國際租稅要聞

International Tax Newsletter

第264期



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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摘要

發生什麼事?

OECD/G20的包容性架構(Inclusive Framework·簡稱IF)於2024/02/19發布了支柱一 "Amount B"的報告(包含讀者指引)提出一套簡化版的移轉訂價規則(以下簡稱「簡化方法」)。該報告針對簡單行銷和配銷活動提供可能的移轉訂價方案。該報告是繼OECD於2023年7月與2022年12月的公眾諮詢稿後所發布的。

前述報告的內容業已納入OECD移轉訂價指導準則(Transfer Pricing Guideline,簡稱TPG)第四章之附件,包容性架構預計在2024/03/31前完成Amount B的附加指引,並將同意採用Amount B簡化方法規範的租稅管轄區清單公布在OECD的網站上。

本文將重點關注在前述報告與2023年7月諮詢稿中所規範內容的差異處。

為何如此攸關?

在移轉訂價爭議日益增多的情況下,Amount B主要在國際租稅架構下促進租稅確定性和可預測性。Amount B的機制(固定利潤)目的在使常見的簡單行銷和配銷活動有一致的常規交易準則(Arm's Length Principle,簡稱ALP)。當監管能力較低的租稅管轄區(low-capacity jurisdiction)應用Amount B時,交易相對方之租稅管轄區在未違反自身國家法律規範的情況下必需承認其結果。

在包容性架構所採行的簡化方法下,企業可以在各國採取一致制度的情況下取得租稅確定性,而未正式採用簡化方法的租稅管轄區,訂價矩陣中所使用的利潤率甚至可能 將成為非官方基準,用以判斷交易是否符合常規交易原則。目前有哪些國家將會採行Amount B仍待觀察。值得注意的是,紐西蘭和澳洲已經表明並不會採行Amount B, 紐西蘭甚至表明除非提交一份完整的移轉訂價分析,否則將不會認可交易相對方所在管轄區依照簡化方法後所得出之移轉訂價結果。而在印度所提出的關切事項中(list of concerns)也顯示在包容性架構所涵蓋的國家中,對於Amount B仍存在一定程度的反對聲浪。雖然報告中,已經針對某些關切事項進行回應,然而,簡化方法是否能達到 行政簡化和提升租稅確定性的主要目的尚未能確定。

需考慮採取的行動

符合簡化方法定義的經銷商應該開始瞭解相關新規定,並分析採用簡化方法後與以往執行常規交易分析的差異。此外納稅義務人採用簡化方法時將會面臨一些挑戰,如: 資產負債表科目需進行分類、需針對特定費用進行辨認和進一步處理等等。Amount B將適用於許多不同產業,包括消費產品、菸酒、建築、汽車、IT硬體、軟體和元件、 紡織、機械和工具及製藥業。前述產業中存在關係人經銷商之納稅義務人均將受到影響。

金額B:對於簡化方法的進一步檢視

內文

概述

報告中訂定出簡化方法的適用規則與適用交易類型及標準,同時提供一個訂價矩陣,透過3步驟以確定符合定義之經銷商應有的營業淨利率(ROS)作為其淨利率指標(NPI)。 最後,報告亦針對準備文據、過渡期間可能遭遇的議題以及租稅確定性考量提供相關的指引。

簡化方法的適用規則

簡化方法可在2025年1月1日或以後開始之會計年度被採用。如果一個國家決定採用Amount B,可以有以下兩種選擇:

- 1. 針對所有符合Amount B定義的納稅義務人一律適用;
- 2. 由符合Amount B定義的納稅義務人自行決定是否採用(做為避風港的一種)。

觀察:由於各國可自行決定是否採行金額B,意味著納稅義務人在常規經銷商之交易將面對比以往更加複雜且不確定的情況。在現行情況下,納稅義務人可使用統一且符合移轉訂價指導準則之移轉訂價分析與規定以支持其在全球的常規經銷移轉訂價安排,而簡化方法並非所有租稅管轄區均採行,有些甚至直接拒絕承認,例如紐西蘭。

適用交易類型與最適方法

報告主要規範以下交易,此兩項交易與2023年7月諮詢稿中的內容相同:

- 1. 購買商品以進行批發轉售的買賣行銷和配銷交易;
- 2. 促進配銷銷售的代理及佣金交易(不擁有商品所有權)。

適用交易的認定標準(第三節)遵循2023年7月諮詢稿的定量方法(替代方案A),而非定性方法(替代方案B)。

● 適用交易需要能夠被以單方面的移轉訂價方式進行合理定價(例如:經銷商不能夠承擔特定經濟上的顯著風險或擁有獨特且有價值的無形資產),且只能由經銷商、銷售 代理商或佣金商作為受測個體;

金額B:對於簡化方法的進一步檢視

● 受測個體需在三年加權平均的基礎上維持一定營運費用與淨銷售額的比例(現行規範為營業費用不得低於其淨銷售額的3%,也不得高於20%至30%的區間)。

特定活動可能使經銷商被排除於適用交易之外,例如從事無形資產(數位商品)或大宗物資的配銷(包含所有服務,不論是否為數位形式)。倘若經銷商的非經銷活動(例如:製造、研究和發展、採購、融資、零售)超過最低門檻,亦可能導致該經銷商被排除於適用交易外,除非該等活動能夠被區分且能夠在符合移轉訂價指導準則的情況下分開訂價。前述最低門檻目前係以三年加權平均淨銷售額20%作為標準。認定標準僅限於有形商品的配銷,且不包含電子服務在內的任何服務。

雖然報告中的認定標準與2023年7月諮詢稿中的替代方案A維持一致,報告仍指出包容性架構正致力於提出額外的定性標準(additional qualitative scoping criteria)以供各個租稅管轄區選用為額外的判斷步驟,但截至2024年3月31前尚未完成相關標準的訂定。

在2023年7月的諮詢稿中提及一個認定標準的例外,若納稅義務人(或稅務機關)可以主張內部可比較未受控價格法(CUP)為最適當之方法(依移轉訂價指導準則相關規定), 則可以排除於Amount B範圍之外。

觀察:雖然報告指出包容性架構正在研議一套額外的定性標準,但該標準的相關細節仍舊不明確。然而,對於納稅義務人及稅務機關(特別是監管能力較低的租稅管轄區) 而言,額外的主觀性質的定性標準將會使該方法應用更加困難,且可能進一步降低Amount B的預期簡單性和稅收確定性。

訂價矩陣與其調整

供經銷商使用之常規利潤率的訂價矩陣(表5.1)在整體架構上與2023年7月諮詢稿中的內容一致,由「產業群組(industry grouping)」和「要素強度(factor intensity)」共同 決定出應有的營業淨利率。訂價矩陣有15個不同的目標營業淨利率,整體營業淨利率範圍維持在1.5%至5.5%。在最新公告的版本中,產業群組分類與2023年7月諮詢稿 中的內容幾乎維持一致,僅將藥品、健康和保健產品及家用車類三種產業從產業群組三重新分類至產業群組二。

營業費用交叉檢查(operating expense cross-check)則取代2023年7月諮詢稿中貝里比率做為二次檢查功能的角色。該交叉檢查係基於前述要素強度的判斷,以產出不同的營業費用報酬率(return on operating expense)之區間,該區間由報告中的表5.2進行決定。一個受測個體計算後得出的約當營業費用報酬率(equivalent return on operating expense)落於前述區間中,則不需要進行任何調整;然而,若約當營業費用報酬率落在區間外,則須調整營業淨利率直至其相對應的約當營業費用報酬率落於前述區間中。

現行報告保留2023年7月諮詢稿中提出就特定租稅管轄區(名單尚未公布)採主權信用評級進行應有營業淨利率調整的機制。亦即,在預設的訂價矩陣基礎上額外使用一套公式來針對特定租稅管轄區進行應有利潤率的調整計算。

整體訂價機制將會於每5年進行一次系統性檢視,財務資訊及訂價矩陣則會每年更新。

金額B:對於簡化方法的進一步檢視

觀察:儘管報告指出訂價矩陣不應作為未符合Amount B認定標準之納稅義務人利潤率的上下限,但仍存在部分租稅管轄區可能會將訂價矩陣做為利潤率參考之風險。同時可能導致部分租稅管轄區在稅基上的流失,例如當委託人位於一個已開發國家(代表其很有可能受Amount B規範)而經銷商處於相對落後國家(可能未採行Amount B)時,採行Amount B的已開發國家稅務機關可能會受限於其標準利潤率,而使部份利潤的課稅權流向相對落後國家的稅務機關。

準備文據和過渡期間的議題

如同2023年7月諮詢稿中所述,現行報告建議移轉訂價文據中應包含能夠滿足簡化方法的文件要求資訊。包括:交易背景的功能分析、書面合約、收入與成本、資產的交易別計算以及能夠與年度財務報表勾稽的攤銷表。當納稅義務人首次採用簡化方法時,納稅義務人應於其文件中表明至少同意使用此方法3年。如果只需要適用於更短的期間,則納稅義務人應提供說明。

報告亦指出倘若濫用簡化方法,刻意地進行人為安排,稅務機關有可能會進行額外審查,且租稅管轄區可能採取特定方法以解決前述情形。

觀察:遵循Amount B將會導致額外的遵循成本,不僅因為有額外的資訊需要被提供,同時符合認定標準的公司需要辨認出新數據(data point)如營運資產等實體帳戶的區分,以進行Amount B相關計算。

租稅確定性和消弭重複課稅

在採行Amount B租稅管轄區中所得出的移轉訂價結果對未採行Amount B的租稅管轄區並未產生強制性的效力。然而,為保障低監管能力租稅管轄區的利益,報告中提到 當Amount B規範下產出的結果係由與其簽有雙邊租稅協定之低監管能力租稅管轄區(名單尚待確定)所提出時,包容性架構成員不論自身是否採行Amount B都將予以尊重,以減輕重複課稅的問題。部分包容性架構成員甚至可能將前述保障措施延伸應用至尚未與其簽訂雙邊租稅協定的國家。惟截至目前,印度尚未同意前述承諾,主要因為低監管能力租稅管轄區的名單尚未確定。一旦前述名單確定,此資訊將公告於OECD網站。

如果相關租稅管轄區的主管機關在採用Amount B之前已達成相互協議程序(Mutual Agreement Procedure, 簡稱MAP)或預先定價協議(Advance Pricing Agreement, 簡稱APA),則MAP或APA將會優先適用。對於正在進行預先定價協議或於MAP存有爭議的公司而言,此係須考量的重點。

金額B:對於簡化方法的進一步檢視

觀察:包容性架構已指示OECD提出適當的評論,以配合下一次OECD租稅協定範本的更新。然而,部分國家的協定網絡有限又缺乏來自其他國家的承諾,可能會導致雙重課稅無法被解決以及主管機關的協議無法被達成。此外,雖然保護低監管能力租稅管轄區選擇適用簡化方法聽起來是有益的,但實際上將會受到各國國內立法和行政實務的約束,也從而否定了低監管能力租稅管轄區的預期利益。

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專論 可退還投資抵減

隨著支柱二補充稅在跨國企業母國生效,跨國企業可能從新加坡稅收優惠中獲得之任何利益都將被抵銷,因為在新加坡放棄的稅收將在其他地方徵收。

為了解決上述問題,新加坡財政部長提議通過一項新的可退還投資抵減(Refundable Investment Credit ,以下簡稱「RIC」)計劃來加強新加坡的財政配套措施,以增加鼓勵企業在新加坡開展具備實質性且高價值經濟活動的誘因。RIC是一項具備可退還現金特點的稅收抵免,可用於扣抵企業的應納所得稅,或於企業滿足可退還投資抵減資格條件之日起的4年內,以現金形式退還給企業。新加坡經濟發展局(Economic Development Board,以下簡稱「EDB」)及新加坡企業發展局(Enterprise Singapore)將依個案情況核准給予企業RIC。RIC可抵免金額以合格期間從事符合條件營業活動相關支出的百分之五十為上限,可抵免比率將取決於申請時符合條件營業活動的價值。RIC的推動將維持新加坡競爭力並為持續吸引優質投資提供另一條途徑。

符合RIC適用條件的營業活動包括:

- 1. 投資新製造產能(例如:新廠房、低碳能源生產)
- 2. 擴展或建立數位服務、專業服務和供應鏈管理活動範疇
- 3. 擴展或建立總部活動或卓越中心
- 4. 設立或擴展貿易公司相關活動
- 5. 進行研發和創新活動
- 6. 實施以減碳為目標的解決方案。

根據投資項目類型,符合RIC適用條件的支出類別可能包括:

- 1. 資本支出(例如:建築、土木和結構工程、機器設備、軟體)
- 2. 人力成本
- 3. 訓練成本
- 4. 專業費用

專論 可退還投資抵減

- 5. 無形資產成本
- 6. 新加坡外包工作費用
- 7. 原物料和耗材
- 8. 運費和物流成本。

目前的政策立場不會針對相同營運活動提供雙重獎勵。在應用這個原則下,預計稅收抵免金額或加計扣除額將根據 RIC 進行相對應調整。舉例而言,若部分設備成本為 RIC適用主體,資本補貼預計僅適用於設備成本剩餘的部分。

顯然由於新加坡將於下一年度實施支柱三補充稅,新加坡政府意圖將RIC納入OECD支柱三細節法規架構(Model Rules)的框架內,將其視為合格可退還稅額抵減額 (QRTC)。

支柱二框架下的一個關鍵考量因素是QRTC和不合格稅收抵減基於待遇不同而有不同稅負效果,雖然這兩種稅收抵減都會降低公司有效稅率(ETR), 但QRTC會隨著申報者收入(ETR公式分母)的增加,僅讓ETR小幅下降,而不合格稅收抵減則會減少涵蓋的稅款(ETR公式分子)。以下將用一個簡單例子說明這個概念。

釋例

	合格可退還稅收抵減(\$)	不合格稅收抵減(\$)
稅收抵減	500,000	500,000
涵蓋稅款[A]	1,500,000	1,000,000 (1,500,000減500,000)
GloBE所得[B]	10,500,000	10,000,000
ETR[D=A/B]	14.29%	10%
補充稅率[E=15%-D]	0.71%	5%
應付補充稅款*[F=B*E]	74,550	500,000

^{*}不考慮具有實質基礎的相關所得排除額

可退還投資抵減

雖然RIC的推動對於擴大新加坡財政配套措施以及使新加坡的稅收優惠格局與支柱二保持一致而言是受歡迎的行動,納稅人決定投資的最佳方案時,應考量自己的實際情況和業務需求,以評估RIC與現有稅收優惠和補助款的相對優勢。

愛爾蘭和比利時已經將這種可退還的稅收抵減用於研發活動,這些國家已經調整計畫將其納入 OECD Model Rules下的 QRTC 框架內。因此,RIC推動是及時的,因為它為新加坡提供了一個公平的競爭環境,並且補充了現有的補助計畫。

最後,由於RIC對於新加坡是一個新概念,在設計時應謹慎以避免無意間受到OECD制訂《補貼及平衡稅措施協定》的限制。PwC將持續與客戶密切合作,協助提供反饋意見,並對潛在不利的稅收影響做出應對(如有)。

EDB及新加坡企業發展局將在2024年第三季前公佈更多詳細資訊。

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義大利實施新的應備妥移轉訂價文件期限

摘要

2023年12月30日,義大利發佈第213號法案(2024年預算法案),該法案將實行租稅措施並修正有關法令。其中,2024年預算法案修正年度稅務申報期限,連帶影響為了豁免罰款所制訂應備妥移轉訂價文件的期限。如下所述,針對會計年度截止日為2023年12月31日之納稅義務人,將適用新的應備妥移轉訂價文件期限2024年9月30日(原為11月30日)。

納稅義務人必須於截止期限前備妥移轉訂價文件,並**加蓋數位簽章**及**電子時間戳記**,以資證明符合豁免罰款資格。此變動直接影響編製移轉訂價文件的時程,因此納稅義務人應提早開始著手準備。

納稅義務人於規劃準備移轉訂價文件相關必要活動時,應將新的移轉訂價文件期限(2024年9月30日)納入考量。

詳細說明

申報移轉訂價文件期限

2024年預算法案通過後,稅務申報期限將有所改變,進而對應備妥移轉訂價文件期限產生重大影響。該法案根據納稅義務人是否採用曆年制會計年度,據以判斷適用新法的時間點。

曆年制納稅義務人

根據2024年預算法案,若納稅義務人採用曆年制會計年度(會計年度截至日為2023年12月31日),則企業所得稅申報書(IRES)和地方所得稅申報書(IRAP)的一般申報截止期限為2024年9月30日(會計年度結束日起算9個月)。由於納稅義務人進行稅務申報時,需同時備妥移轉訂價文件並加蓋數位簽章及電子時間戳記,故一般申報截止期限亦適用於移轉訂價文件。

非曆年制納稅義務人

納稅義務人採用非曆年制會計年度,2024年預算法案提供但書條款,該條款僅適用會計年度結束日於2023年12月31日前的納稅義務人。該條款規定納稅義務人當年度得繼續適用以前的一般申報截止期限(會計年度結束日起算11個月)以送交企業所得稅申報書(IRES)和地方所得稅申報書(IRAP),並準備移轉訂價文件、數位簽章及電子時間戳記等事宜。下一個會計年度開始適用9個月的申報期限。

義大利實施新的應備妥移轉訂價文件期限

補充性稅務申報的可能性

針對無法在一般申報截止期限前備妥合規的移轉訂價文件(包含數位簽章及電子時間戳記)之情況,納稅義務人得於一般申報截止期限後**90日內**提交補充性稅務申報,聲明相關移轉訂價文件皆已備妥,且應於補充性稅務申報截止日前進行簽章及時間戳記,以資證明符合豁免罰款資格。

義大利移轉訂價法規及實務

2024年預算法案並未額外修訂義大利移轉訂價法規。因此,若納稅義務人期望於2023會計年度繼續取得罰款減免保護,則必須準備合規的移轉訂價文件,即集團主檔(可為英文版本)和當地報告(義大利文版本)。

形式上,當地報告(及相關附件)和集團主檔須經由義大利實體的法定代表人數位簽章,且每份文件數位簽名(含電子時間戳記)的時間應早於稅務申報日¹。

同時,為取得罰款減免保護,納稅義務人應標記特定欄位以聲明移轉訂價文件已備妥,期能適用選擇性罰款減免規定。另,**移轉訂價文件無須主動提交,惟納稅義務人必須於義大利稅務當局發出正式要求起20日內提示移轉訂價文件。一**般而言,若義大利稅務當局要求其他相關文件,納稅義務人應於7日內提示。

1計:數字簽章和時間戳記是義大利實體符合罰款保護制度的必要條件。

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美國2023年度預先訂價協議報告説明:預先訂價協議案件年度完成案件大幅增加

摘要

關注事項

美國內地稅務局(Inland Revenue Service,以下簡稱「IRS」)透過預先訂價及相互協商計畫(Advance Pricing and Mutual Agreement Program,以下簡稱「APMA」)部門 3月26日發佈有關預先訂價協議(Advance Pricing Agreement,以下簡稱「APA」)的第 25 期年度法定報告。這份報告顯示APMA部門於 2023 年度完成的APA 案件數大幅增加,數量相較從2022 年的 77件成長超過一倍到2023年的156 件。以2023年已完成APA的案件數量而言,這使2023年成為APA計畫歷史以來完成案件數量破紀錄的一年。至於在2023年所完成的APA案件當中,案件所需處理並最終敲定的時間略有改善,從2022年平均一項案件所需處理時間為43個月的歷史新高微幅縮減到2023年平均一項案件所需處理的時間為3年半(即42個月)。已完成APA案件的數量增加,加上處理時間的些微縮短,意味著APA申請流程在COVID-19疫情結束後的4年效率有持續地改善。

雖然在2023年已完成APA的案件數量普遍上升,但APA的申請數量則微幅下降,從2022年的183件下降至2023年的167件。最後,待完成案件量則些微地減少至558件,但這仍跟2022年的564件的水平保持一致,並且明顯地高於2021年及之前的年度水平。

事項含義

APMA部門的APA計畫會持續改善APA申請流程以及案件最終敲定的效率,意味著APMA部門正從近期因2020年COVID-19疫情影響所導致的低案件中復甦。另外,APMA部門對增加人力資源以專注在解決一些較舊的案件的投入也開始奏效。即便2023年的申請案件與待完成案件有些微減少,待完成案件增加的長期持續趨勢顯示納稅義務人對參與APA計畫以其對管理移轉訂價爭端相關的風險持續保有興趣。尤其在實施經濟合作暨發展組織(以下簡稱「OECD」)的雙支柱解決方案對既有國際租稅規定帶來的改變即將發生之際,對於預先稅負確定性的興趣很可能會提升。

資誠觀察:除了產出與效率的躍進之外,已完成APA案件數量增加以及APA處理時間縮短可能也跟APMA部門人力資源增加有所關連。於2023年底,資源從前一年的97名 員工增加到114名。

因應行動:

參與APA計畫的納稅人應評估支柱一(尤其是金額B)與支柱三的實施會如何影響集團在APA協商框架下的所得分配。針對因新的全球稅務制度所產生雙管齊下的爭端解決環境將也會是納稅人值得關注的部分。

美國2023年度預先訂價協議報告説明:預先訂價協議案件年度完成案件大幅增加

詳細說明

APA完成案件的數量大幅增加且案件平均處理時間些微縮短

APA完成案件的數量對比2022年的77件相比成長超過一倍,並在2023年達到156件。完成的APA案件中有130件為雙邊APA。在2022年之前,各年度完成的APA數量相對穩定,2021年為124件,2020年為127件。於2023年完成的156件APA案件中,其中約有53%是新申請的APA(即:非既有APA的續簽),相較2022年度約有45%的增長。印度的雙邊APA案件佔比增加幅度最大,相較2022年的8%增加到2023年的17%。

完成APA案件的平均處理時間從2022年度歷史新高記錄的43.4個月微幅縮短到2023年的42.0個月。2023年度主動撤銷申請APA的數量為13件,對比2022年主動撤銷申請的6件案件有所增加。

資誠觀察:APA案件完成數量大幅增加以及平均處理時間相對微幅縮減可能反映出APAM部門在案件審核過程中正持續地從COVID-19疫情的各種影響中復甦、並將額外的資源以及重心放在較舊的案件上。工作流程持續地精簡化,例如與某些協議磋商國的面對面會議正回歸到疫情前的水準,因此將拭目以待未來的成果。另外,納稅人也需考慮到APMA部門最近提出的預約定價協議提交審核及受理暫行指引(Interim Guidance on Review and Acceptance of Advance Pricing Agreement (APA) Submissions,以下簡稱「暫行指引」)以及該暫行指引所帶來的潛在影響。APMA部門在這份暫行指引中推出了在提交APA申請前的選擇性複查流程,主要的目的係透過過濾掉部分可能無法在較早申請階段達成共識的案件以縮減APA完成的時間。

APA申請減少;待完成案件數微幅下降但仍保持一致的趨勢

APA申請件數從2022年的183件減少至2023年的167件。除此之外,截至2023年底,APMA部門收到了22件尚未提供APA正式申請文件卻已經支付相關APA申請費用的案件。

截至2023年底,待完成的APA案件尚餘558件,而在2022年底、2021年底及2020年底分為564件、461件及448件。其中,與日本(25%)、印度(23%)及加拿大(13%)的 APA案件依舊佔了半數以上的待處理雙邊APA案件總數。其餘則爲墨西哥、南韓、義大利、德國、英國及其他國家的待處理案件。

日本仍為完成案件的大宗,其次為印度及義大利

2023年度報告顯示美國與日本簽署的雙邊APA案件占比大約為雙邊APA案件的32%,並佔美國所有已簽署雙邊APA案件總數的30%。相比2021年的40%以及2022年的39%略微下降。位列日本之後的印度完成雙邊APA比例翻倍成長,自2022年所有已簽署雙邊APA占比8%,於2023年升至17%。

美國2023年度預先訂價協議報告説明:預先訂價協議案件年度完成案件大幅增加

緊接在後是義大利,且完成簽署雙邊APA案件占比總案件的11%,相較2022年度增加4%。加拿大已完成雙邊APA件數顯著下降,並佔完成雙邊APA總案件的8%,相較2022年度減少14%。其餘國家(包含南韓、英國、丹麥、瑞士以及其他國家)合計約佔2023年度雙邊APA完成案件總數的32%。

待完成的雙邊APA案件:日本在待完成雙邊APA案件中略微領先,其次是印度及加拿大。各國佔待完成APA案件數量的比重分別為,日本25%,印度23%,及加拿13%。 其餘國家(包含南韓、義大利、墨西哥、德國、英國、瑞士)佔約39%。這個排名也反映2023年書案邊APA申請的國家分佈,日本、印度及加拿大佔總申請數量的65%。

雙邊APA的狀態

在2023年申請的167件APA案件中,有144件(約86%)為雙邊APA,17件(約10%)為單邊APA,其餘6件(約4%)則爲多邊APA的請求。在2023年度完成的156件中,有130件為雙邊APA(約83%)。

完成APA案件中雙邊APA續約案件占比2023年已完成APA總數件的38%,相較2022年的42%、2021年的48%以及2020年的50%,有所減少。所有的APA續約案件(單邊或雙邊)約佔所有2023年已完成APA數量的47%。2023年已完成的續約案件(單邊或雙邊)總數為74件(佔2023年已完成APA的47%),跟2022年所完成的42個續約案件(佔2022年已完成APA的55%)相比大幅增加。

APA所涵蓋的交易類型

如同以往年度,2023年度完成的APA案件中有超過半數(56%)的案件是涉及非美國母公司跟美國子公司之間的交易。

2023年度完成APA所涵蓋的交易有約36%涉及有形資產移轉交易,包括買入與賣出交易,相較2022年度的37%,微幅下降。2023年度完成APA中有約44%涉及接收服務 與提供服務的勞務交易(相較2022年度的39%,有所上升),以及約18%涉及無形資產的使用(相較2022年度的22%,有所減少)。整體來説,涵蓋的交易類型種類相對穩定。

資誠觀察:金額B最終報告釐清了當相關管轄區的主管機構在採用金額B之前針對APA達成共識,那麼範圍內的交易則會以該APA的條件與條款優先。對於範圍內正在協商 雙邊APA且參與有形商品交易的納稅人該需考慮的要點。

APA所涵蓋的產業

2023年度已完成APA涵蓋了六個一般性產業,分別為:製造(31%);批發/零售(30%);服務(17%);金融、保險與不動產(12%);管理(6%);以及其他產業(4%)。

美國2023年度預先訂價協議報告説明:預先訂價協議案件年度完成案件大幅增加

移轉訂價方法與利潤率指標:可比較利潤法及營業利潤為大宗

依據APA小組32年來的歷史記錄顯示,可比較利潤法(comparable profits method,以下簡稱「CPM」)/交易淨利潤法(transactional net margin method,以下簡稱「TNMM」)和不同的利潤率指標(profit level indicators,以下簡稱「PLI」)是2023年度已完成APA案件所使用的主要移轉訂價方法(transfer pricing method,以下簡稱「TPM」)。在2023年度,涉及有形與無形資產移轉的APA案件中有80%是采用CPM/TNMM(相比2022年度的77%)。同樣地,涉及服務交易的APA案件中有88%是采用CPM/TNMM(相比2022年度的80%)。營業利潤率(operating margin,以下簡稱「OM」)的定義為營業利潤/營收的比率,是對有形與無形資產交易采用CPM/TNMM時最常使用的PLI,佔這些案件的60%。針對服務交易采用CPM/TNMM的APA案件,OM與營運利潤/營業費用是最常使用的PLI,並佔所使用的PLI的48%。

資誠觀察:2023年度的報告中未特別指出使用剩餘利潤分割法(residual profit split method,以下簡稱「RPSM」)的APA案件數量。儘管報告中未明確表示涉及有形及無 形資產移轉交易其餘20%APA案件(以及涉及其餘14%的服務交易)所使用的TPM,CPM/TNMM仍維持是主要的方法。

範圍、目標和調整機制

APA案件涵蓋的大多數交易均以使利潤率落於合適的四分位區間内為目標。在涉及使用無形資產而支付權利金的交易中,使用了特定權利金費率和範圍。若所涵蓋的交易 涉及使用無形資產,且該受控交易所制定的權利金費率係對比外部非受控交易,則會采用第二種方法來測試支付權利金後的營業利潤率或成本與營業費用净利潤率是否合 理。

針對在2023年度的APA案件,當受測個的結果超出範圍或不符合APA案件要求的標準時,可使用多種機制對受測個體的結果進行調整。報告提供了數種調整機制的釋例, 例如進行調整使受測個體的結果更接近於單一年度結果的區間、在APA期限內進行調整使結果更接近最適當的四分位區間、以及對特定項目或權利金費率進行調整或對單 一年度區間的中位數進行調整等。

APA期間

2023完成APA申請的案件中,有略低於45%的案件有五年期限,這是標準的APA涵蓋期限。2023年度協議最長的APA期間為14年。完成APA案件中,也有19件APA的期限短於五年。APA的平均涵蓋期間為6年。2023年已完成APA案件中有約有19%包含追溯過往年份(相較2022年的16%,有所增加)。

美國2023年度預先訂價協議報告説明:預先訂價協議案件年度完成案件大幅增加

資誠觀察:如以往年度,2023年度中有關APA條款的訂定,在可行的範圍內,仍會保有一段合理的追溯期間。

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要聞

Legislation 立法

澳洲

澳洲發布支柱二立法草案

2024年3月21日,澳洲財政部發布了實施全球和國內最低稅負制立法草案的徵詢意見稿。作為實施最低稅負制的一部分,澳洲財政部發布了立法草案的主要法規,以規則的形式發布了立法草案的次級法規,以及相應的解釋性資料。立法草案包含的措施如下:

- 從2024年1月1日或之後開始的財政年度起,根據所得涵蓋原則(IIR)和國內最低稅負制(DMT)徵收補充稅;
- 從2025年1月1日或之後開始的財政年度起·根據徵稅不足之支出原則(UTPR) 徵收補充稅;
- 實施與OECD全球反稅基侵蝕(GloBE) 示範規則(Model Rules)、逐條注釋 (Commentary)、商定的行政指南 (Agreed Administrative Guidance)和避 風港規則一致的徵收補充稅的架構;和
- 引入補充稅管理所需的相應規定。

除此之外,財政部還發布了一份徵詢意見稿,尋求有關與澳洲混合錯配規則、外國混合實體規則、外國所得稅抵免和受控外國公司規則相互作用的回饋意見。

針對立法草案的主要法規和徵詢意見稿提交意見的截止日期為2024年4月16日,針對次級法規的意見提交截止日期為2024年5月16日。

資誠觀點

澳洲引入全球和國內最低稅負制,是適用於跨國企業集團稅制的又一個重大發展。由於這些規則已經對一些納稅義務人生效,在最低稅負制的適用範圍內的跨國企業集團必須考慮該立法草案的影響,確定立法草案對集團的具體影響,並積極向財政部就最終法規的制定提供回饋意見。



Australia

Australia releases Pillar Two exposure draft legislation

The exposure draft legislation to implement a global and domestic minimum tax in Australia was released for consultation by Treasury on 21 March 2024. As part of implementing this measure, exposure draft primary legislation, exposure draft subordinate legislation in the form of Rules, and accompanying explanatory materials have been released. The measures included in the exposure draft legislation and Rules will:

- Impose Top-up Tax under the Income Inclusion Rule (IIR) and Domestic Minimum Tax (DMT) from fiscal years commencing on or after 1 January 2024;
- Impose Top-up Tax under the Undertaxed Profits Rule (UTPR) from fiscal years commencing on or after 1 January 2025;
- Implement the framework for the imposition of Top-up Tax consistent with the OECD's Global Anti-Base Erosion (GloBE) Model Rules, Commentary, Agreed Administrative Guidance and Safe Harbour Rules; and
- Introduce consequential provisions necessary for the administration of Top-up Tax.

In addition to the above, Treasury has released a consultation paper seeking feedback on interactions with Australia's hybrid mismatch rules, foreign hybrid entity rules, foreign income tax offsets, and controlled foreign company rules.

Submissions on the exposure draft primary legislation and consultation paper are due 16 April 2024, with submissions on the exposure draft subordinate legislation due 16 May 2024.

For more information see our PwC Tax Alert.

PwC observation:

Australia's introduction of a global and domestic minimum tax regime represents yet another significant development in the taxation laws applying to MNE groups. With the rules already in effect for some taxpayers, it is imperative that MNE groups that are within the scope of the regime consider the impact of the exposure draft legislation, determine the impact on their group and actively engage in consultation with Treasury on the design of the final legislation.



巴哈馬 巴哈馬推進支柱二

2024年2月21日,巴哈馬總理(Davis,戴維斯)宣布了在2024年推進合格國內最低稅負制(QDMTT)法規制定和實施的計劃。

根據戴維斯總理的說法,支柱二QDMTT預計將影響年營收超過7.5億歐元的跨國企業。戴維斯總理澄清說,企業所得稅(CIT)預計不會影響國內公司,且僅針對支柱三範圍內的跨國企業是「正確的做法」。戴維斯總理進一步指出,「只有在對巴哈馬企業更公平的情況下,才會考慮更廣泛的企業所得稅,且只有在適當徵詢意見後才會實施,並會給予相當長的時間,以利巴哈馬企業做好準備」。

資誠觀點

根據戴維斯總理的說法·巴哈馬政府將在2024年5月底前準備立法草案·以在2024/35年度預算提案中提交。立法草案將在夏季的幾個月進行公眾諮詢·然後在夏季休會後進行最終定稿並提交給議會。

雖然尚未揭露生效日期,但戴維斯總理表示,政府正在「審查方案,以使得支柱二適用範圍內的跨國公司在2024年就開始在巴哈馬計繳相關稅款」。



Bahamas The Bahamas moves ahead with Pillar Two

The Prime Minister of The Bahamas, on 21 February 2024, announced plans to forge ahead with the legislative enactment and implementation of a Qualified Domestic Minimum Top-up Tax (QDMTT) during 2024.

According to Prime Minister Davis, the Pillar Two QDMTT is expected to impact MNEs earning more than 750 million Euro annually. He clarified that the CIT is not anticipated to impact domestic companies, and that addressing only Pillar Two MNEs is the 'proper approach.' He further noted that "Any consideration of a wider business income tax would only happen if it is a more equitable approach for Bahamian businesses, and would only be done after proper consultation, with considerable lead time in order for Bahamian businesses to properly prepare."

For more information see our PwC Alert.

PwC observation:

According to Prime Minister Davis, The Bahamas Government will prepare draft legislation by the end of May 2024 for presentation during the 2024/35 budget proposal. The draft will be circulated for public consultation over the summer months, and then moved to be finalized for submission to Parliament after the summer recess.

While the effective date has not been disclosed, Prime Minister Davis indicated that his government is "reviewing options that would entail Pillar Two multinationals accruing those taxes for 2024 in The Bahamas."



希臘

支柱二立法草案已提交給希臘議會

關於實施全球最低稅負制的立法草案已提交給希臘議會,預計很快就會發布。該立法 草 案 納 入 了 歐 盟 理 事 會 指 令 2022/2523(歐盟支柱二指令),旨在確保歐盟跨國集團和大型國內集團的全球最低稅負水平。

該立法草案嚴格遵循歐盟支柱二指令。該立法草案引入了以下規則:

- 所得涵蓋原則(IIR) · 適用於2023年12月 31日開始的財政年度 ·
- 徵稅不足之支出原則(UTPR) · 適用於自2024年12月31日起的財政年度。如果跨國企業的最終母公司位於已選擇從2023年12月31日開始的連續六個財政年度不適用IIR和UTPR的成員國的,則跨國企業在希臘的成員實體將在2023年12月31日起的財政年度內適用UTPR。已選擇推遲適用IIR和UTPR的歐盟成員國包括愛沙尼亞、拉脫維亞、馬爾他、
 立陶宛和斯洛伐克。

• 合格國內最低稅負制(QDMTT) · 適用於 2023年12月31日開始的財政年度。

另外, 立法草案選擇採用三個避風港:

- QDMTT避風港,
- CbCR過渡性避風港和
- UTPR過渡性避風港。

立法草案明確規定,避風港規則將根據OECD發布的支柱二的行政指南進行解釋,而CbCR過渡性避風港和UTPR避風港的生效則待財政部發布決定。但是,OECD行政指南並未納入該立法草案,除了避風港的適用外,沒有任何條款提及該指南。

資誠觀點

隨著QDMTT的制定,所有位於希臘的成員實體(作為適用範圍內跨國企業集團的一部分)都將受到新規則的約束。由於新規則將於今年開始實施,所有適用範圍內的實體都應評估預期的影響,並開始準備履行新的合規義務。



Greece

Draft Pillar Two Legislation submitted to the Greek parliament

The draft law regarding the implementation of the global minimum tax has been submitted to the Greek Parliament and is expected to be enacted soon. The draft law incorporates the EU Council Directive 2022/2523 (EU Pillar Two Directive) on ensuring a global minimum level of taxation for multinational groups and large-scale domestic groups in the Union.

The draft bill closely follows the EU Pillar Two Directive. It introduces the following rules:

- an Income Inclusion Rule (IIR), applicable to financial years starting on 31 December 2023,
- an Undertaxed Profits Rule (UTPR), applicable to financial years starting on 31 December 2024. If the Ultimate Parent Entity of a MNE is located in Member States that have made the election not to apply the IIR and the UTPR for six consecutive fiscal years beginning from 31 December 2023, the Constituent Entities of that MNE located in Greece are subject to the UTPR for the financial years starting on 31 December 2023. The EU Member States that have made such an election are Estonia, Latvia, Malta, Lithuania and Slovakia.

 a Qualified Domestic Minimum Top-up Tax (QDMTT), applicable to financial years starting on 31 December 2023.

In addition, the draft law elects to adopt three safe harbors:

- · QDMTT Safe Harbour,
- CbCR transitional Safe Harbours and
- UTPR transitional Safe Harbour.

The draft law explicitly provides that the safe harbors will be interpreted according to the Administrative Guidance released by the OECD regarding Pillar Two rules, while the enactment of the CbCR transitional safe harbors and the UTPR safe harbor is pending on the issuance of a decision by the Ministry of Finance. However, the OECD Administrative Guidance has not been incorporated in the draft law and there is no provision referring to it, except for the application of the safe harbors.

PwC observation:

Following the enactment of the QDMTT all Constituent Entities located in Greece that are part of an in-scope MNE group would be subject to the new rules. As the rules will apply as of this year, all in-scope entities should assess the expected impact and start preparing to meet the new compliance obligations.



香港

2024-25年度香港財政預算案建議的稅務措施

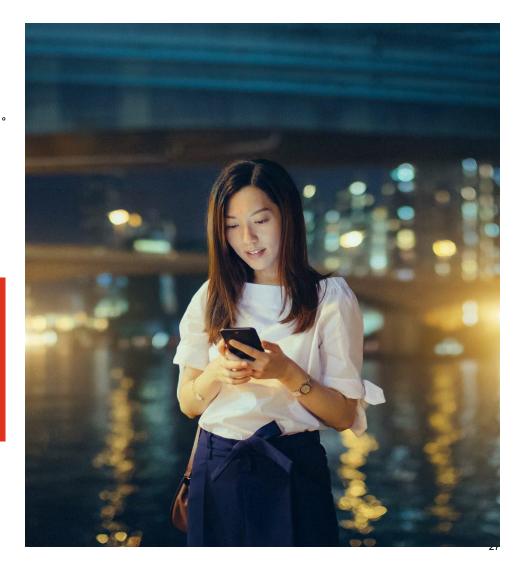
在2024年2月28日提交的2024-25年度香港財政預算案中,財政司司長提出以下旨在推動香港經濟發展、支持企業及加強國際稅務合作的稅務措施:

- 1. 從2024/25課稅年度起·為納稅義務人將租 賃房屋(租用物業)恢復到原來狀況所產生的 費用(開支)進行租稅扣除(稅務扣減)。
- 2. 從2024/25課稅年度起·取消工業及商業建築物免稅額的申請時限(申索期限)。
- 3. 從2025年起·對OECD支柱二適用範圍內 的大型跨國企業集團·實施15%的全球最 低稅負制和香港最低補足稅 (國內最低稅負 制)。
- 4. 提交實施5%優惠稅率的專利盒租稅優惠的 法規建議。
- 5. 提出實施向內遷冊制度的法規建議,其中包括修正香港稅法,以解決過渡性問題,例如交易股票的公平扣除、金融資產呆帳損失、折舊等。

- 6. 進一步改善(優化)有關基金、單一家族辦公室和附帶權益的優惠稅制,包括增加合格交易類型和增強處理附帶交易的彈性。
- 7. 給予2022/23課稅年度100%利得稅一次性 減免(寬減),每個案件上限為港幣3,000元。
- 8. (i)房地產投資信託基金單位轉讓和(ii)期權 (選擇權)莊家的進行證券經銷業務豁免繳納 印花稅。
- 9. 即日起所有住宅物業交易無須再繳納額外 印花稅、買家印花稅和新住宅印花稅。

資誠觀點

2024-25年度財政預算案將推動香港經濟發展開啟新一章·重點在於振興經濟、優化營商環境和扶助民生。香港政府在制定稅務政策上採取了審慎的方式·並仔細考慮如何因應最新的市場改變和期望。



Hong Kong

Tax measures proposed in the 2024-25 Hong Kong Budget

In the 2024-25 Hong Kong Budget, delivered on 28 February 2024, the Financial Secretary proposed the following tax measures aimed at boosting Hong Kong's economic development, supporting businesses and enhancing its cooperation on international taxation:

- Allowing tax deductions for expenses incurred in reinstating the condition of leased premises to their original condition from the year of assessment 2024/25.
- 2. Removing the time limit for claiming industrial building and commercial building allowances from the year of assessment 2024/25.
- 3. Moving forward the implementation of the 15% global minimum tax and Hong Kong minimum top-up tax on large MNE groups under the OECD's Pillar Two proposal, starting from 2025.
- 4. Introducing a legislative proposal to implement the patent box tax incentive with a reduced profits tax rate of 5%.
- Introducing a legislative proposal to implement the inward re-domiciliation regime, which will include amendments to the domestic tax law to address transitional matters e.g., fair deduction for trading stock, bad debts impairment losses on financial assets, depreciation etc.

- Further enhancing the preferential tax regimes for related funds, single family offices and carried interest, including increasing the types of qualifying transactions and enhancing flexibility in handling incidental transactions.
- 7. Granting a one-off reduction of 100% of profits tax for the year of assessment 2022/23, subject to a ceiling of HK\$3,000 per case.
- 8. Waiving the stamp duties payable on (i) transfer of real estate investment trust units and (ii) jobbing business of option market-makers.
- Cancelling Special Stamp Duty, Buyer's Stamp Duty and New Residential Stamp Duty for residential properties with immediate effect.

For more information see our PwC Tax Insight.

PwC observation:

The 2024-25 Budget gives impetus to drive the next chapter of growth for Hong Kong and centers around revitalizing the economy, fortifying our business environment, and supporting our people. The Hong Kong Government has taken a calibrated approach in tax policies, and carefully considered the response to the latest market changes and expectations.



義大利 義大利實施投資管理豁免

2024年2月22日,義大利經濟和財政部副部長發布了一項實施投資管理豁免(IME)的部長令。另外,2024年2月28日,義大利稅務局就IME的目的提供了有關資產管理人合理薪酬(arm's length remuneration)的指南。

IME制度旨在排除代表非居民投資工具購買、出售或議價金融工具的資產管理人被視為構成常設機構(PE)。該部長令的主要特點包括對外國投資工具和資產管理人的獨立性要求。

IME引入了一項不可反駁的法律推定,即如果滿足特定條件(包括主觀和客觀要求),則資產管理人將被視為獨立於非居民投資工具。為了明確起見,適用IME所產生的利益僅涉及相關基金的活動,而不適用於基金管理公司本身,直到2024年9月為止。受影響者應密切關注後續發展。

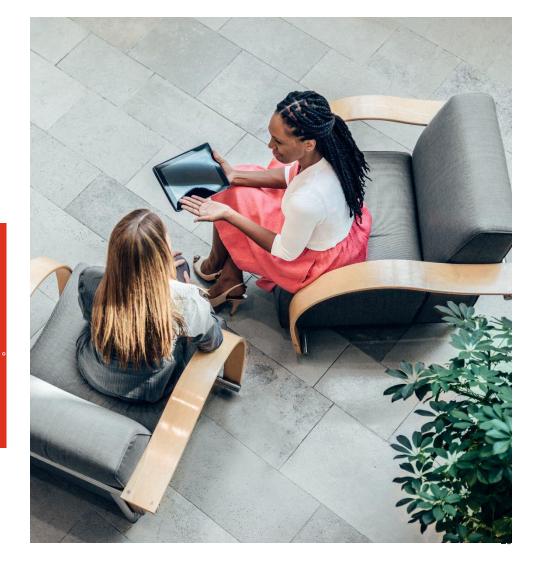
新豁免制度概述

• IME規定,常常代表非居民投資工具或其子公司進行金融工具(包括衍生品和股票)購買或銷售、談判合同,或通過準備或輔助活動為金融工具的購買、銷售或談判做出貢獻的人(即使是擁有自由裁量權),在滿足特定條件的情況下,也將被視為常設機構定義中的獨立代理人。

資誠觀點

IME旨在提供一個法律架構·確保非居民基金和投資者的確定性·並避免在義大利構成常設機構。該架構旨在促進外國基金在義大利的營運·並維持義大利特殊稅制對高技能人才(包括外國基金管理團隊成員)的吸引力

考慮到提供給將稅務居民身分遷移到義大利的個人潛在的租稅優惠(一次性稅制或入境工人的特殊稅制等)·IME尤為重要。



Italy

Italy implements Investment Management Exemption

The Vice-Ministry of Economics and Finance issued a Ministerial Decree that implements the provisions for the Investment Management Exemption (IME) on 22 February 2024. Additionally. the Italian Revenue Agency provided guidelines regarding the arm's length remuneration of the asset manager for the purpose of the IME on 28 February 2024.

The IME regime aims to exclude permanent establishment (PE) status for asset managers involved in purchasing, selling, or negotiating financial instruments on behalf of non-resident investment vehicles. The main features of the Ministerial Decree include the independence requirements for both the foreign investment vehicle and the asset manager.

The IME introduces a non-rebuttable legal presumption that considers the asset manager independent from the non-resident investment vehicle if certain conditions, including subjective and objective requirements, are met. For sake of clarity, the benefits resulting from applying the IME refer exclusively to the activities of the fund under consideration, while they do not apply with reference to the management company of the fund itself until September 2024. Those impacted should monitor developments in this regard.

Overview of the new exemption

The IME provides that a person, even one with discretionary powers, who habitually concludes purchases or sales, negotiates contracts, or contributes through preparatory or ancillary activities to the purchase, sale, or negotiation of financial instruments, including derivatives and shares, on behalf of anon-resident investment vehicle or its subsidiary, will be considered an independent agent for the purpose of the PE definition, provided that certain conditions are met.

PwC observation:

The IME aims to provide a legal framework that ensures certainty for non-resident funds and investors, and avoid triggering an Italian PE. This framework aims to facilitate foreign funds' operations in Italy and maintain the appeal of Italian special tax regimes that attract high-skilled personnel, including members of foreign fund management teams.

The IME is particularly relevant considering the potential tax benefits offered to individuals relocating their tax residency to Italy under the lump sum tax regime or the special tax regime for inbound workers.



馬爾他

馬爾他確認延遲實施IIR和UTPR

馬爾他已發布法律通知(法規) · 確認根據歐盟最低稅負制指令第50條 · 選擇延遲最長六年實施IIR和UTPR(自2023年12月31日起) · 另外 · 該法規沒有引入合格的國內最低稅負制。

為確保歐盟指令的正常運作,馬爾他透過上述法規對指令中的最低數量的條款進行了轉化,以使納稅義務人和其他國家/租稅管轄區能夠正確遵守和適用指令中規定的條款。該法規也將指令的以下規定轉化為馬爾他國內法:

- 第一章(主旨、適用範圍、定義和成員 實體的所在地);
- 第八章(行政管理);
- 第九章(過渡性規則[特別是第49條和第 51條]);和
- 第十章(最終規定[第52(1)條])。

該法規也對位於馬爾他的成員實體(適用範圍內的跨國企業集團的一部分)規定了一定的申報義務。位於馬爾他的成員實體必須通知稅務和海關專員(Commissioner for Tax and Customs)將進行補充稅資訊申報的實體的身分及所在的租稅管轄區。鑒於馬爾他已選擇延遲適用IIR和UTPR,因此補充稅資訊申報表不能在馬爾他提交。此一適用範圍內的跨國企業集團的最終母公司必須在另一個成員國或第三國指定一個申報實體,由後者提交申報表。

資誠觀點

2024年·馬爾他政府將繼續密切關注國際發展動向·並根據對這些發展的評估來制定未來政策。適用範圍內的跨國企業集團應繼續關注與歐盟最低稅負制指令相關的馬爾他立法更新。



Malta

Malta confirms derogation from IIR and UTPR

Malta has published the legal notice (regulations) confirming its election for the delayed application of up to six years of the IIR and UTPR under Article 50 of the EU Minimum Tax Directive (beginning from 31 December 2023). Additionally, the Regulations do not introduce a Qualified Domestic Top-up Tax.

To ensure the proper functioning of the Directive, through the above-mentioned legal notice Malta transposed a minimum number of provisions of the Directive to enable taxpayers and other States/ jurisdictions to properly comply with and apply the provisions set out in the Directive. The Regulations also transpose into Maltese legislation the following provisions of the Directive:

- Chapter I (subject matter, scope, definitions and location of Constituent Entity);
- Chapter VIII (Administrative Provisions);
- Chapter IX (Transition Rules [in particular Articles 49 and 51]); and
- Chapter X (Final Provisions [Art. 52(1)]).

The Regulations also place certain filing obligations on Constituent Entities located in Malta that are part of an in-scope MNE group. Constituent Entities located in Malta must notify the Commissioner for Tax and Customs of the identity of the entity that is filing the Top-up Tax information return as well as the jurisdiction in which it is located. Given that Malta has elected for the delayed application of the IIR and UTPR, the Top-up Tax information return cannot be filed in Malta. To ensure the proper functioning of the Directive, Ultimate Parent Entities of inscope MNE groups that are situated in Malta must nominate a designated filing entity in another Member State or a third country, for the latter entity to be able to file such return.

PwC observation:

During 2024, the government will continue to follow international developments and determine future policy based on its assessment of those developments. Inscope MNE groups should continue to monitor any Maltese legislative updates in connection with the EU Minimum Tax Directive.



紐西蘭

紐西蘭發布更新的支柱二立法

3月12日 · 紐西蘭發布了更新的立法草案 · 如果獲得通過 · 將確認所得涵蓋原則(IIR) 和徵稅不足之支出原則(UTPR)的生效日期為2025年1月1日 · 國內所得涵蓋原則(DIIR)的生效日期為2026年1月1日 · DIIR 將適用於紐西蘭跨國企業在紐西蘭的低稅收入。

更新的立法草案(如果獲得通過),將引入以下的改變:

- 公司可根據QDMTT就在國外繳納的支柱二補充稅申請國外稅額扣抵
- 允許紐西蘭實體在離開特定跨國企業集團時解除連帶責任
- 紐西蘭稅務局將有權就支柱二規則的適 用對納稅義務人做出具有拘束力的裁判。

資誠觀點

紐西蘭的立法草案如果獲得通過·建議不要重複或翻譯OECD的示範規則(Model Rule)、逐條注釋(Commentary)和行政指南(Administrative Guidance)·而是在動態的基礎上·透過援紐西蘭法律(即·當新的逐條注釋或行政指南發布時·將自動納入紐西蘭的支柱三規則中)。該立法草案也澄清·如果OECD的示範規則與OECD逐條注釋和/或商定的行政指南不同時·則後者將優先適用隨著紐西蘭實施支柱二規則的日益臨近以及不遵守申報要求可能面臨高達10萬元的處罰·適用範圍內的集團應立即採取行動·分析對集團的潛在影響。



New Zealand

New Zealand releases updated Pillar Two Legislation

New Zealand released updated draft legislation on 12 March confirming, if enacted, an effective date of 1 January 2025, with respect to both the Income Inclusion Rule (IIR) and Undertaxed Profits Rule (UTPR). It also confirmed, if enacted, an effective date of 1 January 2026 with respect to the Domestic Income Inclusion Rule (DIIR), which will apply when a New Zealand MNE has undertaxed income in New Zealand.

Some changes that have been introduced with the updated draft legislation, if enacted:

- companies should be able to claim foreign tax credits for Pillar Two Top-up Tax paid overseas under a QDMTT
- there is provision to allow for the release of a New Zealand entity from joint and several liability when it leaves a particular MNE group
- New Zealand's Inland Revenue will have the power to make binding rulings for taxpayers on the application of the Pillar Two rules.

PwC observation:

The New Zealand draft legislation, if enacted, proposes that instead of repeating or translating the OECD's Model Rules, Commentary and Administrative Guidance, these texts would be incorporated into New Zealand law by reference on a dynamic basis (i.e., as new Commentary or Administrative Guidance is issued, this will automatically be incorporated into New Zealand's Pillar Two rules). The draft legislation also clarifies that where the OECD's Model Rules differs from the OECD Commentary and/or Agreed Administrative Guidance that the latter will prevail.

With New Zealand's implementation of the Pillar Two rules fast approaching, and potential penalties of up to \$100,000 for failing to comply with the reporting requirements, groups within the scope should act now to analyze the potential impact to their group.



波蘭

新的報告義務 - 在波蘭實施 DAC7 立法草案

為符合歐盟指令2021/514(DAC7),波蘭於2月13日提出了修正稅務資訊交換法規的立法草案。該立法草案是實施歐盟指令的第二次嘗試,提議的生效日期為2024年7月1日。

DAC7規則涉及數位平台營運商,通過提供特定商品和服務的交付(access),促進賣家和客戶之間的連結並收取報酬。數位平台營運商必須向國家稅務管理機構的主管揭露應報告賣家的集體數據,並對活躍賣家進行盡職調查。以下活動(「相關活動」)的資訊將報告給國家稅務管理機構的主管:

- 提供房地產、房地產股份或部分 · 包括毗 鄰場所 ·
- 提供個人服務,包括由自然人(或代表實體) 透過平台按照用戶的在線或離線請求進行 的基於時間或任務的工作,
- 銷售商品,
- 運輸工具的租賃。

該立法草案預計,不遵守報告要求的處罰將 高達1.00萬波蘭茲羅提。

資誠觀點

根據該立法草案·新法規將適用於2024年1月1日至6月30日期間符合報告平台營運商資格的實體。據此·該報告平台營運商需執行:

- 在2024年12月31日前完成盡職調查程序·針 對在此期間在平台上註冊的賣家;
- 在2025年1月31日前完成報告程序,在此期間應報告賣家所進行的活動。

該立法草案允許同時符合波蘭和另一個歐盟成員國報告標準的非居民實體,可選擇在波蘭或另一個歐盟成員國來履行報告義務。

該立法草案的實施將要求企業驗證和調整當前的業務流程,包括:驗證是否產生報告義務的設置,評估改變對波蘭業務的影響,調整業務模式以滿足報告義務的需要,修正服務提供的規定和條款,調整IT系統以收集和處理所獲取的資訊,並確保適當的業務控制。



Poland

New reporting obligations - Draft regulations implementing DAC7 in Poland

A draft law amending tax exchange regulations to align with EU Directive 2021/514 (DAC7) was presented on 13 February. This bill, the second attempt to implement the directive, proposes 1 July 2024 as an effective date.

DAC7 rules pertain to digital platform operators facilitating connections between sellers and customers for remuneration regarding providing access to certain goods and services. Digital platform operators are required to disclose the Head of the National Tax Administration collective data on reportable sellers and conduct due diligence on active sellers. Information on the following activities ('relevant activities') will be reported to the Head of the National Revenue Administration:

- provision of real estate, share in real estate or parts thereof, including adjoining premises,
- provision of personal services, including timeor task-based work performed by a natural person acting for or on behalf of an entity via the platform at a user's request online or physically offline after its execution has been enabled via the platform,
- · sale of goods,
- · rental of means of transport.

The bill foresees penalties up to PLN 1,000,000 for non-compliance with reporting requirements.

PwC observation:

Based on the draft law, new regulations will apply to entities that, from 1 January to 30 June 2024, met the conditions for recognition as a reporting platform operator. Whereby such reporting platform operator carries out:

- until 31 December 2024 the due diligence procedures -for sellers who were registered on the platform during this period;
- by 31 January 2025 the reporting procedures in case of activities it has enabled reportable sellers to perform during this period.

The bill provides for the possibility that a nonresident entity meeting reporting criteria in both Poland and another EU Member State may elect either Poland or another EU Member State to fulfill those obligations.

Implementation of the bill will require entrepreneurs to verify and adapt their current business processes among others by: verifying the creation of reporting obligations, determining the impact of changes on Polish operations, support in adapting the business model to the needs of reporting obligations, revising the regulations and terms of service provision, adapting IT systems to collect and process the acquired information, and ensuring appropriate business controls.



波蘭

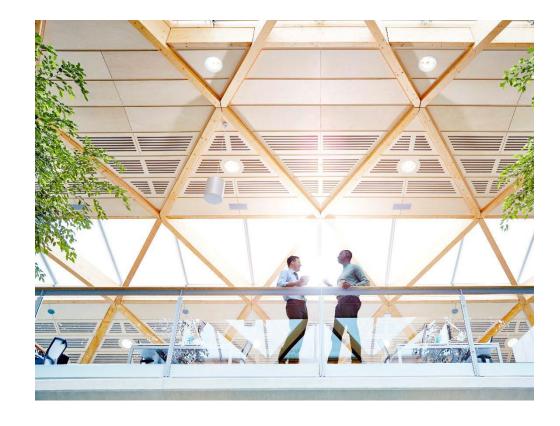
實施全球最低稅負制

波蘭的立法議程包括將全球最低稅負制納入波蘭稅制的立法草案。該立法草案必須在2024年第三季度獲得部長會議(Council of Ministers)通過。根據之前的公告,該立法草案將向公眾廣泛徵求意見。波蘭計劃實施IIR、QDMTT和UTPR。

全球最低稅負制旨在防止大型的跨國企業 集團透過將利潤移轉到稅率極低的租稅管 轄區來避稅。該立法草案基於歐盟指令, 而歐盟指令又參考了OECD的示範規則。 根據該立法草案,無論是跨國還是國內的 大型企業集團每年都必須檢查在各個租稅 管轄區的有效稅率是否不低於15%。如果 低於15%,集團將必須繳納補充稅,以使 得實際稅負達到最低水平。

資誠觀點

鑒於波蘭支柱二的實施時間很短·企業應考慮對波蘭業務可能造成的稅務後果進行影響評估(特別是當存在特定租稅優惠,例如研發減免或經濟特區制度時)。



Poland

Global minimum tax implementation

The legislative agenda includes information about the government's preparation of a draft act regarding the introduction of the global minimum tax (GloBE) principles into the Polish tax system has been included in the legislative agenda. The Act must be adopted by the Council of Ministers in Q3 2024. As previously announced, the project will be subject to extensive public consultations. Poland is going to implement IIR, QDMTT and UTPR.

The global minimum tax is intended to prevent tax avoidance by the largest MNEs by shifting profits to jurisdictions where they are subject to very low taxation. The draft act is based on the assumptions of the European Union directive, which in turn refers to the OECD Model Rules. According to the project, the largest groups of companies, both multinational and domestic, will have to check every year whether their effective tax rate in individual jurisdictions is not lower than 15%. If it is, they will have to pay a Topup Tax, which will top-up their tax burden to the minimum level.

PwC observation:

Given the brief time remaining for the implementation of Polish Pillar Two regulations, businesses should consider conducting an impact assessment of the potential tax consequences resulting from those provisions on business conducted in Poland (in particular, when certain tax benefits/preferences, e.g. R&D relief or Special Economic Zone regimes are in place).

For more information see our <u>PwC Alert</u>.



新加坡

新加坡實施全球最低稅負制,將於2025年1月生效

新加坡財政部長透過2024年預算聲明宣布,新加坡將從2025年1月1日或之後開始的財政年度,對適用範圍內的企業實施支柱二的兩個組成部分,即所得涵蓋原則(IIR)和國內最低稅負制(DTT)。然而,最後一個組成部分,即徵稅不足之支出原則(UTPR),將暫緩,以確保IIR和DTT對受影響企業順利實施。

IIR將適用於最終母公司位於新加坡的適用範圍內的跨國企業集團,涉及在新加坡境外的低稅負成員實體的利潤。DTT將適用於總部位於國外的適用範圍內的跨國企業集團,涉及在新加坡的低稅負成員實體的利潤。

隨著支柱二補充稅在跨國企業所在國生效,跨國企業從租稅優惠中獲得的任何好處都將被抵消,因為新加坡所放棄的稅款將在其他地方徵收。為了解決這個問題,財政部長提議透過新的可退還投資抵減(Refundable Investment Credit·RIC)計畫來增強新加坡的財政配套措施,並補足吸引企業在新加坡展開實質營運和高價值經濟活動的誘因。RIC是一種具有可退還現金特點的租稅抵免,可以用於抵扣應納企業所得稅,或在企業滿足條件後四年內以現金形式退還。新加坡經濟發展局(EDB)和新加坡企業發展局將依個案核准給予企業RIC。RIC可抵免金額最多為滿足條件期間內合格活動所產生支出的50%,具體比率將取決於所申請的合格活動的價值。RIC的推動將為新加坡提供另一條途徑,以保持競爭力並持續吸引優質投資。



Singapore

Singapore implements global minimum tax effective January 2025

The Finance Minister, through the 2024 Budget Statement, announced that Singapore will proceed to implement two components of Pillar Two – the Income Inclusion Rule (IIR) and Domestic Top-up Tax (DTT) -for in-scope businesses from their financial years starting on or after 1 January 2025. However, the last component, the undertaxed profits rule (UTPR), will be considered at a later stage, as the present focus will be to ensure a smooth roll-out of IIR and DTT for affected businesses.

The IIR will apply to Singapore-parented in-scope MNE groups in respect of the profits of their low-taxed Constituent Entities outside Singapore. The DTT will apply to foreign-headquartered in-scope MNE groups in respect of the profits of their low-taxed Constituent Entities in Singapore.

With Pillar Two Top-up Taxes taking effect in home countries of MNEs, any benefit they may derive from tax incentives will be negated as taxes forgone in Singapore will be collected elsewhere. To address this, the Finance Minister proposed enhancing Singapore's investment toolkit with a new Refundable Investment Credit (RIC) scheme to complement the many other factors that encourage companies to anchor substantive and high value economic activities in Singapore. The RIC is a tax credit with a refundable cash feature, which may be used to offset corporate tax payable or be refunded in cash within four years from when the company satisfies the conditions for receiving the credit. The RIC is awarded on a case-by-case approval basis by the Economic Development Board (EDB) of Singapore and Enterprise Singapore. The RIC amount will be up to 50% of the expenditure incurred on a qualifying activity during a qualifying period. The rate will depend on the merits of the qualifying activity for which the application is made. Introduction of the RIC will offer another avenue for Singapore to remain competitive and continue to attract quality investments.



For more information see our PwC Tax Insight.

南非 支柱二在南非的實施情形

2024年2月22日發布的2024年預算審查文件宣布·支柱二規則 (IIR和DMTT形式)將於2024年1月1日或之後開始的財政年度在南非生效。但沒有提及UTPR。

為了實現這一目標,同日發布了「全球最低稅負立法草案」和「全球最低稅負管理立法草案」,以及一份解釋性備忘錄。預計將在經過向公眾徵詢意見的過程後(過程中可能會有修正)、立法草案將最終定稿。據悉,除了某些特定的偏離外,在動態基礎上,立法草案納入了由OECD發布的OECD示範規則、逐條注釋和行政指南。

資誠觀點

雖然支柱二的實施是早已預期,但擬議的2024年實施,卻出乎多數評論家(commentators)的預期(原本是預計於2025年1月1日才實施)。

實施日期將為適用範圍內的企業增加巨大時間壓力,以達到「支柱二準備就緒」。其中許多集團已進入2024年的財務年度,並將發布截至2024年6月30日的六個月的中期業績報告。情況更加棘手的是,立法草案可能要到2024年9月左右才會定稿。因此,密切關注後續發展將極為重要。



South Africa Implementation of Pillar Two in South Africa

The 2024 Budget Review documentation, published on 22 February 2024, announced that the Pillar Two rules, in the form of an IIR and DMTT, would enter into force in South Africa for fiscal years starting on or after 1 January 2024. No mention was made of the UTPR.

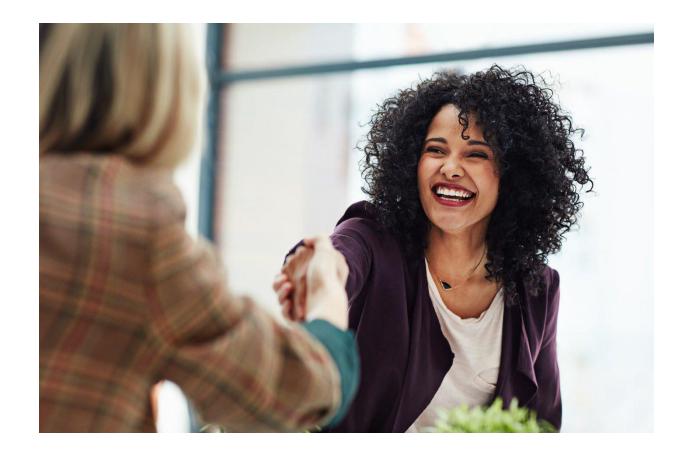
To give effect to this, the Draft Global Minimum Tax Bill and Draft Global Minimum Tax Administration Bill were published on the same day, together with an Explanatory Memorandum. The legislation is expected to be finalized and enacted following a process of public consultation, where amendments may arise. The draft legislation is stated as incorporating the OECD Model Rules, Commentary and Administrative Guidance issued by the OECD, on an ambulatory basis, subject to certain specified departures.

For more information, please see our <u>Budget 2024 Tax Alert</u>.

PwC observation:

While the Pillar Two announcement was expected, the proposed 2024 implementation date comes as a surprise - most commentators had expected this to be 1 January 2025 instead.

The implementation date will add significant time pressure on qualifying groups to get 'Pillar Two ready.' Many of these groups have already commenced their 2024 financial years and will be releasing interim results for the six-months ending 30 June 2024. This is exacerbated by the fact that the legislation is likely to be finalized around September 2024. It will be important to monitor developments in this regard.



泰國

泰國發布支柱二立法草案,並徵詢公眾意見

2024年3月1日·泰國稅務局(TRD)發布了實施支柱二(全球最低稅負制)的立法草案·並徵詢公眾意見。該立法草案嚴格遵循OECD在全球反稅基侵蝕(GloBE)支柱二示範規則下的指南·並擬議包括三種課稅機制:(i)國內最低稅負制(DMTT)、(ii)所得涵蓋原則(IIR)和(iii)適用於泰國納稅義務人的UTPR。

資誠觀點

根據擬議的立法草案,補充稅受新法的管轄,不構成「稅法(the Revenue Code)」的一部分,因此UTPR課稅機制不太可能是以拒絕扣除的方式進行。該立法草案不包含任何會延遲適用「UTPR」的條款。這可能意味著,如果通過所有三種課稅機制將同時生效。

立法草案仍然缺乏有關GloBE計算中的調整細節,包括示範規則下的各種機制例如過渡規則和避風港規則。目前擬議的DMTT遵循與GloBE規則中計算補充稅的相同機制(即,允許CFC和主要實體稅用於PE向下調整),因此不太可能是合格的國內最低稅負制。

落入立法草案適用範圍內的納稅義務人·無論是總部位於泰國的·還是總部位 於國外的跨國企業集團·都應迅速評估立法草案對集團即將產生的影響·並為 合規做好準備。



Thailand

Thailand issues Pillar Two draft legislation for public consultation

The Thai Revenue Department (TRD) published its public consultation paper as a draft law for implementing the Pillar Two global minimum tax rules for Thailand on 1 March 2024. The draft law closely follows the OECD guidance under the GloBE Pillar Two Model Rules and proposes to include three charging mechanisms: (i) Domestic Top-up Tax (DMTT), (ii) Income Inclusion Rule (IIR), and the (iii) UTPR for Thai taxpayers in scope.

PwC observation:

Under the proposed draft, the Top-up Tax is governed under this new law and does not form part of the Revenue Code, therefore the mechanism of the UTPR application will unlikely be by way of denial of deduction. The draft law does not include any provisions that would delay the application of the UTPR. This likely means that, if enacted, all three tax-charging mechanisms would be brought into effect together.

The draft law still omits details of the adjustments under the GloBE calculation, including the various mechanisms under the Model Rules, such as the transitional rules and safe harbour rules. The DMTT proposed currently follows the same mechanism of the GloBE rules in determining the Top-up Tax (i.e., allowing CFC and main-entity tax for PE pushdown), therefore it is unlikely be a Qualified DMTT.

Taxpayers falling within the scope of the law, whether part of an MNE group headquartered in Thailand or an MNE group headquartered abroad, should quickly evaluate the upcoming impact of the rules in Thailand on their organisation and prepare for compliance.



阿拉伯聯合大公國 支柱二的最新狀況和其他進展

2024年3月15日,阿拉伯聯合大公國(UAE) 財政部(MoF)啟動了有關支柱二規則(基於OECD示範規則)的數位公眾徵詢。財政部表示,徵詢活動的目的是收集利害關係人對可能的政策設計選擇的觀點,以因應全球反稅基侵蝕(GloBE)規則在全球的實施。公眾徵詢的回覆預計將有助於UAE財政部確定政策選擇方案,作為UAE GloBE規則的一部分,同時考慮國內實施問題、與UAE企業稅制的互相影響以及最小化合規成本等面向。

除了徵詢問卷外,還有一份單獨的指南,提供了有關GloBE示範規則具體方面的詳細資訊,即根據OECD示範規則,概述了GloBE示範規則的範圍、GloBE計算標準、課稅機制、避風港等。徵詢問卷還提供了UAE設計支柱二規則可能考慮的一些政策選擇方案。

資誠觀點

整體而言、徵詢活動旨在從政策層面徵求利害關係人對支柱二規則不同面向的觀點。不過、UAE財政部尚未明確表示UAE將如何實施這些規則。預計隨後會在適當的時候公布更多細節。公眾徵詢將持續至2024年4月10日。



United Arab Emirates Update on Pillar Two status and other developments

The UAE Ministry of Finance (MoF) launched a digital public consultation on the Pillar Two rules based on the OECD Model Rules on 15 March 2024. The MoF states that the objective of this consultation is to gather stakeholder views with respect to the potential policy design options to respond to the implementation of the GloBE Rules worldwide. Responses to the public consultation are expected to help the UAE MoF arrive at the policy options that could be adopted as part of the UAE's GloBE Rules, considering aspects such as domestic implementation issues, interactions with the UAE's corporate tax system, and ways to minimize compliance costs.

Alongside the consultation questionnaire, a separate Guidance Paper provides details on specific aspects of the GloBE Model Rules. This provides an overview of the GloBE Model rules in accordance with the OECD Model Rules, i.e., scope, GloBE calculation criteria, collection mechanisms, safe harbours, etc. The consultation questionnaire also provides a number of policy options that the UAE may consider as it designs the Pillar Two Rules.

PwC observation:

In general, the consultation process aims to seek stakeholder views on the different aspects of the Pillar Two Rules from a policy aspect. However, the UAE MoF has not given any clear indication on how the UAE will implement the rules. Further details are expected in due course. The public consultation will be open until 10 April 2024.



要聞

Administrative 行政

盧森堡

支柱二規則對盧森堡一般公認會計準則(Lux GAAP)財務報表的影響

2023年12月22日·盧森堡將歐盟指令2022/2523(支柱二最低稅負制)轉化為國內法。

支柱二可能會影響依據Lux GAAP編制2023年12月30日及之後開始的財務年度的年度和合併會計科目(account)附註。為了澄清對年度會計科目的影響,盧森堡會計委員會(CNC)最近發布了問答集。

問答24/31 - 支柱二對Lux GAAP或 Lux GAAP-FV 下的年度和合併會計科目附註的影響

CNC認為,受支柱二約束的盧森堡公司和集團應根據盧森堡商法(Luxembourg Commercial law)和會計法(Accounting law)在會計科目附註中提供適當的資訊。商法和會計法分別規定,合併會計科目和年度會計科目必須真實、公允地反映資產、負債、財務狀況以及公司和/或集團業績。如果僅適用法規不足以真實和公允地反映,則必須在(合併)年度會計科目附許中提供額外資訊。

公司和/或盧森堡集團應在會計科目附註中提供已知或合理估計的資訊,以幫助年度會計科目和/或合併會計科目的使用者了解公司和/或集團因支柱二而面臨的所得稅風險。

如果無法獲知或無法合理估計相關資訊,公司和/或盧森堡集團應說明這一事實並提供有關風險評估進度的資訊。

根據CNC的要求,應提供以下資訊:

- 定性資訊,特別是關於盧森堡公司和/或集團將如何受到支柱二的影響以及盧森堡公司和/或集團可能面臨支柱二所生所得稅風險的主要國家;
- 定量資訊,例如:
 - 利潤中可能因支柱二而需繳納所得稅的比例,以及適 用於這些利潤的平均有效稅率;
 - 如果支柱-2023年生效,將如何改變其整體有效稅率。

問與答24/32 - 支柱二和在2023年年度會計科目附註中揭露遞延稅資產和負債的選擇

在另一次問答中·CNC承認·根據支柱二第53(2)條: "跨國企業集團或大型國內集團應考慮租稅管轄區內所有 實體成員的財務會計科目中反映或揭露的所有遞延所得稅 資產和遞延所得稅負債(...)"。 CNC確認,構成支柱二集團一部分的盧森堡實體可以在支柱二適用第一年之前的最後一個財政年度的年度帳目附註中列報其遞延稅資產和負債。

根據問答集,實體可以在其2023年度會計科目附註中揭露根據稅務屬性/暫時性差異總額計算的遞延所得稅資產和負債。問答集也提到,公司無需對與遞延後期稅務虧損相關的遞延所得稅資產進行可收回性分析,公司可以根據遞延後期稅務虧損總額進行揭露。

資誠觀點

在最終確定2023年Lux GAAP財務報表之前·集團應評估是否需要對受支柱二規則影響的實體進行上述揭露。

公司應考慮在會計科目附註中揭露與盧森堡獨立帳戶中的任何稅務屬性和可抵扣暫時性差異相關的遞延稅資產,以降低因支柱二目的而討論這些稅務屬性或可抵扣暫時性差異的有效性所帶來的風險。

Luxembourg

Impact of Pillar Two Rules on the Lux GAAP financial statements

On 22 December 2023, Luxembourg transposed into its domestic law the EU Directive 2022/2523 (the Pillar Two minimum taxation rules).

The law may have implications for preparing the notes to the annual and consolidated accounts established under Lux GAAP for financial years beginning no later than 30 December 2023. To clarify the impact on the annual accounts, the Luxembourg Accounting Board (CNC) recently issued Q&As.

Q&A 24/31 – Impact of the Pillar Two Law on the notes to the annual and consolidated accounts under Lux GAAP or Lux GAAP-FV

The CNC is of the opinion that Luxembourg companies and groups subject to the Pillar Two Law should give proper information in their notes to the accounts in accordance with the Luxembourg Commercial law and the Accounting law. These laws state, respectively, that consolidated accounts and annual accounts must give a true and fair view of assets, liabilities, financial situation and company and/or group results. If the application of legal provisions is not sufficient to give such true and fair view, additional information must be provided in the notes to the (consolidated) annual accounts.

The company and/or Luxembourg group should provide in the notes to its accounts the known or reasonably estimated information that would help users of the annual accounts and/or consolidated accounts understand the company's and/or group's exposure to income tax resulting from the Pillar Two law.

In case the information is not known or cannot be reasonably estimated, the company and/or Luxembourg group should indicate this fact and provide information on the progress of their exposure assessment.

According to the CNC, the following information should be provided:

- Qualitative information, in particular on how the Luxembourg company and/or group would be affected by the Pillar Two law and the main countries where the Luxembourg company and/or group could be exposed to income tax arising from the Pillar Two law;
- · Quantitative information, such as:
 - An indication of the fraction of their profits that might be subject to income taxes arising from the Pillar Two law and the average effective tax rate applicable to these profits;
 - An indication of how the Pillar Two law, if it had been in force in 2023, would have changed their overall effective tax rate.

Q&A 24/32 -Pillar Two law and option to disclose deferred tax assets and liabilities in the notes to the 2023 annual accounts

In a separate Q&A, the CNC acknowledges that according to article 53 (2) of the Pillar Two law: "the MNE group or a large-scale domestic group shall take into account all the deferred tax assets and deferred tax liabilities reflected or disclosed in the financial accounts of all the constituent entities in a jurisdiction (...)".

The CNC confirms the possibility for Luxembourg entities forming part of a Pillar Two group to present their deferred tax assets and liabilities in the notes to their annual accounts for the last financial year preceding the first year of application of the Pillar Two law.

According to this Q&A, an entity can disclose in the notes to its accounts for the year 2023 the deferred tax assets and liabilities calculated based on the gross amount of the tax attributes/temporary differences. The Q&A also mentions that it is not necessary for the company to perform an analysis of the recoverability of deferred tax assets in relation to the tax losses carried forward, the company can base its disclosure on the gross amount of said tax losses carried forward.

PwC observation:

Before finalizing the 2023 Lux GAAP financial statements, groups should assess the need to make the above disclosures for entities that are impacted by the Pillar Two rules.

Companies should consider disclosing in the notes to the accounts the deferred tax assets related to any tax attributes and deductible temporary differences in the Luxembourg standalone accounts to reduce risks of discussions on the validity of these tax attributes or deductible temporary differences for Pillar Two purposes.

墨西哥 特定行業的當期扣除法令

2023年10月11日·墨西哥行政部門在官方公報上發布了一項法令·向出口行業的關鍵部門提供租稅優惠·其中包括從法令生效日起至2024年12月31日·新固定資產投資的當期扣除·以及培訓費用的加計扣除。該法令規定的當期扣除比例為購置成本的56%至89%·具體取決於固定資產的類型。

2023、2024和2025課稅年度的納稅申報表中,培訓費用可按照當年在墨西哥社會保障機構註冊的工人培訓費用加計25%予以扣除。

與該法令相關的其他法規細則於2023年12 月5日發布·重點是為稅務合規性和申請 租稅優惠的文據要求提供指南·以及在不 遵守規定的情況下支付漏報稅款的程序。

資誠觀點

該法令的租稅優惠適用於特定行業/項目(例如製藥業的原材料、電子和電氣元件醫療設備機械、電池、引擎等)。另外,除了必須滿足的其他要求外,租稅優惠僅適用於超過50%的所得源自產品出口的納稅義務人。墨西哥納稅義務人應分析適用租稅優惠的可能性,特別是那些與近岸投資(nearshoring investment)到墨西哥相符的情況。



Mexico

Immediate deduction Decree for specific industries

The Mexican Executive published in the Official Gazette, on 11 October 2023, a Decree granting tax incentives to key sectors of the export industry consisting of the immediate deduction of the investment in new fixed assets from the date of the Decree until 31 December 2024, and the additional deduction of training expenses. The percentages of immediate deduction established in the Decree range from 56% to 89% of the acquisition cost, depending on the type of fixed asset.

The deduction of training expenses in the annual tax return for fiscal years 2023, 2024 and 2025 equivalent to 25% of the increase in training expenses incurred by workers registered with the Mexican Social Security Institute in the fiscal year in question.

Miscellaneous regulations rules related to the Decree were published on 5 December 2023, and are focused on providing guidance for tax compliance and documentary requirements to claim the benefits of the Decree and the procedure of remitting omitted taxes in the case of non-compliance.

PwC observation:

The benefits of the decree are for specific industries/items (e.g., raw materials of Pharma Industry, electronic and electric components, machinery for medical devices, batteries, engines, among others). Additionally, it only applies to taxpayers who have income derived from more than 50% of the export of products, in addition to other requirements that must be met. Mexican taxpayers should analyze the possibility of applying the Decree benefits, especially those that align with nearshoring investments into Mexico.



墨西哥

優惠稅制 - 年度資訊申報

所有墨西哥納稅義務人,除了墨西哥所得稅法(MITL)規定的特定稅務申報和繳納稅款的合規義務之外,還必須在每年2月申報上一納稅年度優惠稅制(墨西哥CFC規則)下所得的資訊,這些所得是源自於他們直接或間接參與(participate)的外國控制公司(包括例如非獨立的美國有限責任公司)。

作為申報的一部分,墨西哥納稅義務人必須提供包括存款、投資、儲蓄的銀行帳戶對帳單或任何其他相關文件,或在適用的情況下,包括一般稅務管理法規(General Administrative Tax Rules)要求的文件。

另外,對與境外透視工具 (foreign transparent vehicles)進行投資或從MITL 臨時規定中列出的任何租稅管轄區獲得任何類型收入的墨西哥納稅義務人,也必須提交相應資訊的納稅申報表。如果墨西哥納稅義務人在這兩個特定條件下提交申報表,除非他們符合相關稅法條款 (tax section)中規定的任何特定條件,否則該所得將不會被視為來自優惠稅制下的所得。

當納稅申報表包含錯誤或未包含與納稅義務人已產生或根據上一曆年/課稅年度的優惠稅制所產生的所得稅有關的所有資訊時, 墨西哥納稅義務人將被視為未提交相應的納稅申報表。

資誠觀點

這項措施與墨西哥納稅義務人相關,以 確保他們申報所有相關所得,並與年度 企業所得稅申報表上申報的所得一致。 另外,該資訊申報表應與年度所得稅申 報表中計算和繳納的稅務義務相符。

不提交資訊申報表可能會引發相關的墨西哥稅務影響。例如,墨西哥納稅義務人將無法就來自優惠稅制的所得申請任何扣除,因此將按總收入繳納企業所得稅。另外,如果沒有申報並隨後進行正式審查/查核,可能會被視為違法行為,並受到刑事處罰。



Mexico

Preferential tax regimes – Annual information return

All Mexican taxpayers, in addition to their particular tax filing and payment compliance obligations under the Mexican Income Tax Law (MITL), must report each February the information on income subject to a preferential tax regime (Mexican CFC rules) obtained in the immediately preceding tax year through foreign controlled corporations in which they participate directly or indirectly, including, for example, disregarded US LLCs.

As part of the filing, Mexican taxpayers must include bank account statements for deposits, investments, savings, or any other relevant documents, or where applicable, the documentation stated through General Administrative Tax Rules.

Furthermore, Mexican taxpayers that have investments in foreign transparent vehicles, or that have any type of income accrued from any of the jurisdictions listed as part of the transitory provisions of the MITL also must file the corresponding information tax return. However, if they file the return under these two specific conditions, the income would not be deemed to be from a preferential tax regime, unless they fall under any of the specific conditions set forth under the relevant tax sections.

A Mexican taxpayer will be treated as failing to file the corresponding return when the return contains errors or does not include all information in connection with the income tax the taxpayer has generated or generates subject to preferred tax regimes from the preceding calendar/tax year.

PwC observation:

This measure is relevant for Mexican taxpayers to make sure they include and report all the relevant income and that it agrees with the income reported on the annual corporate income tax return. Moreover, this information return should match the tax liability determined and paid in the annual income tax return.

Failing to comply with the filing of this information return could trigger relevant Mexican tax implications. For example, Mexican taxpayers reporting income from preferred tax regimes would not be able to claim any deductions, and thus would pay corporate income tax on gross proceeds. Also, this could be deemed a legal felony subject to criminal penalties if it is not filed and is later formally reviewed/audited.



英國

2024年春季預算案

3月6日,英國財政大臣亨特(Jeremy Hunt)發表了春季預算案,並附有預算責任辦公室的完整財政報告。幾乎沒有任何意外,也沒有提及與支柱二相關的任何進展。主要包括:

- 自2024年4月6日起 · 雇員國民保險主要費率降至8%
- 非英國居民的稅制(non-UK Domicile tax rules · 針對個人) · 將改為以居住為基礎的制度
- 當財政狀況允許時,租賃資產將全額費用化
- 為英國創意產業提供超過10億英鎊的新租稅減免。

「2024年財政(第2號)法案」隨後於3月14日發布。同一天,政府宣布打算將反濫用規則引入英國支柱二規則。OECD於2023年12月18日發布了關於支柱二的第三套行政指南。該指南包括一項技術改革,以終止某些旨在利用過渡性國別報告(CBC)避風港的避稅交易。該指南確認,成員實體不能因進行這類交易而獲得過渡性CBC避風港資格。英國政府打算從2024年3月14日起採用這些規定,以防止英國稅收流失,並將在未來的財政法案中制定相關法規。

政府將就如何制定相關法規向感興趣的利害關係人徵詢意見,以確保法規按預期運作, 不會產生任何意外結果。

政府也宣布將於2024年4月18日推出進一步的稅務行政和維護公告。

資誠觀點

企業或許希望能在秋季聲明的基礎上持續 前進,但可能會感到失望。最值得注意的 加稅措施包括對非居民個人、菸草和電子 煙產品課稅、延長能源利潤稅捐和調整航 空旅客稅捐。

當企業希望看到一個明確的長期稅務藍圖時,就不會有「工作已完成」的感覺,該藍圖對於建立企業信心、增加投資和提高生產力至關重要,同時也包含碳排從過渡期間到碳排的淨零(Net Zero)。



UK Spring Budget 2024

The UK's Chancellor of the Exchequer, Jeremy Hunt, delivered his Spring Budget on 6 March, accompanied by a full fiscal statement from the Office of Budget Responsibility. There were few surprises, with no mention of any developments in relation to Pillar Two. Key announcements included:

- main rate of National Insurance for employees cut to 8% from 6 April 2024
- non-UK Domicile tax rules (for individuals) to be replaced with a residence-based regime
- full expensing will be extended to assets for leasing when fiscal conditions allow
- over £1 billion of new tax reliefs for the UK's creative industries.

The Finance (No 2) Bill 2024 was subsequently published on 14 March. On the same day, the government announced its intention to introduce an anti-abuse rule into the UK's Pillar Two rules. The OECD published its third set of Administrative Guidance on Pillar Two on 18 December 2023. The Guidance included a technical reform to close off certain avoidance transactions which aim to exploit the Transitional Country-by-Country Reporting (CBC) Safe Harbour. The Guidance confirms that a Constituent Entity cannot qualify for the Transitional CBC Safe Harbour as a result of entering into such transactions. The UK Government intends to apply these provisions from 14 March 2024 to prevent a loss of UK tax and will legislate in a future Finance Bill.

It will consult with interested stakeholders on how the provisions are legislated, with a view to ensuring the legislation operates as envisaged without any unintended outcomes.

The government also announced that it will bring forward a further set of tax administration and maintenance announcements on 18 April 2024. Watch our on demand webcast, hosted by PwC's UK Tax Leader Laura Hinton, in which she discusses the announcements and their impact on individuals and businesses. For all our comments and insights, visit our dedicated Budget webpage.

PwC observation:

Businesses may have been hoping to build on the momentum of the Autumn Statement, but may be disappointed. The most notable revenue raising measures announced were around taxing on non-domiciled individuals, tobacco and vaping products, extending the energy profits levy and adjusting the air passenger duty.

There cannot be a sense of 'job done', when we would like to see a clear long-term tax roadmap for business, crucial in building business confidence, boosting investment and increasing productivity, as well as facilitating the transition towards Net Zero.



美國

拜登總統的2025財年預算案再次呼籲對企業和個人加稅

3月11日,美國總統拜登向國會提交了2025財年預算案,提議對收入超過40萬美元的企業和個人加稅近5兆美元。總統的許多租稅提案(包括將公司稅率提高到28%以及對某些高收入的個人徵收25%的最低稅負的提案)都包含在拜登總統之前的預算中。2025財年預算案中的新租稅提案包括將最近發布的公司最低稅負(corporate alternative minimum tax,AMT)的稅率從15%提高到21%的措施,並拒絕企業扣除超過100萬美元的員工薪酬。

拜登總統提出的加稅的2025財年預算案不會被 共和黨控制眾議院的本屆國會考慮,但如果他 再次當選,確實可以為他的租稅政策優先事項 提供一個記號。

2017年減稅與促進就業法(TCJA)的關鍵條款預計將於2025年底到期,這確保了下一任總統和國會必須就一項重大租稅法案採取行動,以防止全面的個人稅負增加。拜登總統在第三任期內對租稅提案採取行動的前景將取決於明年哪個政黨控制國會,以及在眾議院和參議院的控制幅度。

資誠觀點

拜登總統在上任的頭兩年內,由於民主黨以微弱優勢控制了眾議院和參議院,拜登的許多關鍵企業和個人租稅提案未能獲得支持。參議院尤其成為了絆腳石如果拜登的政黨當時在參議院再擁有一個席位,結果可能會大不相同。下一屆國會的共和黨人可能被迫考慮拜登總統的一些加稅提案,作為妥協法案(compromise bill)的一部分,保留有利於家庭和小型企業的關鍵TCJA租稅條款。



United States

President Biden's FY 2025 budget again calls for corporate and individual tax increases

President Joe Biden on March 11 sent Congress a FY 2025 budget that proposes to increase taxes by nearly \$5 trillion for corporations and individuals with incomes above \$400,000. Many of the president's tax proposals --including a proposal to increase the corporate tax rate to 28% and impose a 25% minimum tax on certain high-income individuals – were included in President Biden's previous budgets. New tax proposals in the FY 2025 budget include measures to increase the recently enacted corporate alternative minimum tax rate from 15% to 21% and to deny business deductions for employee compensation above \$1 million.

President Biden's FY 2025 budget proposals to increase taxes will not be considered by the current Congress in which Republicans control the House, but do provide a marker for his tax policy priorities if he is re-elected.

The scheduled expiration of key 2017 Tax Cuts and Jobs Act (TCJA) provisions at the end of 2025 ensures that the next president and Congress will have to act on a major tax bill to prevent across-the-board individual tax increases. The outlook for action on President Biden's tax proposals in a potential second term will depend on which party controls the Congress next year, as well as the margin of control in the House and Senate.

PwC observation:

President Biden was unable to gain support for many of his key corporate and individual tax proposals during his first two years in office, when Democrats narrowly controlled both the House and Senate. The Senate in particular became a stumbling block and the outcome could have been significantly different if his party had held even one more seat in the Senate at that time. Republicans in the next Congress might be forced to consider some of President Biden's tax increase proposals as part of a compromise bill preserving key TCJA tax provisions that benefit families and small businesses.



For more information see our PwC Insight.

要聞

Judicial 司法

法國

法國對提供服務的扣繳稅款可能違反歐盟法律

一家管理碼頭的法國公司向外國公司支付了舶位使用費。法國稅務機關認為,支付款項是在法國提供服務的對價,應繳納扣繳稅款。外國公司援引歐洲法院在Sofina案(C575-17)關於股利的論點,主張豁免扣繳稅款。在Sofina案中,法國國內法產生的差別待遇,即i)外國公司收到支付款項時立即通過扣繳稅款明確徵稅,與ii)居民公司根據記錄對淨利潤或虧損課稅之間存在差別待遇,被認定違反歐盟法保障的資金自由流通。

在本案中,馬賽行政上訴法院駁回了該主張,因為該主張是基於對資金自由流通和提供服務自由的不一致,而只有後者是相關的。行政最高法院推翻了這項判決,因為主張涉及到相關的自由。

資誠觀點

該案現已發回馬賽到法院上訴,之後將決定是否可以將**Sofina**的判決適用於提供服務的自由。



France

Potential infringement of EU law by a French withholding tax on the provision of services

A French company managing a marina made payments to foreign companies for the use of their berths. French tax authorities considered that such payments were the consideration for services rendered in France and should be subject to withholding tax. One of the foreign companies relied on the reasoning of the Sofina ruling of the ECJ (C575-17) relating to dividends in order to seek a discharge of the withholding tax. In the Sofina case, a breach of the free movement of capital protected under EU law was recognized as French domestic law, and created a difference in treatment between i) foreign companies taxed immediately and definitively through withholding tax when they receive payments and ii) resident companies taxed on these sums according to their recorded net profit or loss.

In the case at hand, the Administrative Court of Appeal of Marseille dismissed the claim since it was grounded on the non-conformity to both the freedom of movement and the freedom to provide services, while only the latter was relevant. The Administrative Supreme Court overruled this decision since the claim referred to the relevant freedom.

PwC observation:

The case is now referred back to the Court of Appeal of Marseille which will have to decide whether the Sofina ruling can be transposed to the freedom to provide services.



葡萄牙

稅務仲裁法院認定對非居民徵收扣繳稅款具有歧視性

最近判決的稅務仲裁案(案件400/2023-T)涉及一家在葡萄牙沒有常設機構(PE)的德國銀行,該銀行收到了葡萄牙來源的利息。根據適用的租稅協定,利息所得按照總額的15%進行扣繳。

德國銀行認為,根據利息是由居民還是非居民實體取得而提供不同的稅務待遇,違反了TFEU(Treaty on the Functioning of the European Union、歐聯運作條約)第56條(提供服務的自由)和第63條(資金自由流通)。因為一般來說,與居民實體按利息所得的淨額課稅不同,非居民實體沒有機會扣除與利息所得相關的費用,因此按照利息所得的總額課稅。

葡萄牙稅務機關(PTA)辯稱,由於舉證責任屬於納稅義務人,因此只有在納稅義務人在依職權審查中主張了這類費用並證明了費用的可扣除性的情況下,才有可能計算應課稅的利息淨額。

稅務仲裁法院認為,對非居民金融機構收取的利息所得課稅時沒有給予其扣除與相關活動直接相關的營業費用的機會,而對居民金融機構給予這樣的機會,構成不平等和歧視性待遇。這是違反了TFEU第56條,因此遵循歐洲法院對Brisal(案件C-18/15)的判決以及葡萄牙最高行政法院之前的判決(案件0298/13、0165/13和08/21)。

本案的新穎之處在於舉證責任,因為稅務仲裁法院認定,PTA 應採取必要步驟來確定納稅義務人所發生的費用,即使其中包 括是由納稅義務人所掌握的資訊或透過與德國稅務機關交換的 資訊。另外,如果PTA認為無法扣除與相關活動直接相關的營 業費用,並據此駁回納稅義務人的上訴,則納稅義務人無需負 擔證明這類費用的責任。

資誠觀點

本案為在葡萄牙沒有常設機構的非居民實體開啟了大門·讓他們可以主張撤銷對其葡萄牙來源的總利息所得按固定稅率課徵的扣繳稅款。納稅義務人可以在稅款扣繳之後的四年內啟動程序。根據這個判決·可以獲得在葡萄牙扣繳稅款的全額退還。



Portugal

Tax arbitration court rules that WHT on non-residents is discriminatory

The recently adjudicated tax arbitration case (Case 400/2023-T) involved a German bank without a permanent establishment (PE) in Portugal, which received interest from a Portuguese source. The gross interest amount was subject to withholding tax at a flat rate of 15% as provided by the applicable tax treaty.

The bank considered that such taxation violates Articles 56 (freedom to provide services) and 63 (free movement of capital) of the TFEU, by providing different treatment depending on whether the interest is earned by resident or non-resident entities. This is because non-resident entities, as a general rule, are not given the opportunity to deduct expenses related to the interest income and thus are taxed on their gross income, unlike resident entities who are taxed on the net amount of interest.

The Portuguese tax authority (PTA) argued that since the burden of proof belongs to the taxpayer, it would only be possible to determine the net amount of the interest subject to taxation if the taxpayer, in an ex officio review, had claimed such costs and proved their deductibility.

The tax arbitration court confirmed that taxing non-resident financial institutions on the interest income received without giving them the opportunity to deduct business expenses directly related to the activity in question, whereas such an opportunity is given to resident financial institutions, constitutes unequal and discriminatory treatment. This is prohibited by Article 56 TFEU -thus following the ECJ's ruling on Brisal (Case C-18/15), and previous decisions by the Portuguese Supreme Administrative Court (Cases 0298/13, 0165/13 and 08/21).

The novelty lies on the burden of proof, as the tax arbitration court ruled that the PTA should carry out the necessary steps to determine the expenses incurred by the taxpayer, even if that includes information that is in the taxpayer's possession, or by means of exchanging information with the German tax authorities. Moreover, the taxpayer does not bear the burden of proving those costs if the PTA considers there is no room for deduction of the business expenses directly related to the activity in question and rejects the taxpayer's complaint based on that.

PwC observation:

This case opens the door for non-residents without a PE in Portugal to claim the annulment of withholding tax incurred, at a flat rate, on the gross interest income from a Portuguese source. A procedure can be initiated within and up to four years after the tax has been withheld. Based on this decision, it is possible to obtain a reimbursement of the full amount of tax withheld in Portugal.



西班牙

西班牙憲法法院判決特定的企業所得稅措施違憲

西班牙憲法法院宣布3/2016號皇家法令引入的某些措施違憲。這些措施於2016年12月2日生效,對大型公司在稅務虧損扣抵和適用雙重課稅扣除方面設定了更嚴格的條件。另外,這些措施也要求公司將過去已扣除的持股減損準備轉回。具體來說,法院認為有三項措施違憲:

• 對大型公司淨營運虧損扣抵實施更嚴格的限額。

根據該規則,營收至少達到2,000萬歐元的公司在淨營運虧損扣抵時,限額如下:營收在2,000萬歐元至6,000萬歐元之間的,限額為50%;營收至少6,000萬歐元的,限額為25%。

• 對大型公司適用國內和國際雙重課稅的扣除實施額外的限制。

根據該規則,營收至少為**2000**萬歐元的公司的 稅額扣抵的限額為每年應納稅額的**50%**。 • 要求公司在2016-2020年將之前已扣除的持股減損準備至少轉回一定比例到稅基中。

根據該規則·2013年之前被視為可扣除且尚未轉回的持股減損準備將從2016年1月1日開始的前五個課稅年度中平均計入稅基中。法院的判決基於的前提是這些措施超出了西班牙法令的規範範圍。法院還強調,這些措施具有重大的稅務影響,因為這些措施減少了負稅基的補償,並限制了對雙重課稅的扣除,從而影響了企業所得稅(稅制的基本組成部分)。

資誠觀點

判決指出,在判決作出時尚未提出異議的和解,以及未申請更正的自行申報,不予以審查。這意味著,只有在判決公布前已提出異議,或申請更正自行申報的公司,才能受益於該判決的廢除。截至判決日由最終司法或行政決定明確解決的義務,也不在復議之列。因此,如果公司尚未採取行動,則無法受益於該判決的效力。



Spain

Spanish Constitutional Court judges certain CIT measures unconstitutional

The Spanish Constitutional Court has declared certain measures introduced by Royal Decree-Law 3/2016 as unconstitutional. These measures, which came into effect 2 December 2016, imposed stricter conditions on large companies concerning the offsetting of tax losses and the application of double taxation deductions. Additionally, the measures mandated that companies reverse any impairment losses on shareholdings that had been deducted in the past. More specifically, the Court found three measures to be unconstitutional:

 The implementation of stricter limits on the offset of net operating losses for large companies.

Based on this rule companies with revenues of at least EUR 20 million would be subject to the following limits on the offset of net operating losses: 50% in the case of revenues between EUR 20 million and 60 million and 25%, in the case of revenues of at least EUR 60 million.

 The introduction of an extra limit on the application of deductions for the avoidance of both domestic and international double taxation for large companies.

Based on this rule companies with revenues of at least EUR 20 million would be subject to a limit on the use of tax credits of 50% of the gross tax payable per year.

 The requirement for companies to include a minimum annual reversal in their tax base for the years 2016-2020 for previously deducted impairments of shareholdings.

Based on this rule impairment losses on shares that would have been considered tax deductible prior to 2013 and which were pending reversal were to be included, at least in equal parts, in the tax bases for each of the first five tax periods commencing as of 1 January 2016. The Court's decision is based on the premise that these measures exceed the regulatory scope of the Spanish decree. The Court also emphasized that the measures have significant tax implications, as they reduce the compensation of negative tax bases and limit deductions for double taxation, thus affecting the corporate income tax, which is a fundamental component of the tax system.

PwC observation:

The judgment states that settlements not contested by the time of the judgment, along with self-assessments for which no rectification has been sought, are not subject to review. This means that only companies that have appealed settlements or requested the rectification of self-assessments before the publication of the judgment can benefit from the annulment. Obligations definitively settled by a final judicial or administrative decision as of the ruling date are also excluded from reconsideration. As a result, if you have not taken an action, you cannot benefit from the effects of the judgment.



要聞

OECD/EU 經合組織/歐盟

歐盟

歐盟執委會政策簡報探討FSR報告的前100天

歐盟執委會競爭總署(DG COMP)發布了一份政策簡報,評論了外國補貼條例(FSR)的要求,以及該署自報告制度開始實施的100天內處理的第一批案件。

該簡報提供了在此期間收到的53份通知的統計數據,並對通知中反覆出現的一些問題進行了澄清,例如如何正確分類非歐盟國家提供的相關優惠,即外國財政支持(FFC),如何報告那些被認為最有可能扭曲內部市場的優惠,以及如何解讀報告特定FFC義務的例外情況。

資誠觀點

鼓勵跨國公司進行深入的策略審查·並及時制定合規藍圖。FSR賦予歐盟執委會廣泛的權力·可以推遲或阻止併購交易和公共採購投標·或實施重大補償措施。另外·FSR還賦予執委會在所有其他情況下廣泛的調查權力以及實施補救措施的同等能力。



European Union

European Commission policy brief explores first 100 days of FSR reporting

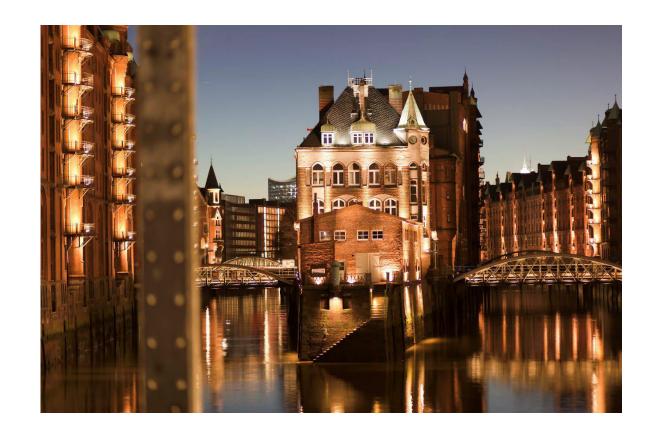
The European Commission's Directorate-General for Competition (DG COMP) published a <u>policy brief</u> that provides comments on the <u>Foreign Subsidies</u> <u>Regulation (FSR) requirements</u> and first cases the Directorate has addressed in the 100 days since the reporting regime began.

The brief provides statistics on the 53 notifications received in that period, as well as clarifications on some recurring issues that have arisen in the context of notifications, such as how to properly categorise relevant advantages provided by non-EU countries, i.e., Foreign Financial Contributions (FFCs), how to report those identified as most likely to distort the internal market, and how to interpret some of the exceptions to the obligation to report certain FFCs.

For more information see our <u>Tax Policy Alert</u>.

PwC observation:

Multinationals are encouraged to perform an in-depth strategic review and develop a compliance roadmap promptly. The FSR gives the European Commission far-reaching powers to potentially delay or block M&A transactions and public procurement bids or impose significant redressive measures. In addition, the FSR gives the Commission wide ex-officio investigative powers in all other situations and the same ability to impose redressive measures.



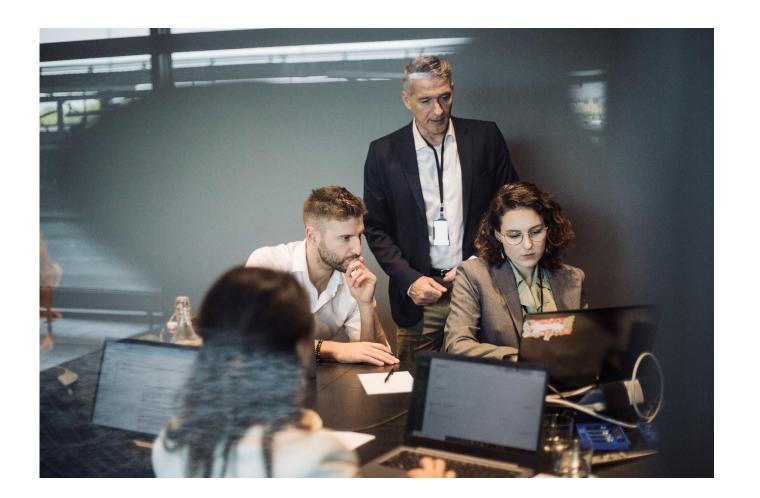
歐盟

歐盟理事會批准更新歐盟稅務不合作名單

歐盟總務理事會(EU General Affairs Council,為歐盟理事會)已批准歐盟行為準則小組關於更新稅務不合作名單的建議。理事會將巴哈馬、貝里斯、塞席爾以及英屬土克凱可群島從稅務不合作名單中移除。更新後,歐盟黑名單現在包含12個租稅管轄區。以上有什麼潛在的稅務影響?在被列入黑名單後,可能會導致向黑名單的租稅管轄區支付的扣繳稅款增加、在黑名單的租稅管轄區產生的成本不可扣除、存在受控外國公司議題或股東股利參與豁免的限制。

資誠觀點

企業應審視更新後的名單,並考慮對位於受影響租稅管轄區的 實體的潛在後果。



European Union

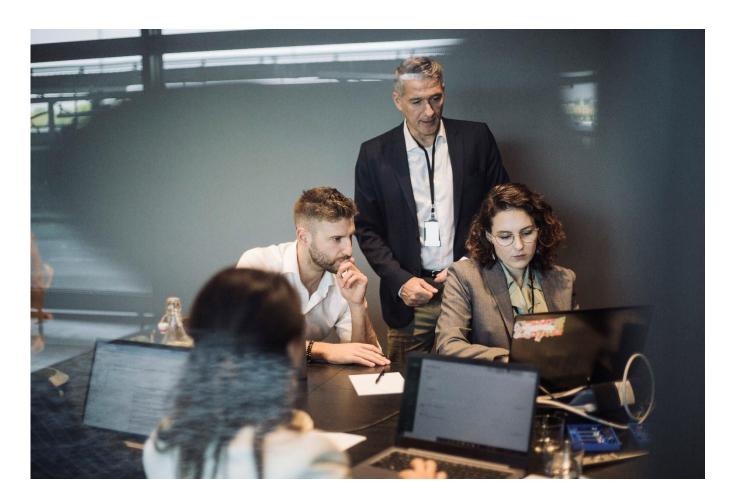
Council of the EU approves changes to the EU list of non-cooperative tax jurisdictions

The EU General Affairs Council (acting as the Council of the EU) has approved the recommendations of the EU Code of Conduct Group in relation to the updated list of non-cooperative tax jurisdictions. The Council removed the Bahamas, Belize, Seychelles and Turks and Caicos Islands from the list of non-cooperative jurisdictions for tax purposes. With these updates, the EU list now consists of 12 jurisdictions. Why relevant? Being listed may lead to increased withholding taxes on payments to, and non-deductibility of costs incurred in, a listed jurisdiction, CFC issues, or limitations on the participation exemption on shareholder dividends.

For more information see our PwC Insight.

PwC observation:

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



Glossary

Acronym	Definition	Acronym	Definition
ATAD	Anti-Tax Avoidance Directive	EU	European Union
АТО	Australian Tax Office	MNE	Multinational enterprise
BEPS	Base Erosion and Profit Shifting	NID	notionial interest deduction
CFC	controlled foreign corporation	OECD	Organisation for Economic Co-operation and Development
CIT	corporate income tax	PE	permanent establishment
CTA	Cyprus Tax Authority	R&D	Research & Development
DAC6	EU Council Directive 2018/822/EU on cross-border tax arrangements	SBT	same business test
DST	digital services tax	SiBT	similar business test
DTT	double tax treaty	VAT	value added tax
ETR	effective tax rate	WHT	withholding tax



歡迎掃描QRcode 成為資誠會員

即時取得最新稅務法律專業資訊

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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(大陸公司減資面面觀): https://youtu.be/xJlvP0Fxe5Y
- 台灣稅務與投資法規Update-特別篇(投資日本不動產之稅務議題): https://youtu.be/JXyDIGg6Wdc
- 2024 資誠前瞻研訓院線上講堂 (2月):

企業社會責任近期發展https://youtu.be/0PMr3yW18T8

歐盟碳邊境關稅與碳權交易會計處理https://youtu.be/OABw-lmK138

台灣稅務法令更新及因應https://youtu.be/YcWCOU4CoBc

兩岸稅務法令更新及因應https://youtu.be/Ztm9m-AGEt8

國際稅務法令更新及因應https://youtu.be/SHfWLUGA-M4

美國稅務法令更新及因應https://youtu.be/odP6NIYb6oo

東南亞稅務法令更新及因應https://youtu.be/ChguQX8NJ2A

會計審計法令更新https://youtu.be/5ph04p9BV-4

智財法令更新及因應https://youtu.be/vQSxppNVUDE

勞動法令更新及因應https://youtu.be/9Zz NA8FQBU

公司暨證管法令更新https://youtu.be/3o8Mjp-NTZk

中華產業國際租稅學會敬激加入會員

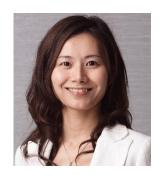
本會為依法設立、非以營利為目的的社會團體,以建構產業稅務專業人士的交流平台,研究產業稅務問題,促進公平合理課稅為宗旨。在台灣稅務界,本會成已為稅務專業的意見領袖,產、官、學界的主要諮詢機構。

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)。



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