E-News from KPMG's EU Tax Centre

Key Insights of E-News Issue 208

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:

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CJEU

The CJEU rules that Belgium's restriction on using the dividend received deduction on intra-group transfers breaches EU law

On March 13, 2025, the Court of Justice of the European Union (CJEU or the Court) rendered its decision in case C-135/24. The case examines whether the combined application of Belgium's Dividend Received Deduction regime (DRD) and the Belgian tax consolidation system is compatible with the EU Parent-Subsidiary Directive (PSD). The case concerns a Belgian company (the Plaintiff) that received dividends from its subsidiaries in 2019. The Plaintiff was part of a Belgian tax consolidated group, and it also received an intra-group transfer, which was added to its tax base.

Under the Belgian rules implementing the PSD applicable at that time, dividends that were eligible for the tax benefits prescribed by the PSD were initially included in the tax base of the recipient company, followed by a 100 percent deduction – the so-called DRD. If the DRD exceeded the company's taxable base, the excess could be carried forward to future financial years.

Furthermore, the Belgian tax consolidation rules allowed in-scope Belgian companies to transfer part or all of their taxable profits to a group company that had incurred losses during the same tax period, under certain conditions. The transferred amount was included in the tax base of the recipient company. However, the Belgian law explicitly prohibited certain deductions, including the DRD, from being applied to intra-group transfers included in the tax base.

Due to the limitation described above, the Plaintiff was unable to fully deduct the dividends that would have otherwise been eligible for the PSD exemption. The CJEU recalled that the aim of the PSD is to ensure tax neutrality for profit distributions between subsidiaries and parent companies within the EU, by eliminating economic double taxation, whereby two different taxpayers are taxed with respect to the same income. Under settled case-law, the PSD does not allow Member States to impose additional conditions on the participation exemption prescribed by Article 4(1)(a) of the PSD beyond those explicitly stated in the Directive. In this context, the CJEU noted that that the interaction between the Belgian DRD regime and the tax consolidation regime could lead to an indirect taxation of dividends that would have otherwise qualified for the participation exemption under the PSD. Consequently, in the Court’s view, the regime under dispute does not ensure the tax neutrality of dividends and breaches the PSD. The Court also rejected Belgium’s plea that the dispute rules were permissible under Article 1(4) of the PSD, which allows Member States to introduce national provisions necessary to prevent tax evasion or abuse.

Based on these considerations, the Court concluded that the Belgian legislation was in breach of EU law.

For more details, please refer to Euro Tax Flash Issue 559.

The CJEU finds Polish tax exemption limited to externally managed investment funds in breach of EU law

On February 27, 2025, the CJEU gave its decision in case C-18/23. The case examined whether a Polish tax exemption granted only to externally managed non-resident investment funds is compatible with the free movement of capital under EU law.

Under Polish rules, all domestic funds set up under the Polish Law on investment funds are exempt for corporate income tax purposes. Subject to certain conditions, the Polish Tax Code also provides for a tax exemption with respect to Polish-generated income to open ended funds (UCITS) as well as other non-UCITS types of investment funds domiciled in an EU or EEA jurisdiction. One of the conditions is that the fund must be managed by entities authorized by the competent financial market supervisory authorities of the state where the managing entity is based (i.e., externally managed). It should be noted that, under Polish law, the establishment of internally managed investment funds is not permitted.

The plaintiff was an investment fund incorporated in Luxembourg and authorized by the Financial Sector Supervisory Commission in Luxembourg. The Fund was managed by its board of directors (i.e., internally managed). The Polish tax authorities refused to issue the advance tax ruling, arguing that only externally managed investment funds could benefit from the tax exemption, and that the plaintiff's management did not meet this requirement.

Contrary to the opinion of Advocate General (AG) Kokott, the Court concluded that the Polish legislation under dispute is contrary to EU law. The CJEU ruled that the EU free movement of capital precludes legislation of a Member State which grants a corporate tax exemption only to externally managed funds and denies the exemption to internally managed funds that are constituted in accordance with the legislation of another Member State.

For more details, please refer to Euro Tax Flash Issue 557.

Infringement Procedures and CJEU Referrals

Key Insights

- Spain referred to the CJEU over capital gains tax treatment of non-resident taxpayers
- Commission suspends CJEU referrals against four Member States for failure to notify the measures for transposing the EU Minimum Tax Directive
- Reasoned opinion sent to Spain on the withholding tax base for cross-border royalty payments

Infringement Procedures

Reasoned opinion sent to Spain on the withholding tax base for cross-border royalty payments

On March 12, 2025, the European Commission (the Commission or the EC) decided to send a reasoned opinion to Spain for failing to align its withholding tax rules on cross-border royalty payments with the EU freedom to provide services.

Under Spanish law, royalty income derived by non-resident taxpayers from Spanish sources is subject to withholding tax on the gross amount, with no possibility of deducting directly related expenses. In its press release, the EC noted that under settled CJEU case-law (C-290/04) Member States are allowed to tax cross-border royalty payments by retaining the tax at source even if they do not levy withholding taxes on purely domestic transactions. However, the same case-law requires that when a Member State applies such a tax, it must allow the deduction of directly related expenses when determining the taxable amount.

Spain has two months to reply and take the necessary measures to align its rules with EU law. If it fails to comply, the Commission may decide to refer the case to the CJEU.

For more details, please refer to the Commissions' March 2025 infringement package.

CJEU Referrals

Commission refers Spain to the CJEU over capital gains tax treatment of non-resident taxpayers

On March 12, 2025, the Commission announced its decision to refer Spain to the CJEU for failing to remedy a difference in treatment between resident and non-resident taxpayers with respect to capital gains taxes.

Under Spanish tax law, resident taxpayers can opt to defer capital gains tax when the payment for an asset transfer is deferred for more than one year or paid in instalments over an extended period. In such cases, the tax is paid proportionally as each instalment is received. However, non-resident taxpayers are taxed on an accrual basis, meaning the full capital gains tax is due at the time of transfer, regardless of when the payment is actually received.

The EC considers that this difference in treatment creates a significant cash flow disadvantage for non-resident taxpayers compared to residents, and therefore infringes on the free movement of capital.

The Commission had already issued a reasoned opinion to Spain on this matter on May 23, 2024. Since the Spanish authorities failed to take appropriate action to comply, the EC deemed their efforts insufficient and decided to refer Spain to the CJEU.

For more information, please refer to the European Commission's press release.

Commission suspends CJEU referrals against four Member States for failure to notify the measures for transposing the EU Minimum Tax Directive

On March 12, 2025, the Commission announced the deferral of cases against Cyprus, Poland, Portugal, and Spain, which had been brought before the CJEU for failing to notify the measures for transposing the EU Minimum Tax Directive. Although the cases remain active, they are now suspended pending the Commission's final assessment of the Member States' transposition of the Directive into their domestic legislation.

All EU Member States were required to bring into force the laws necessary to comply with the EU Minimum Tax Directive by December 31, 2023. However, by October 2024, Cyprus, Poland, Portugal, and Spain had not yet completed and notified their transposition measures. As a result, the Commission took formal action by referring these four Member States to the CJEU (for further details, please refer to E-News Issue 201). By the end of 2024, all four Member States had completed their transposition of the Directive.

EU Institutions

Key Insights

- Council adopts conclusions on a tax cluttering and simplification agenda and discusses the Omnibus package proposals aimed at reducing sustainability reporting and due diligence requirements
- Council reaches political agreement on DAC9 compromise text
- Commission releases Clean Industrial Deal communication and launches a consultation on new Clean Industry State Aid Framework proposal

Council of the EU

Council conclusions on a tax decluttering and simplification agenda

On March 11, 2025, the ECOFIN Council adopted conclusions setting a tax decluttering and simplification agenda with a view to contributing to the EU's competitiveness. Key takeaways include:

– The conclusions represent the Council's views and aim to guide the Commission on possible upcoming initiatives in the field of taxation, in the context of improving the EU's competitiveness and reducing administrative and reporting burdens whilst preserving the EU achievements in terms of combating tax fraud, evasion and avoidance.

– With respect to existing EU legislation, the Council conclusions call on the European Commission to reduce the reporting, administrative and compliance burdens and eliminate outdated and overlapping rules by reviewing pieces of regulation that aim to achieve similar objectives and that could therefore be considered redundant.

– In a first step, the Council conclusions propose that this process could take into consideration the review of the Directive on Administrative Cooperation (DAC), in particular in relation to reportable cross-border arrangements (DAC6), as well as the Anti-Tax Avoidance Directive (ATAD). The report detailing the conclusions from the DAC evaluation was due to be submitted to the European Parliament and the Council in early 2025 (still pending), whereas the finalization of the ATAD evaluation is scheduled for the fourth quarter of 2025 (as per the EC's 2025 work program).

– The Council conclusions further propose increased clarity of the tax legislation and a more consistent approach to the application of EU tax rules, for example by developing guidelines in close cooperation with Member States, where relevant.

– Finally, the Council conclusions note that the Commission should ensure that the principles of simplification and decluttering are applied in the development of any future legislative proposals and that the involvement of Member States should be increased when performing this exercise.

The Council conclusions call on the Commission to provide Member States with an initial report and envisaged work plan in respect of its tax simplification and decluttering agenda before the end of the third quarter of 2025.

For more information, please refer to Euro Tax Flash Issue 558.

Political agreement reached on DAC9 compromise text

On March 11, 2025, the ECOFIN Council also reached political agreement on a DAC9 compromise text introducing a framework for the exchange of Pillar Two information between EU Member States. Key takeaways include:

- The agreed compromise text introduces some changes compared to the initial proposal released on October 28, 2024. The final compromise text incorporates the latest standard template for the Globe Information Return (GIR) published by the OECD in January 2025 (the previous proposal made reference to the GIR template and explanatory notes that were published by the OECD in July 2023).
- The final compromise text provides that future updates to the Top-up tax information return (Annex VII) will be implemented through a new Council Directive each time a change is required. However, in order to recognize the importance of the commitment of all Member States that the standard Top-up tax information return should remain in line with the standard template of the GIR, the Council, together with the EC, agreed on a Council statement. According to this statement, the EC committed to tabling the necessary proposals to amend Section IV of the Annex VII in an expedited manner to align with relevant international developments, and the Council committed to acting swiftly to allow this alignment.
- According to the Council press release, it is therefore possible for the Council to formally adopt the Directive once legal linguistic revisions are completed. Once adopted by the Council, the Directive will enter into force on the day after its publication in the Official Journal of the EU.
- The agreed compromise text requires Member States to transpose the Directive into domestic law by December 31, 2025. The Directive will apply as from January 1, 2026, and the first exchange of information will occur no later than six months after the filing of the first top-up tax information return. For calendar year taxpayers, the first exchange will take place after their first filing deadline on June 30, 2026, with exchanges to be made by December 31, 2026, at the latest.

For more information, please refer to Euro Tax Flash Issue 558.

ECOFIN discussion on Omnibus simplification proposals

On March 11, 2025, the ECOFIN Council discussed the EC's Omnibus package proposals aimed at reducing sustainability reporting and due diligence requirements.

One of the proposals affected by these changes is the Corporate Sustainability Reporting Directive (CSRD), which may have a tax-related component for some entities. Depending on the specific facts and circumstances of each company, reporting on tax matters may be relevant for certain entities in scope of CSRD, provided that tax (as a sustainability matter) meets the double materiality assessment. For more details, please refer to KPMG's EU Tax Centre article.

All Member States expressed support for the general principle of simplification, and a large majority agreed with the so-called 'Stop the Clock' proposal, under which mandatory reporting under the CSRD would be postponed for two years for second- and third-wave companies. However, some jurisdictions raised concerns, noting that the CSRD had already been transposed into their national laws and that in-scope companies had already made efforts to comply with the new reporting requirements. They argued that this would undermine the level playing field across the EU. One Member State specifically requested that the EC suspend all infringement procedures against Member States for failing to meet the CSRD transposition deadline.

The European Parliament is expected to vote on the 'Stop the Clock' proposal in their plenary session on April 1, 2025.

For more information, please refer to Euro Tax Flash Issue 558 and an alert prepared by KPMG International.

European Commission

Clean Industrial Deal communication and consultation on new Clean Industry State Aid Framework proposal

On February 26, 2025, the EC published its Clean Industrial Deal Communication (the Communication), providing a comprehensive workplan for the development in the EU of a competitive, decarbonized industry.

Recommendations for tax incentives

According to the Clean Industrial Deal Communication, corporate tax policies are considered to be a key measure to reach the objectives of the Clean Industrial Deal and should be designed in a way to support a clean business case (i.e., instead of disadvantaging clean energy compared to fossil fuels).

As such, the Commission intends to issue recommendations for Member States to adopt tax incentives to support the Clean Industrial Deal. According to the Communication, this may include:

- shorter depreciation periods for certain technology assets, allowing businesses to quickly write off costs and benefit from tax incentives that offset high initial investments; and
- the use of tax credits for businesses in strategic sectors for the clean transition, to make it more financially attractive to invest in decarbonized practices.

The Communication further notes that the EC intends to integrate such instruments in its compatibility rules under the new Clean Industry State Aid Framework. In addition, it is indicated that these tax related measures will be paired with further actions to scale down and phase out fossil fuel subsidies.

According to the EC Communication, the recommendations to Member States regarding tax incentives are scheduled to be issued in the second quarter of 2025.

Consultation launched on Clean Industry State Aid Framework

The Clean Industrial Deal Communication further announced the Commission's intention to develop a proposal for a revised State aid framework with a view to further accelerate the roll-out of renewable energy, to deploy industrial decarbonization, and to ensure sufficient manufacturing capacity of clean tech. The EC launched a consultation on its proposal for a new Clean Industry State Aid Framework (CISAF) on March 11, 2025.

The draft CISAF aims to set out the conditions under which State aid for certain investments would be considered compatible with the internal market without unduly distorting competition. According to the EC release, the new proposed framework is intended to encourage Member States to set up aid measure (where appropriate) that further accelerate the roll-out of renewable energy, facilitate industrial decarbonization, and ensure sufficient manufacturing capacity of clean tech.

From a direct tax perspective, a key element of the CISAF proposal is allowing Member States to provide support in the form of qualifying tax incentives for the acquisition of clean technology assets required for the transition to a net-zero economy. Where the incentives are selective and therefore involve State aid, the CISAF proposal outlines the requirements for such aid measures to be considered compatible with the internal market. Based on the draft CISAF, qualifying incentives include accelerated depreciation and immediate expensing with respect to investments in equipment for the transition towards a net-zero economy, namely batteries, solar panels, wind turbines, heat pumps, electrolyzers, and equipment for carbon capture usage and storage (CCUS).

For more information, please refer to Euro Tax Flash Issue 556 and Issue 558.

OECD and other International Organisations

Key Insights

- OECD releases BEPS Action 14 MAP peer review results

OECD

BEPS Action 14 Mutual Agreement Procedure (MAP) peer review results

On March 4, 2025, the OECD released the latest BEPS Action 14 mutual agreement procedure (MAP) peer review results, documenting the effectiveness of dispute resolution under the BEPS package.

The latest update introduces 10 new peer review reports under the simplified process for Benin, Burkina Faso, Dominica, Grenada, Iceland, Montenegro, Peru, Saint Lucia, Samoa, and Senegal. This review process is designed to assist jurisdictions with limited experience in MAP to establish a strong MAP framework for future cases.

Key findings include:

- *Multilateral Instrument (MLI) Adoption:* Burkina Faso, Iceland, Peru, and Senegal have signed the MLI, with Burkina Faso, Iceland, and Senegal having already ratified the instrument. Bilateral negotiations are either ongoing or initiated for the remaining treaties.
- *MAP Case Resolution and Accessibility:* Iceland, Peru, and Senegal resolved their MAP cases within the targeted 24-month timeframe or have adequately resourced a competent authority. Dominica, Grenada, Montenegro, Saint Lucia, and Samoa had no MAP experience. However, these jurisdictions, along with Senegal, have policies ensuring access to MAP in all eligible cases.
- *Implementation of MAP agreements:* Dominica, Montenegro, Saint Lucia, Samoa, and Senegal ensure that MAP agreements can be implemented notwithstanding domestic time limits.
- *Guidance updates:* Iceland, Peru, and Samoa have published or issued their MAP guidance.
- *Peru MAP Procedure:* Peru has a documented bilateral notification/consultation process that they apply in cases when an objection is considered as being not justified by their competent authority.

For more information, please also refer to KPMG's Tax News Flash.

Local Law and Regulations

Key Insights

- Cyprus announces plans to increase CIT rate from 12.5 to 15 percent and to introduce new incentives
- Gibraltar introduces election to be solely taxed under the Pillar Two legislation
- Italy issues a decree on GloBE Information Return notifications and guidance on the application of the General Anti-Avoidance Rule
- Greece and Switzerland publish plans to introduce new incentives
- Iceland clarifies reporting requirements for digital platform operators
- Lithuania issues guidance on permanent establishment definition
- Netherlands designates class action on objections against high rate of late payment interest
- Poland publishes list of qualified status for Pillar Two purposes
- Romania increases withholding tax and reintroduces special tax on construction
- UK authorities publish updated guidance on R&D tax credits

Cyprus

Tax reform proposal includes increased CIT rate and tax incentives

On February 26, 2025, potential tax reform measures were proposed in Cyprus. The project is carried out in cooperation with the Economics Research Centre at the University of Cyprus, which presented the proposed reforms.

Key takeaways include:

- *Tax rate:* increasing the corporate tax rate from 12.5 percent to 15 percent for all companies.
- *Loss carry-forward:* extending, subject to certain conditions, the loss carry-forward period from five years to up to ten years.
- *Tax residency:* strengthening company tax residency criteria based on control and management.
- *IP box:* implementing a framework for intangible assets (IP Box).
- *Green and digital transformation:* enhancing deduction and depreciation options for skill upgrades and employee retraining accelerated depreciation. It is further proposed that losses from these measures can be carried forward without restrictions.
- *Abolishing the deemed dividend distribution regime:* abolishing the deemed dividend distribution regime, replacing it with a 5 percent withholding tax on actual dividend distributions by Cyprus tax residents domiciled in Cyprus (subject to a new anti-avoidance clause).

The recommendations are subject to further discussions with stakeholders, and any changes will only be implemented after legislative approval. The proposed measures are expected to be summarized in a report to be published in July 2025, to be followed by submission to the Parliament in September 2025. Some of the measures may take effect in 2025, while other measures are expected to be in place by 2026.

For more information, please refer to a report prepared by KPMG in Cyprus.

Gibraltar

Amended legislation introduces election to be solely taxed under Global Minimum Tax Act

On February 20, 2025, Gibraltar published an amendment to the Income Tax (Allowances, Deductions, and Exemptions) (Amendment) Rules 2025, providing Gibraltar parent entities the option to elect to be taxed exclusively under the provisions of the Global Minimum Tax Act 2024. The Global Minimum Tax Act was enacted in Gibraltar at the end of 2024 and introduces an Income Inclusion Rule (IIR) and a Domestic Minimum Top-up Tax (DMTT) from 2025 (for previous coverage, please refer to E-News Issue 205).

Under the amended rules, once the election is made and approved, the tax provisions of the Income Tax Act 2010 will no longer apply to the Gibraltar parent entity, or its constituent entities located in Gibraltar. Instead, these entities will be subject solely to the provisions of the Global Minimum Tax Act.

For more information on local registration, notification and filing requirements under Pillar Two, please refer to the KPMG BEPS 2.0 tracker in Digital Gateway.

Greece

Incentives for audiovisual projects

On January 16, 2025, the Greek government unveiled the "Cash Rebate Greece FTV" initiative incentivizing audiovisual production in Greece. The program offers a tax rebate of 40 percent on eligible production expenses, including salaries, equipment rentals, and location fees, capped at 80 percent of the total production cost.

For more information, please refer to a report prepared by KPMG Greece.

Finance Minister proposes tax incentives to strengthen the Greek capital market

On February 27, 2025, Greek Minister of National Economy and Finance launched a consultation on a new bill aimed at strengthening the Greek capital market. Among others, the bill proposes the introduction of tax incentives to attract angel investors and investments in SMEs:

- *Introducing SMEs to the regulated stock market:* 100 percent deductibility of expenses (caped at EUR 200,000) incurred by SMEs for listing on the regulated stock market.
- *Expansion of incentives for angel investors:* broadening the scope of the existing tax benefits for angel investors to investments in the alternative market. Under the scheme, investors can deduct an amount equal to 50 percent of their contribution from their taxable income.

The consultation ran until March 14, 2025.

Iceland

Update on timeline and manner for reporting income derived from digital platforms

With effect from January 1, 2025, reportable platform operators in Iceland are required to collect information on sellers and distributed income on their platforms and submit this information to Iceland Revenue and Customs. The reporting rules for platform operators are in line with the OECD's Multilateral Competent Authority Agreement (MCAA) on Automatic Exchange of Information on Income Derived through Digital Platforms (DPI-MCAA) signed by Iceland in November 2022.

In this context, Iceland's Tax Authority recently updated its website to provide the timeline and clarifying the manner in which income derived from digital platforms should be reported. According to the updated website, the deadline for submitting reports for income distributed to sellers in 2025 is January 20, 2026. In addition, the Tax Authority provided a pdf form for reportable platform operator notifications, e.g. for first registration of a reportable platform. Reportable Platform Operators in Iceland are required to notify Iceland Revenue and Customs about their platform within eight days from the date of the regulation entering into force or within eight days from the opening of the digital platform.

For our previous coverage, please refer to E-News [Issue 194](#).

Italy

Guidance on the application of the Italian general anti-avoidance rule

On February 27, 2025, the Italian Ministry of Finance published guidance on the application of the Italian general anti-avoidance rule (GAAR). Key takeaways include:

– The guidance clarifies the residual nature of the GAAR, i.e. it only applies as a backstop with respect to other provisions combatting tax fraud and evasion. The statutory GAAR can therefore only be invoked by the tax authorities if the tax benefits cannot be challenged based on other specific tax provisions (e.g., specific anti-avoidance rules).

– It is clarified that the burden of proof lies with the tax authorities to demonstrate the abusive nature of a transaction. For this, the tax authorities need to demonstrate that the transaction cumulatively meets the following abuse indicators:

  - the achievement of an undue tax advantage, meaning tax benefits obtained contrary to the purpose of the tax rules or the principles of the tax system;
  - the absence of economic substance of the transaction or sequence of transactions; and
  - that the transaction exclusively or essentially aims to achieve a tax benefit.

– It is clarified that the taxpayer may provide rebuttal proof, by demonstrating valid commercial reasons for the transactions performed.

– The guidance provides a distinction between abuse of law and legitimate tax savings emphasizing the taxpayer's freedom to choose among different options and tax consequences where those different options are provided for by law.

Ministerial Decree on GloBE Information Return (GIR) notifications

On March 6, 2025, Italy published the ministerial decree of February 25, 2025 in the Official Gazette. The decree introduces a GIR notification requirement for groups in scope of the Italian Pillar Two legislation to inform the Italian tax authorities about the identity and location of the entity submitting the GIR on behalf of other group members.

The decree also includes a notification template, requiring the following information:

– the name of the MNE group or large-scale domestic group;

– the tax code of the entity submitting the notification;

– information on the contact person;

– information on the Ultimate Parent Entity (UPE), such as the tax code, the jurisdiction of the UPE, and whether the GIR will be transmitted to the Italian Tax Authority via an exchange agreement;

– information on the Designated Filing Entity;

– information on the Designated Local Entity; and

– relevant reporting fiscal year.

The notification needs be filed no later than 15 months after the end of the fiscal year (18 months for the transitional year). The actual notification form and further details on the submission will be clarified by the revenue agency.

For more information on local registration, notification and filing requirements under Pillar Two, please refer to the KPMG BEPS 2.0 tracker in Digital Gateway.

Lithuania

Guidance on permanent establishment definition published

On December 16, 2024, the State Tax Inspectorate published guidance on the definition of a permanent establishment (PE). The guidance also includes various examples to clarify when a foreign entity is considered to have a PE in Lithuania. Key takeaways include:

- *Criteria for establishing a PE in Lithuania:* the guidance clarifies that in order for activities of a foreign entity operating in Lithuania to be recognized as a PE for Lithuanian tax purposes, the foreign entity should:
  - conduct business activities in Lithuania on a regular basis, or
  - conduct business activities through a dependent agent, or
  - utilize a construction site, construction, assembly or equipment-related facility for more than six months, or
  - utilize equipment or structures for the exploration or extraction of natural resources for more than six months.
- *Primacy of double tax treaties*: It is indicated that when determining whether a foreign entity has a PE in Lithuania, as well as whether a Lithuanian entity has a PE in a foreign jurisdiction, provided a double tax treaty exists with the respective foreign jurisdiction, the rules established in the double tax treaty prevail over Lithuanian domestic law.
- *Tax compliance*: the guidance further outlines the requirements for registering a PE of a foreign entity in the Register of Taxpayers in Lithuania and provides further clarifications on when a foreign entity must file tax returns in Lithuania, the tax base, the corporate tax rate, the calculation of taxable profits and the allocation of expenses to the permanent establishment.

For more information, please refer to a report prepared by KPMG in Lithuania.

Netherlands

Class action on objections against high rate of late payment interest

On February 7, 2025, the Dutch Deputy Minister of Finance decided to designate as a class action four categories of notices of objection against interest on tax due that had been charged (which is payable if a tax assessment is not requested on time or if a tax return is not filed on time and an amount in tax is payable).

The class action is a response to a significant number of objections against interest on tax due charged for corporate income tax purposes received by the Dutch tax authorities, following a judgement of a Dutch District Court of November 7, 2024. Late interest for corporate tax purposes applied at a rate of 8 percent at the time of the case and was increased to 9 percent from January 1, 2025. The rate has been subject to discussion, as it is not in accordance with commercial rates and it is higher than in the case of other taxes. In short, the District Court reduced the interest on tax due from 8 percent to 4 percent, as it found the percentage contrary to the principle of proportionality. During the same period, a 4 percent late payment interest rate applied to other taxes, such as personal income tax. The Deputy Minister of Finance is appealing this judgment before the Dutch Supreme Court, with proceedings ongoing.

The class action designated by the Deputy Minister of Finance relates to the high rate of late payment interest applying:

- as of October 1, 2020, for corporate income tax and withholding tax;
- as of January 1, 2022, for the temporary solidarity contribution (related to the 2022 excess profits of qualifying companies engaged in crude oil, natural gas, coal and petroleum refining activities);
- as of January 1, 2024, for the minimum tax; and
- as of January 1, 2025, on the share in the profit under the Mining Act.

The 'class action' designation means that all notices of objection, both submitted and those still to be submitted against the relevant interest on tax due, will be dealt with together. After the Dutch Supreme Court has ruled on the questions formulated by the Deputy Minister of Finance, a single judgment will be rendered on all the submitted notices of objection falling under the class action.

To participate in the class action, taxpayers must submit a notice of objection against the interest on tax due charged on tax returns and timely request a review of the interest on tax due charged on provisional assessments. After the notice of objection has been submitted, the outcome of the class action proceedings can be awaited.

For more information on the court case, please refer to a November 2024 report by KPMG in the Netherlands. For more information on the class action against interest on tax due, please refer to a February 2025 report prepared by KPMG in the Netherlands.

Poland

List of qualified status for Pillar Two purposes published

On February 12, 2025, the Polish Ministry of Finance published a notice listing the jurisdictions that have implemented a qualified DMTT and qualified IIR. The list also indicates which of those DMTTs are considered eligible for the QDMTT Safe Harbour.

The list follows the outcome of the transitional peer review process in form of a central record, which was published by the Inclusive Framework (IF) on BEPS on January 15, 2025.

For more information, please refer to a report prepared by KPMG in Poland. For previous coverage on the IF release, please refer to E-News Issue 205. For more information on the Polish Pillar Two rules, please refer to E-News Issue 204.

Romania

Increase of withholding tax and reintroduction of special tax on construction

On December 31, 2024, a bill amending the Tax Code was published in the Romanian Official Journal. The main changes include:

- *Withholding tax rate on dividends:* The withholding tax rate on dividends distributed to both residents and non-resident companies was increased from 8 percent to 10 percent for dividends paid after January 1, 2025.
- *Tax on special constructions:* A one percent tax on constructions (other than those qualifying as buildings) owned by legal entities as of the previous year's calendar year end, is reintroduced. The tax is payable in two installments.

For more details, please refer to a tax alert prepared by KPMG in Romania.

Switzerland

Canton of Lucerne announces plans to introduce Qualified Refundable Tax Credit

On March 10, 2025, the Swiss canton of Lucerne launched a consultation on plans to introduce new tax incentives in light of the implementation of Pillar Two.

According to the release, the canton envisages to enhance innovation and R&D by providing a tax credit with respect to the following type of expenses:

- 30 percent for R&D personnel (gross salary),
- 20 percent for investments (depreciation),
- 10 percent for contract research.

The tax credit would be designed to qualify as a Qualified Refundable Tax Credit (QRTC) for Pillar Two purposes and would be subject to an annual maximum amount to be set by the Cantonal Council. For 2026, the release expects a cap at CHF 160 million (approximately EUR 166 million).

According to the release, the consultation process will run until June 9, 2025, and the rules would come into force on October 1, 2026, at the earliest.

After the cantons of Grisons, Zug and Basel-Stadt, the canton of Lucerne is the fourth Swiss canton that has published a proposal for the introduction of incentives aligned with the Pillar Two rules.

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

United Kingdom

HMRC published updated guidance on R&D tax credits

On February 27, 2025, HMRC published updated guidance on qualifying expenditure and subcontracted activities in relation to the research and development (R&D) tax relief, to reflect HMRC's view on recent case-law. Key takeaways include:

- In recent case law ([2024] UKFTT 00951 (TC) and [2024] UKFTT 001059 (TC)), HMRC denied claims to R&D tax relief by subcontractors on the basis that their R&D expenditure was subsidized, by arguing that the expenditure was met directly or indirectly by another person, and the R&D work had been contracted out to these subcontractors. In these cases, in line with earlier case law from the First-tier Tribunal (FTT), HMRC concluded in short:
  - with regard to the 'subsidy' condition that, if the expenditure was to be treated as subsidized, there had to be a "clear link" between the payment received from the third party and the R&D expenditure; and
  - with regard to the 'contracted out' condition that there should be an agreement between the subcontractor and the principal that R&D activities are to be carried out by the subcontractor on behalf of the principal.
- The guidance states that the expenditure incurred by a subcontractor company in carrying out activities contracted to it by another person is not qualifying expenditure for the R&D tax relief. This to prevent both parties from claiming R&D tax relief for the same activities.
- Whether activities are subcontracted should be assessed on a case-by-case basis. In this regard, not only the terms of the contract between the subcontractor company and the principal, but also other correspondence, agreements or the specific facts of the case may be relevant. The guidance states that although there are no tests to demonstrate that activities were contracted out to a subcontractor company, the following factors may be considered:
  - If the R&D is incidental to the supply of a product or service, it is not contracted out;
  - if the company has a limited degree of autonomy, R&D is more likely to have been contracted out;
  - if the subcontractor company has limited financial risk in undertaking the work;
  - whether or not the subcontractor company retains (access to) the intellectual property arising from the R&D project.
- It is also noted that under the SME scheme, a company may contract out part or all of the R&D activities. As there are various possible contractual arrangements, the question whether the R&D has been subcontracted should be assessed on a case-by-case basis.

For more information, please refer to November 2024 report and December 2024 report prepared by KPMG in the UK.

Local courts

Key Insights

- French Supreme Court rejects retroactive entry into force of exit tax

France

Supreme Administrative Court rejects retroactive entry into force of exit tax

On February 5, 2025, the French Supreme Administrative Court (Conseil d'État) issued a ruling with regards to the retroactive application of exit tax to individuals who transferred their residence out of France before May 11, 2011.

The case was initiated by a taxpayer who moved from France to Belgium on April 15, 2011. At that time, no exit tax was in force. The tax was later introduced through an amending finance law, presented by the Government on May 11, 2011, and formally adopted on July 29, 2011. However, the law applied retroactively to transfers of residence dating back to March 3, 2011 – the date when the Budget Minister publicly mentioned the possibility of reintroducing an exit tax. A similar tax had previously been in place in France between 1998 and 2004.

The Court ruled that this retroactive application was not compliant with EU law. The Court emphasized that general principles of EU law, including the protection of legitimate expectations and legal certainty, apply to exit tax measures affecting the freedom of establishment. The Court referred to settled CJEU case-law – i.e., case C-376/02, based on which retroactive tax measures are compatible with EU law only if taxpayers were warned about the upcoming change. In the case at hand, the Court found that the Budget Minister’s remarks on March 3, 2011, were speculative and did not constitute an official announcement. In the Court’s view, the first formal indication of the exit tax’s introduction was on May 11, 2011, when Parliamentary discussions on the amending finance bill began.

In light of the above, the Court concluded that applying the exit tax to individuals who moved abroad between March 3, 2011, and May 11, 2011, was unlawful. Affected taxpayers may seek refunds or annulments of the exit tax assessed on their relocation.

The ruling is final and cannot be appealed.

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.

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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Key links

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