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E-News from KPMG's EU Tax Centre

Key Insights of E-News Issue 209

KPMG's EU Tax Centre compiles a regular update of EU and international tax developments that can have both a domestic and a cross-border impact, with the aim of helping you keep track of and understand these developments and how they can impact your business. Today's edition includes updates on:

- *CJEU:* AG Kokott renders opinion on the compatibility of the Italian regional tax on productive activities with the Parent-Subsidiary Directive
- *European Commission:* Commissioner Hoekstra outlines the Commission's tax priorities at the 2025 EU Tax Symposium
- *European Commission:* Release of Savings and Investments Union communication
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Key Insights

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CJEU

AG opinion on the compatibility with the Parent-Subsidiary Directive of the Italian regional tax on productive activities

On March 27, 2025, Advocate General (AG) Juliane Kokott of the Court of Justice of the European Union (the CJEU) rendered her opinion in joined cases C-92/24 to C-94/24. The cases concern the compatibility of the Italian regional tax on productive activities[1] (IRAP) with the prohibition on taxing distributed profits in the hands of the recipient (i.e., the parent company) under Article 4 of the Parent-Subsidiary Directive (PSD).

Under Italian law, companies are subject to IRAP, levied at a rate that can vary by region. The taxable base also depends on the taxpayer's business activity. Higher rates apply to banks and other financial intermediaries. For banks and financial intermediaries, the IRAP taxable base includes: i) intermediation margin reduced by 50 percent of the dividends; ii) 90 percent of depreciation costs related to fixed tangible and intangible assets; iii) 90 percent of other administrative expenses; iv) net value adjustments and write-backs for credit risk, under certain conditions.

The plaintiff, an Italian bank, received dividend income from subsidiaries based in Ireland, Luxembourg, and Spain. Since the conditions of Article 5 of the PSD were met, the subsidiaries did not withhold tax at source. In line with the Italian implementation of the PSD, the plaintiff exempted 95 percent of the dividend income for corporate income tax purposes, including only 5 percent in its taxable base[2]. However, due to its classification as a financial intermediary, the bank included 50 percent of the dividends in its IRAP taxable base, which was taxed at a rate of 5.57 percent. The plaintiff subsequently requested a refund of the IRAP paid, arguing that requiring 50 percent of dividends – otherwise meeting the criteria set out under the PSD, to be included in the IRAP taxable base was contrary to Article 4 of the PSD. The Italian tax authorities rejected the refund on the grounds that the PSD only covered income taxes and was not applicable with respect to the IRAP. Following several legal proceedings initiated by the plaintiff, the case was referred to the CJEU.

The AG reiterated that the objective of the PSD is to eliminate double taxation and proceeded to analyze the specific type of double taxation the Directive seeks to prevent. In this context, the AG highlighted that the PSD aims to avoid the taxation of the same income at the level of two different entities and argued that both taxes must be of the same nature—primarily corporate taxes or a tax that, as stated in Article 2(a)(iii) of the PSD, substitutes for, or supplements such taxes. The AG

[1] Imposta regionale sulle attività produttive

[2] Article 4(1) of the PSD establishes a prohibition of taxing dividends received by a qualifying shareholder. Member States have the option to disallow the deductibility of charges relating to the holding and any losses resulting from the distribution of the profits of the subsidiary. Where the management costs relating to the holding in such a case are fixed as a flat rate, the fixed amount may not exceed 5 percent of the profits distributed by the subsidiary. Italy exercised this option, and therefore 95 percent of qualifying dividends distributed to Italian companies are exempt.

supported this interpretation on several grounds:

- *Analogy with the taxation of individuals*: the AG noted that, in the case of individuals, it is generally accepted that taxes such as VAT or wealth tax, which are linked to a different object of taxation as compared to individual income tax, do not constitute double taxation.
- *Recital 3 of the PSD*: the recital refers to the double taxation of 'such income', which, in the AG's view, implies that the PSD refers to a tax on income with respect to both entities.
- *Article 4(4) of the PSD*: this provision limits the tax exemption on dividend income until a common system of company taxation is implemented—an indication in the AG's view that the PSD is concerned with taxes on the income of companies.
- *Article 2(a)(iii) of the PSD*: in the AG' view, this article specifies the types of taxes the EU legislature intended to address in preventing double taxation – i.e., those listed in Annex I, Part B, which include corporate income taxes and "any other tax which may be substituted for any of those taxes". Notably, it does not mention other taxes such as wealth tax, VAT, or the IRAP.

The AG then noted the pleas brought by the plaintiff and the European Commission (EC), which were primarily based on the cases C-365/16 and C-68/15 (X). These cases also addressed the imposition of taxes in parallel, or in addition, to corporation taxes. According to the plaintiff and the EC, these cases established that Article 4 of the PSD prohibits EU Member States from subjecting more than 5 percent of dividends distributed by subsidiaries to parent companies to *any form of taxation*, and therefore the scope of the PSD is not only focused on corporation taxes (or other comparable taxes). However, the AG rejected this interpretation, arguing that the two decisions concerned taxes different from IRAP. Instead, they dealt with situations where local corporate income tax was supplemented by an additional levy on redistributed dividends.

Based on the above, the AG concluded that the key issue is whether the IRAP functions as a corporation tax or a tax comparable to a corporation tax, or if it is instead a distinct tax. The AG emphasized that it is ultimately up to the Italian courts to conduct this comparability analysis, based on the nature of the IRAP and its object of taxation. The AG also noted that the CJEU had already ruled in case C-475/03 that the IRAP does not qualify as a second VAT. However, the AG pointed out that there are strong arguments supporting the view that the IRAP is a hybrid tax that is not comparable with a corporation tax. These arguments include, among others:

- The IRAP is not purely a corporate income tax, as the tax is levied even when a company incurs tax losses for corporate income tax purposes.
- The taxable base of the IRAP includes depreciation, taxing assets close to their value (i.e., without 90 percent of the depreciation incurred) – an approach more characteristic of wealth taxes than income taxes.
- The taxes rates are neither uniformly progressive (depending on ability to pay), nor uniformly linear (as is usual for corporation taxes); instead, there are different tax rates depending on the sector – an approach unusual for a tax on income.

The AG concluded by recommending that the CJEU finds that Article 4 of the PSD precludes the taxation of received dividends by the Member State of the parent company through an additional tax, such as IRAP, insofar as that tax is considered either a corporation tax or a tax comparable to a corporation tax. It is for the referring court to determine whether IRAP is comparable to a corporation tax.

EU Institutions

Key Insights

- Commissioner Hoekstra outlines the Commission’s tax priorities at the 2025 EU Tax Symposium
- Communication on Savings and Investments Union by the European Commission

European Commission

Commissioner Hoekstra outlines the Commission’s tax priorities at the 2025 EU Tax Symposium

On March 18, 2025, Commissioner Hoekstra delivered a keynote speech at the EU Tax Symposium co-organized by the EC and the European Parliament. Commissioner Hoekstra outlined the Commission's tax priorities, structured around three key themes:

- *Boosting competitiveness and the green transition*. In the short term, the EC will urge Member States to swiftly conclude negotiations on the Energy Taxation Directive and to implement the tax incentives recommended in the Clean Industrial Deal. In the medium to long term, efforts will focus on improving the business environment and ensuring a level playing field for European companies, with the proposed simplification of the Carbon Border Adjustment Mechanism (CBAM) given as an example.
- *Encourage efficient and effective taxation*. Commissioner Hoekstra welcomed the adoption of the VAT in the Digital Age (ViDA) package by Member States, but emphasized that more can be done to enhance tax administration efficiency in collecting VAT, excise duties, and corporate and personal income taxes. The Commissioner committed to regularly following up on these efforts in cooperation with Member States. Additionally, Mr. Hoekstra stressed the need for improved cooperation and better information-sharing between national tax administrations across the EU.
- *Promote fairness and transparency nationally and internationally.* Commissioner Hoekstra reiterated the EU’s commitment to Pillar Two and emphasize that the EU will continue to pursue this work diligently with Member States and international partners. In this context, the Commissioner highlighted the recent political agreement reached for the extension of the Directive on Administrative Cooperation to establish a framework for the exchange of Pillar Two information between Member States (DAC9) – see Euro Tax Flash Issue 558. With regards to the recent measures taken by the US administration, Commissioner Hoekstra emphasized that the EU supports cooperation with trading partners. However, if the EU will be hit by punitive measures, it “will hit harder”.

For more details, please refer to Commissioner Hoekstra’s speech.

Communication on Savings and Investments Union

On March 19, 2025, the European Commission adopted its communication on the "Savings and Investments Union: A Strategy to Foster Citizens' Wealth and Economic Competitiveness in the EU".

The communication aims to provide a strategic framework that encourages the effective alignment of all aspects of the EU financial system. Specifically, it includes initiatives and policy actions grouped in four workstreams: (1) citizens and savings; (2) investments and financing; (3) integration and scale; (4) efficient supervision in the single market. This new initiative draws on progress already made under the two Capital Markets Union Action Plans and the parallel efforts to develop the Banking Union.

The communication includes several tax aspects, as follows:

- *Actions to remove barriers to cross-border investments:* The FASTER Directive is recognized as a significant step towards reducing administrative burdens and barriers to cross-border investment – see also E-News Issue 204. However, the Commission acknowledges that additional obstacles remain due to differences in national taxation procedures. In this context, the EC provides a non-exhaustive example, suggesting that exploring a more harmonized EU approach to investment ownership and fund structures could be beneficial. To address these ongoing challenges, the Commission commits to: i) facilitating exchanges of best practices; ii) enforcing the free movement of capital and other EU freedoms and iii) issuing non-binding recommendations to Member States.
- *Savings and investments account:* The Commission will develop a European blueprint for savings and investments accounts or products for retail investors based on existing national best practices, including recommendations to Member States on the tax treatment for such investment accounts (by the third quarter of 2025).
- *The debt bias*: The EC acknowledges that the tax laws of multiple Member States continue to favor debt financing. In this context, the Commission notes that its proposal to address this imbalance – i.e., the DEBRA proposal, see Euro Tax Flash Issue 553, has not been take forward by the Council, nor have Member States introduced comparable initiatives at the national level. In the Commission’s view, the existing debt bias is in contrast with the objectives of the Savings and Investments Union, which aims to promote equity investments.

OECD and other International Organisations

Key Insights

- OECD update on investment tax incentives database

OECD

Update on investment tax incentives database

On March 19, 2025, the OECD released the 2024 update of its investment tax incentives database, providing insights in respect of 667 tax incentives across 70 economies in Europe and Central Asia, Latin America and the Caribbean, the Middle East and North Africa, South and East Asia and Sub-Saharan Africa. The report provides details on how corporate income tax (CIT) incentives are designed, targeted and granted to attract investment. Key insights include:

- *Commonly applied incentives:* According to the report, tax exemptions are the most common CIT incentive instrument (applied in 89 percent of the covered jurisdictions) followed by tax allowances and reduced CIT rates (71 percent and 67 percent, respectively). Tax exemptions are commonly granted as full relief on all income (91 percent of the analyzed exemption measures) rather than targeting specific qualifying income. The report further notes that tax exemptions are generally granted on a temporary basis (77 percent of analyzed exemption measures), whilst, for example, the reduction of CIT rates is generally used as a permanent measure.
- *Tax credits:* The report notes that tax credits are less frequently used by jurisdictions in the database (33 percent of all economies in the database). According to the report, only one out of the 48 tax credits used across the 70 economies is considered refundable (i.e., the credit allows direct cash benefits in cases where the taxpayer is unable to fully utilize the tax credit – for example, in a loss situation).
- *Sector, regional or performance dependency:* The majority of covered jurisdictions (96 percent) apply a sector condition to at least one of their incentives. In addition, the covered jurisdictions commonly target investments in specific locations, including Special Economic Zones (80 percent) or incentives for investments in specific geographic regions (71 percent). In addition, 81 percent of covered jurisdictions apply performance-based eligibility criteria (e.g., creating a minimum number of jobs or exporting a minimum share of sales) to at least one of their incentives.

For more information on the interaction between Pillar Two and tax incentives, please refer to our dedicated article.

Local Law and Regulations

Key Insights

- Qatar implements Pillar Two global minimum taxation rules
- Bulgaria and the UK adopt amendments to Pillar Two legislation,
- Liechtenstein and Sweden publish draft amendments to Pillar Two legislation
- Finland releases guidance on the Minimum Tax Act
- Switzerland issues guidance on the treatment of permanent establishments for Swiss minimum tax purposes
- Denmark launches consultation on draft bill to expand interest withholding tax relating to controlled debt
- Germany publishes fact sheet on the German WHT anti-treaty shopping rule and final guidance on the German interest deduction limitation rules
- Poland updated the Polish list of non-cooperative jurisdictions and publishes general ruling on notification requirements for intermediaries under Polish mandatory disclosure

Bulgaria

Amendments to Pillar Two law enacted

On March 27, 2025, the Bulgarian State Budget Law was published in the Official Gazette. The law introduces several amendments to the Bulgarian Pillar Two legislation, which has been in effect since January 1, 2024.

Key takeaways include:

- *Safe Harbours:* the legislation introduces several amendments to the transitional Country-by-Country (CbyC) Reporting Safe Harbour to reflect the OECD December 2023 Administrative Guidance. This includes the anti-hybrid arbitrage rules that would apply to transactions entered into after December 18, 2023. The legislation also includes the transitional UTPR Safe Harbour.
- *Domestic Minimum Top-Up Tax (DMTT):* the legislation amends the accounting standard that must be used for DMTT purposes, providing that DMTT must be based on the local accounting standard if certain conditions are met (in line with the OECD July 2023 Administrative Guidance). A tie-breaker rule is provided in case local constituent entities apply different accounting standards. The design of the DMTT remains otherwise unchanged and is generally aligned with the general GloBE rules. Note, however, that the Bulgarian DMTT departs from the general rules in certain aspects allowed for under the OECD QDMTT guidance (e.g., application of the substance-based income exclusion limited to eligible tangible assets). On January 15, 2025, the DMTT in Bulgaria was awarded the transitional qualified status and considered eligible for the QDMTT Safe Harbour.
- *Switch-Off Rule:* the law implements the switch-off rule with respect to the QDMTT Safe Harbour in accordance with the OECD July 2023 Administrative Guidance. The rule requires to (partly) switch-off the QDMTT Safe Harbour (i.e., apply the credit instead of the exemption method) in cases where, for example, a foreign QDMTT jurisdiction has opted to exclude investment entities or securitization entities from the scope of its QDMTT.
- *Additional OECD guidance:* the legislation introduces several other elements of the OECD Administrative Guidance (e.g., treatment of marketable transferable tax credits, changes for blended CFC regimes), as well as several elections (e.g., equity investment inclusion election).

For more information on local Pillar Two implementation, please refer to the KPMG BEPS 2.0 tracker in Digital Gateway.

Denmark

Public consultation regarding limited tax liability related to interest on controlled debt

On March 12, 2025, the Danish Ministry of Taxation published a draft bill for public consultation proposing an expanded application of withholding tax on interest payments made by foreign entities with limited tax liability in Denmark. Key takeaways include:

- Non-resident companies are currently subject to a 22 percent withholding tax on interest and royalty payments from Denmark where payments relate to controlled debt or an intangible asset that is allocable to a permanent establishment (PE) in Denmark. "Controlled debt" refers to situations where a loan is granted between related entities where the same shareholders directly or indirectly hold more than 50 percent of the shares or the voting rights.
- Based on the proposal, the scope would be extended to also cover cases where a non-resident entity receives interest payments from an affiliated non-resident real estate owner with respect to a loan that is allocable to Danish real estate.
- Certain exceptions to the application of the 22 percent withholding tax exist, for example, where the withholding tax rate is eligible for exemption under the Interest and Royalty Directive (Council Directive 2003/49/EC) or under a double tax treaty.
- It is further clarified that where the interest payment is made by a Danish authorized person, both the authorized person and the foreign entity are jointly liable for the withholding tax.

The consultation on the draft bill closed on March 26, 2025. It is proposed that the amendments enter into force on July 1, 2025.

Finland

Guidance on the Minimum Tax Act released

On March 10 and March 12, 2025, the Finnish Tax Administration released new guidance on the Minimum Tax Act. The Finnish Pillar Two legislation has been in effect since December 31, 2023, and was amended at the end of 2024 to incorporate further elements from the OECD Administrative Guidance.

The first set of guidance, released on March 10, highlights the key elements of the Finnish Minimum Tax Act, while the second set of guidance, released on March 12, provides additional clarifications on the general application of the Pillar Two rules, taking into consideration also the OECD June 2024 Administrative Guidance. Key highlights include:

- *Deferred tax liabilities (DTL) recapture*: The release introduces the guidance on the five-year recapture rule for DTLs, as per the OECD June 2024 Administrative Guidance. The other elements of the OECD June 2024 Administrative Guidance have not been addressed. However, a statement was included highlighting that the Tax Administration assumes that additional aspects may be transposed directly into the legislation.
- *Disclosure of deferred tax*: The guidance clarifies that pre-regime deferred tax assets (DTAs) and DTLs that relate to the transition year will be relevant for Pillar Two purposes irrespective of whether they are included in the separate financial statements of the entity or in the consolidated financial statements, or whether they are only disclosed in the notes to the local financial statements (in accordance with Finnish GAAP). The guidance does specify that all DTAs and DTLs must be reliably and consistently traceable to the relevant entity.
- *Prior-year adjustments*: The guidance clarifies the treatment of tax adjustments made before and after the filing of the GloBE Information Return (GIR). Where taxes relating to a prior period (e.g., 2024) are adjusted in a following period (e.g., 2025) before the GIR has been filed, the guidance clarifies that the adjustment must be reflected in the effective tax rate of the prior financial period (i.e., 2024). Where tax adjustments are booked after the filing of the GIR, the guidance clarifies that the regular rules on prior year adjustments apply (i.e., the rules equivalent to Article 4.6 of the OECD GloBE Model Rules). The guidance further clarifies that the rules on prior year adjustments are also applicable with respect to changes to uncertain tax positions.

For a previous coverage of the Finnish Minimum Tax Act, please refer to E-News Issue 205.

Germany

Fact sheet on the German WHT anti-treaty shopping rule published

On March 17, 2025, the German Federal Central Tax Office published an updated factsheet on withholding tax (WHT) relief for dividends under the German anti-treaty shopping rule (sec. 50d (3) German Income Tax Act), especially relevant for groups with non-EU higher-tier shareholders.

The factsheet outlines the German anti-treaty shopping rule, including the different criteria that need to be demonstrated to claim relief:

- *personal eligibility:* whether the same withholding tax relief would have been available to the parent entity of the dividend recipient if it had earned the income directly ("look-through" approach);
- *substance test:* whether the recipient engages in its own economic activity (beyond management of assets) and whether there is a material link between the dividend income and this economic activity;
- *main benefit test:* whether the dividend recipient has provided sufficient proof that none of the main purposes of the structure involving the dividend recipient is driven by a tax advantage. In other words, if one of the reasons why the company receiving the dividends was interposed in the structure was to generate a tax advantage, the motive test can be denied by the German tax authorities;
- *stock exchange clause*: whether the dividend recipient is listed on a recognized stock exchange and whether there is regular trading in its main class of shares.

Key amendments compared to the previous version of the factsheet include:

- As regards the application of the look-through approach, the factsheet clarifies that where the direct recipient does not meet the anti-treaty shopping requirements, the relief would be assessed at the WHT rate under the applicable treaty between Germany and the jurisdiction where the eligible indirect shareholder is located. As such, the reduced WHT rate under the treaty with the indirect shareholder jurisdiction is relevant and not the benefit under the Directive/treaty with the direct shareholder jurisdiction.
- The factsheet further clarifies that the stock exchange clause can also be applied where an indirect 100 percent shareholder of the dividend recipient is publicly traded. However, this would require that the publicly traded shareholder and every entity in the shareholding chain can benefit from an identical or lower WHT rate compared to that claimed by the dividend recipient. As such, the factsheet confirms the application of the look-through approach also for purposes of the stock exchange clause.

Note that the factsheet only refers to the WHT relief conditions in respect of dividend payments, i.e., the factsheet does not address the treatment of interest or royalty payments.

Final guidance on the German interest deduction limitation rules published

On March 24, 2025, the German Ministry of Finance published the final guidance on the application of the German interest barrier rules, which have recently been aligned with the EU Anti-Tax Avoidance Directive (ATAD) – see E-News Issue 189 for previous coverage.

The German interest deduction limitation rule limits the tax deductibility of net interest expenses to 30 percent of the tax EBITDA (unless the amount of net interest expenses is less than EUR three million). Unused interest can be carried forward under certain conditions.

The guidance contains various clarifications and examples regarding the application of the interest limitation rules, including:

- clarifications and examples in respect of the term 'loan' (e.g., profit-participating loans, typical silent partnerships, profit-sharing bonds and other profit-participation rights, which are classified as debt for income tax purposes);

- clarifications and examples in respect of the terms 'interest expense' and 'interest income' (e.g., borrowing costs as defined in Article 2 (1) ATAD, expenses relating to discounting and compounding, expenses for interest rate swaps, indemnities for early repayment of loans, and commitment interest);
- clarifications on the treatment of transparent entities, fiscal unities and public private partnerships for purposes of applying the interest limitation rule;
- clarifications on the requirements, application and limitations of exceptions to the interest limitation rule (e.g., standalone clause, group equity ratio test).

Liechtenstein

Draft amendments to minimum tax rules (under Pillar Two) published

During its meeting on March 18, 2025, the Liechtenstein government approved a draft bill proposing changes to the Law on Minimum Taxation for Large Enterprise Groups, referred to as the "GloBE Act." For previous coverage, please refer to E-News Issue 206.

Key takeaways from the draft bill include:

- Amendment of the GloBE Act section on automatic information exchange to align with the Multilateral Competent Authority Agreement on the Exchange of GloBE Information ("GIR MCAA"), released by the OECD/G20 Inclusive Framework on January 15, 2025. For more details on the GIR MCAA, please refer to the report prepared by KPMG International.
- Introduction of a new registration requirement for Liechtenstein-based Constituent Entities that will submit the GloBE Information Return, with a registration deadline set at 15 months after the fiscal year ends (see Article 14a of the draft bill). This proposal would be in addition to the existing requirement in Article 5 para. 3 of the ordinance, which mandates all local Constituent Entities and local excluded entities to register within six months after the end of the fiscal year during which the group is subject to the GloBE Model Rules.
- Lastly, amendments also include clarifications on the taxpayer's obligations to provide information and cooperate in the context of enquiries or inspections by the tax administration (refer to Article 14e of the draft bill).

For more information, please refer to the following press release.

Poland

Polish list of non-cooperative jurisdictions updated

On March 8, 2025, the Polish Ministry of Finance published and updated version of the Polish list of non-cooperative jurisdictions, which now includes jurisdictions considered non-cooperative by the EUand which were not previously included on the national tax haven list, namely: Fiji, Guam, Palau, Trinidad and Tobago, the Russian Federation and American Samoa. For previous coverage on the Polish national tax haven list, please refer to E-News Issue 207.

Note that different national tax defensive measures are applied depending on whether a jurisdiction is included on the national tax haven list or on the Polish list of non-cooperative jurisdictions. Defensive measures may include CFC taxation, 19 percent tax on shifted profits, limitation of participation exemption, broader scope of withholding taxation, DAC6 / mandatory disclosure rules reporting and increased Transfer Pricing documentation.

For more details on defensive measures adopted by EU Member States against non-cooperative jurisdictions, please refer to the dedicated report from KPMG's EU Tax Centre.

General ruling published on notification requirements for intermediaries under Polish mandatory disclosure rules

On March 12, 2025, the Polish Ministry of Finance published a general ruling on the application of the Polish mandatory disclosure rules with respect to the notification requirements for intermediaries subject to legal professional privilege (LPP) under Polish mandatory disclosure rules (MDR).

Whilst the MDR provisions introduced in Poland incorporate the requirements of EU Directive 2018/822 (DAC6) into Polish law, the legislation extends beyond the minimum requirements imposed by DAC6 to cover a wider scope of potentially reportable arrangements (i.e., including reporting requirements for domestic arrangements).

The general ruling clarifies that intermediaries are not required to disclose arrangements to the tax authorities under DAC6 where they benefit from LPP. In line with the CJEU decision of December 8, 2022, the ruling further clarifies that LPP intermediaries are only required to notify clients about their reporting obligations, regardless of whether the client is considered to be a relevant taxpayer or intermediary (i.e., intermediaries are not required to notify other intermediaries that are not considered clients).

Furthermore, the ruling clarifies that the LPP relief applies to all intermediaries that, due to their profession,may be authorized to provide legal representation for their clients. Under Polish law, such right is available not only to attorneys and legal advisers, but also to tax advisers and patent attorneys (in intellectual property matters). This clarification follows the previous Polish Supreme Court decision (see E-News Issue 199). Note that the CJEU decision of July 29, 2024, had previously decided to limit the relief to the profession of lawyer[3] without extension to other professionals that might also be authorized to provide legal representation. For more information, please refer to Euro Tax Flash Issue 554.

For our previous coverage on anticipated amendments to the Polish MDR, please refer to E-News Issue 207.

Qatar

Qatar implements Pillar Two global minimum taxation rules

On March 27, 2025, Law No. 22 of 2024 was published in the Official Gazette of Qatar introducing an Income Inclusion Rule (IIR) and a DMTT.

Key takeaways include:

- *IIR and DMTT:* The legislation closely aligns with the OECD Model Rules and introduces an IIR and DMTT for fiscal years starting from January 1, 2025. The UTPR is not included in the legislation.
- *OECD Administrative Guidance:* The legislation states that the rules shall be interpreted and applied in accordance with the OECD Model Rules, and the related Commentary and OECD Administrative Guidance, including the Safe Harbour provisions. Whilst Safe Harbours are not yet specifically introduced, the legislation does include the transitional penalty relief, as per the Safe Harbour provisions.
- *Interaction with other tax laws:* The legislation clarifies that the new minimum tax provisions shall apply notwithstanding any conflicting rule in any law in force in the state, meaning that entities in scope of the new minimum taxation rules and benefitting from current preferential tax regimes such as the Qatar Financial Centre (QFC), Qatar Science and Technology Park (QSTP), or the Qatar Free Zones (QFZ) could become subject to top-up tax.
- *Penalties:* The legislation provides several penalties for non-compliance with the legislation. A delay in filing of the IIR and DMTT returns will result in a penalty of QAR 500 (approximately EUR 130) per day, capped at QAR 180,000 (approximately EUR 46,000). Late payment of top-up tax will result in a 2 percent monthly penalty, up to the amount of top-up tax due. A penalty of QAR 20,000 (approximately EUR 5,000) will occur for failing to register or to file a notification. Additional penalties include QAR 30,000 (approximately EUR 7,500) for failing to maintain or present

[3] Directive 98/5/EC to facilitate practice of the profession of lawyer on a permanent basis in a Member State other than that in which the qualification was obtained, as subsequently amended.

records, up to QAR 72,000 (approximately EUR 18,000) for providing incomplete information (QAR 200 (approximately EUR 50) for each missing document), and QAR 100 (approximately EUR 25) for each document containing incorrect or incomplete information (with a maximum of QAR 10,000 (approximately EUR 2,500) for each registration, declaration, notification of request).

Further details are expected to be released as part of Executive Regulations.

Sweden

Public consultation on additional amendments to Swedish Top-up Tax Act

On March 20, 2025, the Swedish Ministry of Finance published a memorandum for public consultation proposing additional amendments to the Swedish Top-up Tax Act. The Swedish Pillar Two legislation has been in effect since December 31, 2023 and was first amended in December 2024 to incorporate certain elements from the OECD Administrative Guidance issued between February 2023 and June 2024 (for more information, please refer to E-News Issue 205).

The latest amendments aim to introduce into the existing legislation additional elements of the OECD Administrative Guidance published in June 2024. Key takeaways include:

- *OECD June 2024 Administrative Guidance*: The memorandum proposes to introduce the latest OECD June 2024 Administrative Guidance on the allocation of cross-border current and deferred taxes, as well as on the allocation of profits and taxes in structures such as flow-through entities, hybrid entities, and reverse hybrid entities. The memorandum also specifies that no further amendments are necessary with respect to the guidance on the five-year recapture rule on deferred tax liabilities.
- *Securitization entities*: In line with the OECD June 2024 Administrative Guidance, the memorandum also proposes an amendment to allocate any DMTT liability arising from securitization entities on other group entities located in Sweden. If there are no other non-securitization entities in Sweden, the top-up tax liability would remain with the securitization entity.
- *Clarifications for Joint Ventures (JV)*: Under current legislation, the top-up tax liability arising from a JV under the DMTT in Sweden is generally allocated to constituent entities of the main group. In line with the OECD July 2023 Administrative Guidance, the memorandum proposes to reduce the DMTT liability by 50 percent at the level of each JV owner in cases where the full DMTT liability would be allocated to each of the main groups of the JV owner (i.e., resulting in a DMTT liability of 200 percent overall).

Comments are due by May 26, 2025. The memorandum proposes that changes would apply from January 1, 2026, with an option to apply the new provisions to tax years that start after December 31, 2023.

Switzerland

Guidance issued on the treatment of permanent establishments for Swiss minimum tax purposes

On March 18, 2025, the Swiss Federal Tax Administration issued guidance on the treatment of permanent establishments under the Swiss DMTT and IIR regulations. Key takeaways include:

- In line with Article 1.3 of the GloBE Model Rules, the Swiss Ordinance on the Minimum Taxation considers a permanent establishment as a separate constituent entity from its main entity, if the entity belongs to the same group. The guidance clarifies that, under Swiss law, permanent establishments do not have legal personality and are not considered to be subject to tax. Instead, the main entity is responsible for any legal or procedural obligation with respect to the PE's activity.
- As a result, the guidance clarifies that Swiss permanent establishments will not be subject to the administrative requirements for Swiss DMTT and IIR purposes (e.g., registration, filing). Similarly, Swiss permanent establishments will not be held liable for any Top-up Tax liability. Instead, the foreign main entity will be responsible to comply with the administrative requirements and will be held liable for any Top-up Tax liability triggered by the Swiss permanent establishment.

- The obligation of the main entity does not, however, alter the concept of jurisdictional blending as well as the allocation of profits and taxes.

For more information on local administrative requirements under Pillar Two, please refer to the KPMG BEPS 2.0 Tracker in Digital Gateway.

United Kingdom

2025 Finance Act enacted including changes to UK Pillar Two legislation

On March 21, 2025, the Finance Act 2025 received Royal Assent, introducing several changes to the UK Pillar Two legislation.

Key highlights include:

- *Undertaxed Profits Rules (UTPR):* The new law introduces a UTPR for accounting periods starting on or after December 31, 2024. The UTPR would be collected in form of an additional top-up tax levied directly on UK constituent entities in an amount equal to the UTPR top-up tax amount allocated to the UK. An election is available that allows a group to identify a single constituent entity liable for the entire UK portion of the UTPR top-up tax.
- *Safe Harbours:* The law introduces the transitional UTPR Safe Harbour. Furthermore, new amendments to the transitional CbyC Reporting Safe Harbour incorporate the anti-hybrid arbitrage rules as per the OECD December 2023 Administrative Guidance (for transactions entered into on or after December 16, 2022),and would apply for disqualified tax expenses attributable to profits accruing on or after March 14, 2024.
- *Additional OECD guidance:* Several new elements from the OECD December 2023 and from the June 2024 Administrative Guidance have been incorporated.

Most provisions introduced by the Finance Act would apply retroactively for financial years starting on or after December 31, 2023 (e.g., removal of election for SBIE purposes, anti-hybrid arbitrage rules), while others apply for financial years starting on or after December 31, 2024 (unless an election has been made by the filing entity to apply it retroactively).

For previous coverage, please refer to E-News Issue 206.

Local courts

Key Insights

- German Federal Constitutional Court confirms constitutionality of solidarity surcharge
- Dutch Supreme Court decision on the Dutch liquidation loss relief

Germany

German Federal Constitutional Court confirms constitutionality of solidarity surcharge

On March 26, 2025, the German Federal Constitutional Court ruled in case 2 BvR 1505/20 that the continued imposition of the solidarity surcharge (Solidaritätszuschlag) remains constitutional.

The solidarity surcharge is an additional tax in Germany, originally introduced in 1995 to help finance the costs of the German reunification. While it has been largely abolished for most income taxpayers in Germany since 2021, the tax is still levied on corporate tax, and on income subject to capital gains tax — at a rate of 5.5 percent, calculated on the amount of the respective tax liability.

The Court acknowledged the federal government's ongoing financial needs related to the German reunification, noting that these additional demands have not yet ceased. However, it emphasized that such a supplementary tax should not be levied indefinitely, imposing a monitoring obligation on the legislature to assess the persistence of the financial need. Once the additional financial requirement ceased to exist, the surcharge could become unconstitutional in the future.

Netherlands

Supreme Court decision on the Dutch liquidation loss scheme

On March 21, 2025, the Dutch Supreme Court ruled on the Dutch liquidation loss scheme, specifically addressing the condition that a Dutch taxpayer cannot deduct a liquidation loss on a participation in a liquidated entity if there is still a possibility for loss relief for tax losses remaining at the level of the liquidated entity.

Under the Dutch participation exemption regime, capital losses on participations are generally non-deductible. However, an exception exists pursuant to the Dutch liquidation loss rules, which allows a parent company to recognize a capital loss under specific conditions once the subsidiary’s losses can no longer be offset within the group (the so-called ‘liquidation loss scheme’). The amount that the parent company can claim as a deductible liquidation loss is determined as the difference between the acquisition price (including any formal and informal capital contributions) and any liquidation payments received. One of the conditions of the liquidation loss scheme is that a liquidation loss cannot result in a deduction at the level of the parent entity if there is still a factual possibility for loss relief (for the losses suffered by the dissolved entity) at the level of the dissolved entity or another group company (the no-loss relief requirement).

The plaintiff is a Dutch company that held shares in an Irish company. In previous years, the Irish company applied the Irish group relief regime, based on which losses incurred in a financial year were transferred to Irish group companies in a profitable position. In 2013, the Irish company was liquidated. At that time a significant amount of unsettled tax losses remained, which could no longer be used for loss relief after the liquidation. The plaintiff claimed a liquidation loss in its 2013 Dutch corporate income tax return. However, the Dutch tax authorities denied the claim, arguing that the ‘no-loss relief requirement’ was not met. In their view, the fact that a group relief was applicable in Ireland constituted a remaining right to loss relief for the unsettled tax losses of the liquidated entity.

The Supreme Court noted that the liquidation loss scheme can only be applied once it has been established that the remaining losses of the liquidated subsidiary can no longer be taken into account for loss relief by the Dutch parent company or another group entity. Moreover, the Supreme Court held that the assessment of requirement must be made at the time the liquidation of the dissolved entity is completed. In the case at hand, the Supreme Court concluded that the ‘the no-loss relief requirement’ was met. In the Court’s view, the possibility to apply the Irish group relief regime prior to the liquidation does not impact the conclusion, as this would not be in line with the purpose and intent of the liquidation loss scheme. The Supreme Court acknowledged that this could lead to double loss relief in certain situations, but noted that this outcome is a result of the way the rules were designed by the legislator. In that regard, the legislator chose not to transfer any remaining tax losses of the dissolved subsidiary as a liquidation loss to the parent company, but instead to allow relief for the capital loss suffered by Dutch parent company on its investment. As a result, the amount of remaining unsettled losses of the subsidiary at the time of its liquidation is, according to legislative history, not related to the liquidation loss to be taken into account at the parent company.

EU public county-by-country reporting (CbyC) reporting – a new era for tax transparency webcast – April 22, 2025

The EU has made tax transparency mandatory for multinational groups with a qualifying European presence. Australia has gone a step further, requiring multinationals to disclose not only their CbyC reports to the public but also a description of the group's approach to tax. This is a game changer in the tax transparency landscape.

To explore these findings further, we would like to invite you to a global webcast where KPMG tax specialists will delve into the details of the new regulations. The team zoom in on the EU disclosure rules, including differences between EU-headquartered companies and non-EU headquartered companies, as well as the particularities of the Australian regime. This webcast aims to provide:

- An overview of the existing EU public CbyC reporting regulations
- Practical examples of implementation strategies and steps towards meeting the various local requirements
- Insights on lessons learnt from early adopter Romania: what did corporates do?
- An update on Australian public CbyC reporting and the overlap and differences with EU public CbyC reporting
- Insights into the state of play of tax transparency beyond the rules in force and future perspectives
- A solution to data challenges – KPMG's Tax Footprint Analyzer.

Please access the event page to register.

EU Tax Perspectives webcast – May 6, 2025

On May 6, 2025, a panel of KPMG professionals will explore the implications of today's geopolitical climate on EU tax policy, including the future of BEPS 2.0, EU simplification efforts, and recent developments in public CbCR and other direct tax initiatives.

The session will focus on:

- *Tax Policy:* The potential impact on EU tax policy of the current geopolitical climate, including considerations on the position of the US administration on international tax cooperation, the rise of tariffs, and the future of BEPS 2.0.
- *Simplification efforts:* The EU Competitiveness Compass, the European Commission work program and the EU tax decluttering and simplification agenda.
- *Tax transparency:* An update on EU Public Country-by-Country Reporting, including insights from the experience with reporting in Romania, where the first reports were due by December 31, 2024 and a discussion on key steps that in-scope MNEs should be taking now.
- *State of play of other EU direct tax files:* The Unshell Directive proposal, BEFIT Directive proposal, the Transfer Pricing Directive proposal, DEBRA Directive proposal.

Please access the event page to register.

Talking tax series

With tax-related issues rising up board level agendas and developing at pace, it’s more crucial than ever to stay informed of the developments and how they may impact your business.

With each new episode, KPMG Talking Tax delves into a specific topic of interest for tax leaders, breaking down complex concepts into insights you can use, all in under five minutes. Featuring Grant Wardell-Johnson, KPMG’s Global Head of Tax Policy, the bi-weekly releases are designed to keep you ahead of the curve, empowering you with the knowledge you need to make informed decisions in the ever-changing tax landscape.

Please access the dedicated KPMG webpage to explore a wide range of subjects to help you navigate the ever-evolving world of tax.

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