary

Acronym	Definition
ATAD	Anti-Tax Avoidance Directive
ATO	Australian Tax Office
BEPS	Base Erosion and Profit Shifting
CFC	controlled foreign corporation
CIT	corporate income tax
CTA	Cyprus Tax Authority
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
SBT	same business test
SiBT	similar business test
VAT	value added tax
WHT	withholding tax



# 歡迎掃描QRcode 成為資誠會員

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## 資誠稅務一點通系列影片已上線

資誠每月定期提供兩岸及國際租稅相關訊息另外也有定期更新的全球防疫稅務影片，請您持續關注最新資訊並請與我們諮詢相關業務。

- 兩岸與國際租稅Update(大陸個人所得稅優惠政策節稅解析)：<https://youtu.be/cmUL-PPj28k>
- 台灣稅務與投資法規Update-11月號(營利事業認列CFC所得適用辦法修正草案重點)：[https://youtu.be/tIVT\\_9DRndw](https://youtu.be/tIVT_9DRndw)
- 2023 資誠前瞻研訓院線上講堂 (8月)：

ESG近期發展<https://youtu.be/jzP3M3XMhZ8>

破定價對財務報表的影響<https://youtu.be/PP7cKarhzPQ>

2023台灣併購趨勢與發展<https://youtu.be/WwF0Y1oxSVI>

台灣稅務法令更新及因應<https://youtu.be/DU0OpFHzTks>

兩岸稅務法令更新及因應<https://youtu.be/zxXa3nUFOP8>

國際稅務法令更新及因應<https://youtu.be/Rul4mAEDgZQ>

美國稅務法令更新及因應：台美租稅協定X赴墨西哥投資<https://youtu.be/RN7oqXlcaDs>

東南亞稅務法令更新及因應：泰國X越南X馬來西亞X印尼X印度<https://youtu.be/61OAuuzLw00>

會計審計法令更新<https://youtu.be/uPdoay3cM18>

智財法令更新：個資法 X 商標法[https://youtu.be/YYrbVoH\\_1Wg](https://youtu.be/YYrbVoH_1Wg)

公司及證管法令更新<https://youtu.be/3hl5oExY5go>

## 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。

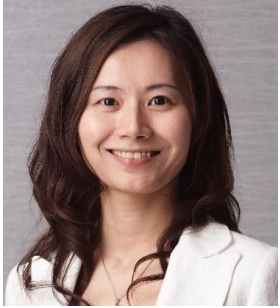
本會除例行會員集會，相互交換國際稅務新知與經驗交流外，每月提供會員最新國際、國內及大陸之稅務新規，每年舉辦國際與兩岸租稅專題研討會，邀請兩岸稅務機關首長及稅務官員蒞會演講、座談及研討，與業界會員雙向溝通，共同分享最新租稅相關議題。

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/SitePages/Intro.aspx>



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