# International Tax News

Edition 112

Start

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# Welcome

Keeping up with the constant flow of international tax developments worldwide can be a real challenge for multinational companies. International Tax News is a monthly publication that offers updates and analysis on developments taking place around the world, authored by specialists in PwC's global international tax network.

We hope that you will find this publication helpful, and look forward to your comments.

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# In this issue

# Legislation

## Netherlands (the)

### Dutch Budget proposes tax changes, increased burdens related to $CO_2$ emissions

The Dutch government published the 2023 Tax Package, including proposed changes to Dutch tax legislation that are envisaged to take effect 1 January 2023. Against the backdrop of geopolitical developments resulting in significant inflation, the Dutch Government has focused on reducing the tax burden for individuals and households with low or medium income. The government envisages offsetting this reduction by a significant increase in the tax burden of high net worth individuals and director-shareholders/small entrepreneurs.

For more information see our PwC Insight.

For (larger) corporate taxpayers, the Package proposes limited changes to the corporate income tax system. However, for a specific group of companies that are subject to the Emission Trading System (ETS), there would be an increased burden related to their (future) $CO_2$ emissions. The government's proposals may be amended during parliamentary discussions.

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# Legislation

## Hong Kong

### Hong Kong proposes refinements to foreign source income exemption regime

The consultation launched by the Hong Kong SAR Government (the Government) on its proposal to refine Hong Kong's foreign source income exemption (FSIE) regime for passive income ended in mid-July. Afterwards, the government continued to actively engage in discussions with the community to convey messages, address questions and seek feedback.

Initially, different businesses, including both Hong Kong-headquartered and non Hong Kong-headquartered multinational enterprise (MNE) groups, expressed concerns about the proposed changes. As more questions are being clarified, it appears that many of these concerns are being addressed. In particular, it appears that Hong Kong's advantage as an effective place for setting up investment holding companies should not be significantly undermined by the proposed refinement.

For more information see our PwC Newsalert and related video.

Although the proposed refined regime is intended to prevent the use of 'shell entities' to benefit from tax exemption, it could be deemed to have a much wider impact, even for MNE groups with genuine commercial substance in Hong Kong. As the proposed refined regime does not seem to distinguish between offshore income earned passively and income earned through active operations, if the latter falls within the list of in-scope offshore passive income, the results could be unpredictable.

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# Legislation

## Mexico

### Mexico approves the OECD MLI affecting 55 tax treaties

The Mexican Senate approved the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (MLI) on 12 October 2022 . If the instrument of ratification is deposited before October ends, the MLI will enter into force in February 2023 and therefore highly likely that it will be effective 1 January 2024 for Mexican tax purposes.

Of the 61 tax treaties that Mexico has in force and in effect, 55 are considered Covered Tax Agreements (CTA) under the MLI. The current content of those treaties now will be reformed by the provisions of the instrument that incorporate general anti-abuse rules (GAAR) and other measures in line with the OECD BEPS project, including rules on hybrid mismatches, permanent establishments, and treaty abuse (in conjunction with a principal purpose test). Note that, according to the Ministry of Foreign Affairs, Mexico will now have additional rules to limit or even deny tax benefits in the context of situations that contravene the MLI's purpose.

For more information see our PwC Insight.

Mexican taxpayers, as well as multinationals doing business in Mexico, should assess the potential impacts that the MLI provisions will have in their tax analysis for the application of a tax treaty between Mexico and signatories of the instrument. Taxpayers should evaluate the impact based on the elections made by Mexico and the other jurisdiction to the articles of the MLI for purposes of their covered tax agreement. The risk of not complying with the MLI provisions could be the loss of treaty relief, including the inability to access the treaty and its overall benefits.

The structures and transactions that are commonly a red flag for the Mexican tax authorities are:

- Cross-border payments (e.g., royalties, services, technical assistance, etc.)
- Financing structures
- Holding structures for investment in Mexico
- Permanent establishments
- Reorganizations and transfer of Mexican subsidiaries

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# Legislation

## Spain

### Spain proposes taxes on banking and energy sectors

The Spanish political parties in the government proposed a draft legislation on 28 July that would impose temporary windfall taxes on banks and energy companies in order to raise EUR 7 billion over two years.

The proposal calls for energy companies with EUR 1 billion or more in revenue in 2019 to pay a 1.2% tax on total income. Energy companies with less than 50% of its income from energy sales would be exempt.

Banks with net interest income and fee revenues of at least EUR 800 million in 2019 would be liable for a 4.8% tax over commissions and net interest.

The new tax on energy companies is estimated to generate more than EUR 2,000 million per year. The new tax on banks is estimated to raise more than EUR 1,500 million per year.

Under the draft legislation, these taxes would not be deductible for Corporate Income Tax purposes. In addition, the proposal creates a penalty for companies and banks that pass on the cost of the tax to customers and users. The penalty equals 150% of the amount charged.

The proposal must be processed in the Congress of Deputies. If it is approved, the taxes would apply to years 2023-2024.

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# Legislation

## Spain

### Spain's draft general state budget law introduces new CIT measures

The Spanish Government announced on 29 September a set of tax measures included in the draft General State Budget Law for 2023. The measures are aimed at companies, wealthy individuals, entrepreneurs and lower-income households. The draft General State Budget Law, which is still pending approval, will introduce changes to certain rules of the Spanish corporate income tax (CIT) Law:

- According to the Ministry of Finance, a new limitation on the offsetting of Net Operative Losses (NOLs) is going to be introduced to the tax consolidation regime. The Draft Law limits the possibility of offsetting losses in tax consolidated groups to 50%. The Ministry stated that this measure does not imply an increase in the tax levied, but rather a deferral in the compensation of NOLs. The government has also announced that this will be a temporary measure only affecting fiscal years 2023 and 2024.
- The other proposed measure is a reduced CIT rate for small companies with net turnover of less than EUR 1 million. These companies would benefit from a reduced rate of 23% (currently 25%).

Once the final version of this Law is available, companies should undertake a deeper analysis of the tax measures and their consequences.

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# Legislation

## Switzerland

### Swiss withholding tax on Swiss bonds remains in effect

In general, Switzerland levies a federal withholding tax (WHT) of 35% at source on the gross amount of dividend distributions by Swiss companies, interest on bonds, and similar indebtedness paid by Swiss issuers, certain distributions of income by Swiss investment funds, and interest payments on deposits with Swiss banks.

Generally, the debtor of the taxable income payment (e.g., dividends, bond interest) is liable for the tax and is required to withhold the amount due. Relief, if any, is generally granted by refund provided that the respective earnings are properly declared for purposes of income taxation. With respect to dividends between qualifying related companies (usually at a minimum shareholding of 10% to 25%), a notification / reporting procedure may be requested instead of paying and then claiming back the WHT. For non-resident taxpayers, the WHT generally represents a final tax burden. Many of the tax treaties concluded between Switzerland and other jurisdictions contain a substantial reduction or full relief of WHT on dividends or interest. Royalty payments, management and service fees, and interest on loans (if not paid by a bank) are not subject to WHT in Switzerland provided the arm's length principle is met. The capital contribution principle allows the repayment of qualifying shareholders' capital contributions and the repayment of share premium without WHT deduction.

On 25 September 2022 the Swiss electoral voted against a Swiss WHT reform to eliminate Swiss WHT on interest on Swiss bonds. Hence the current legislation does not change and the current practice of the Swiss Federal Tax Authority is expected to remain. As a result of the WHT reform rejection, the 35% WHT applied to interest payments on Swiss domestic bonds remains in place. Multinationals may seek to reduce the Swiss WHT on the basis of the applicable tax treaty of the parties (reduction to 0% is possible depending on treaty).

The proposed change in the Securities Transfer Stamp Tax Law (exemption for transfer of shares with a minimum shareholding quota of 10% ) will also not be implemented as it was part of the same reform package and vote.

The vote has no influence on the amendment of the WHT ordinance which will enter into force on 1 January 2023. It allows in a Swiss local context (domestic group internal) to apply the notification procedure with a shareholding quota of 10% (previously 20%). In an international context the validity of the international notification procedure is extended from three to five years, and the minimum required shareholding quota is typically defined in the relevant tax treaty (where a tax treaty or an international agreement does not contain a minimum threshold, the threshold is lowered from 20% to 10%).

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# Legislation

## Switzerland

### Switzerland publishes draft Pillar Two ordinance for public consultation

The Swiss Federal Council, on 17 August, launched a public consultation on the draft ordinance laying out the material aspects of the Pillar Two implementation in Switzerland. Interested parties have until 17 November to submit comments to the Swiss administration.

The draft Federal ordinance would govern the main aspects of the Pillar Two implementation in Switzerland during a transition phase that begins 1 January 2024. As anticipated, the ordinance foresees an OECD-compliant introduction of the GloBE Rules - namely, the introduction of a Swiss Top-up Tax in the form of a Qualified Domestic Minimum Top-up Tax (QDMTT), an International Top-up Tax in the form of an Income Inclusion Rule (IIR), and an Undertaxed Payments Rule (UTPR).

The draft ordinance directly references the GloBE Model Rules, including the respective Commentary and the Implementation Framework that is scheduled to follow. In addition, certain Swiss-specific regulations have been added that, e.g., address the allocation of the Top-up Tax amount to a group's various Swiss companies/ branches (also if they are located in different cantons). Since the current draft is subject to public input (open through 17 November 2022), the ordinance still may be amended.

For more information see our PwC Insight.

> In addition to considering how the OECD's Pillar Two Model Rules would impact their global operations, concerned multinationals have time to consider how the Swiss draft rules could impact their business.

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# Legislation

## United Kingdom of Great Britain and Northern Ireland (the)

### UK fiscal event - how the mini-budget impacts multinational companies

The new UK Government's agenda to achieve economic growth was revealed on September 23, by the Chancellor of the Exchequer (Kwasi Kwarteng) in his 'fiscal event'. Whilst not a full Budget, he unveiled a host of tax changes that set out a fundamental change of direction for tax policy in the United Kingdom.

On tax policy, almost all the announced measures cut taxes on workers and businesses. In particular, the Chancellor announced the cancellation of the scheduled increase in the rate of Corporation Tax, whilst retaining the generous limits on various capital incentives which had been scheduled to fall. He also announced measures cutting across Stamp Duty, National Insurance, and Income Tax.

Following the adverse reaction of the financial markets to these measures, a number of these proposals were withdrawn in the following weeks and Mr Kwarteng was ultimately replaced as Chancellor of the Exchequer by Jeremy Hunt on October 14. On October 17, Mr Hunt made his own fiscal announcement and reversed almost all the tax measures set out in the mini-budget.

See our PwC Insight for more information.

Taxpayers should monitor further developments and possible modifications to the policy announcements. The tax changes in the new government agenda are expected to be included in a Finance Bill later this calendar year, which will need to go through the relevant parliamentary approval process. Based on a typical parliamentary timeline, this could result in enactment in the first quarter of 2023.

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# Legislation

## Uruguay

### Uruguay proposes changes to corporate income tax rules

The Ministry of Economic and Finance sent a bill of law on 5 October for Congressional consideration which included amendments to corporate income tax (CIT) rules to address certain aspects identified by the European Union Code of Conduct Group as potentially tax harmful. The text of the bill differs – though not substantially - from the one submitted to the public consultation in the last week of July, reflecting the input of the academic and business community.

The bill proposes to impose CIT on certain items of passive income obtained by member entities of multinational entities outside Uruguay, and exempts from the proposed taxation taxpayers that comply with certain substance requirements. The most relevant additions to the draft bill of law of July include:

- **Tax credit**: to avoid double taxation, income tax paid abroad could be deducted from the CIT generated in Uruguay for the same income. This credit shall not exceed the Uruguayan CIT amount determined prior to this deduction.
- **Anti-abuse clause:** the Tax Office may disregard the forms, mechanism, or series of mechanisms that, having been established for the main purpose of obtaining a tax advantage, are improper.
- **Passive income**: now includes any other capital gain derived from the assets of a non-qualified entity that generates such passive income.

For more infromation see our PwC Insight.

The bill will be discussed in Congress and, if approved, the new rules are expected to become effective for years beginning on or after 1 January 2023. MNEs should review their structures in the light of the new rules and consider substance requirements.

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# Administrative

## New Zealand

### Consultation on New Zealand's potential implementation of Pillar Two

The New Zealand tax authority (Inland Revenue) has recently held public consultation on **if, when and how** New Zealand should adopt the Pillar Two rules.

It is expected that adoption of the GloBE rules in New Zealand will be recommended if a 'critical mass' of other jurisdictions also adopt the rules. In our view, this threshold is likely to be met if and when New Zealand's key trading partners adopt the rules.

Based on discussions with officials, the draft legislation is anticipated to be introduced to Parliament in March 2023. However, the timing of adoption in New Zealand is still unclear as Inland Revenue closely monitors developments in other countries and political consideration is given to whether the rules will be a defensive or a potential 'revenue generating' mechanism in New Zealand.

For more details see our PwC New Zealand Tax Tips Alert

While enactment of the rules locally is not expected to result in significant additional tax revenues for New Zealand, multinationals will need to consider the nuances of the New Zealand tax framework and how these impact their position under the GloBE Rules. For example, the lack of a comprehensive capital gains tax in New Zealand may result in a GloBE effective tax rate of less than 15%.

Multinationals should not ignore the potential impact on New Zealand entities as they undertake their initial impact assessments, modelling, and broader preparations to comply with the GloBE rules.

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# Administrative

## Puerto Rico

### Notice 2022-42 addresses creditability of Puerto Rico income tax for taxpayers who transition out of the 4% excise tax

Puerto Rico (PR) Governor Pedro Pierluisi (D), on June 30 signed Act 52-2022, to amend the PR manufacturing tax incentives laws and provide a voluntary framework for electing out of the income and excise tax regimes enacted under Act 154-2010 (the 'Act 154 regime'). The Act 154 regime applies to certain nonresident foreign entities that are members of a controlled group with PR manufacturing operations (the 'Act 154 regime transition framework').

In light of the Act 154 regime transition framework, the US Treasury and the IRS on September 16 issued Notice 2022-42 ('Notice') to provide that PR income taxes paid by taxpayers that elect out of the Act 154 regime by December 31, 2022, would not be subject to the US federal income tax noncompulsory payment regulations merely because they will pay more tax than they currently pay under their existing decree.

In addition, the Notice revokes Notice 2011-29—which effectively allowed the creditability of the PR excise tax under the Act 154 regime for US tax purposes—for any excise tax paid or accrued in tax years beginning on or after January 1, 2023. For additional information on the voluntary framework to elect out of the Act 154 regime, see PwC's Tax Insight, Puerto Rico amends tax incentives laws and allows election out of the Act 154 excise tax of 4%.

For more information see our PwC Insight.

Analyzing whether these elections would be beneficial to foreign members of a controlled group with PR manufacturing activities is a fact-driven exercise. Therefore, taxpayers should consider whether electing to apply the new rules would benefit their US foreign tax credit positions. If the analysis shows it would, they should make the election no later than December 31, 2022.

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# Judicial

## Cyprus

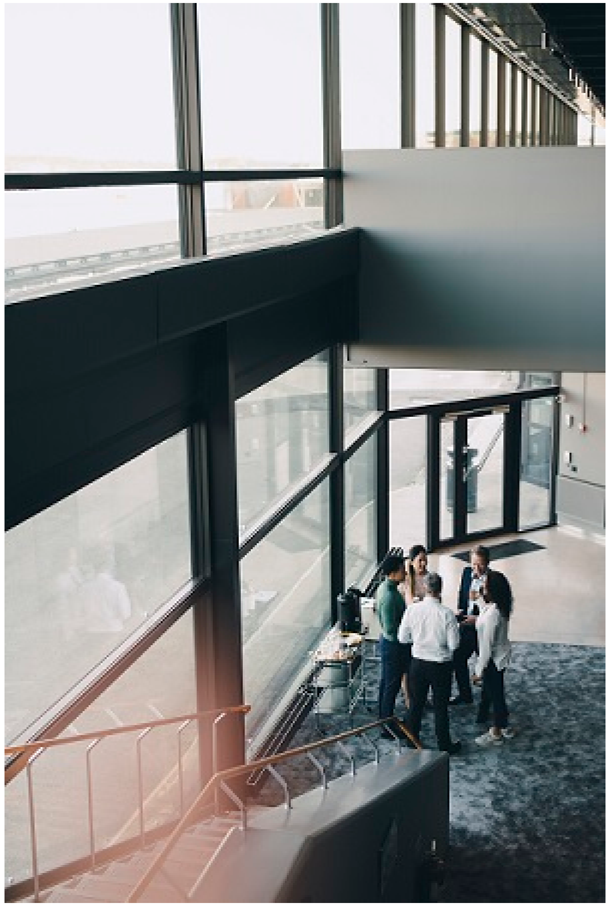
### Cyprus amends Income Tax Law for investments in innovative Small & Medium- Sized Enterprises

In accordance with Article 9A of the Income Tax Law (IT Law), qualifying individuals providing risk finance investments in innovative Small & Medium- Sized Enterprises (SMEs), either directly or indirectly via multilateral trading facilities or investments funds, have been eligible to deduct the cost of their investment from their taxable income, subject to certain conditions and limitations, since 2017.

Recently, the Cyprus Parliament approved certain amendments to Article 9A of the IT Law, including:

- The said deduction also will be granted to legal persons providing risk finance investments in innovative SMEs, either directly or indirectly as above, subject to certain conditions and limitations.
- The tax deduction is limited to 30% of the amount invested by a legal person that is an independent investor (this limitation applies only to investments financed out of own funds).
- Financial intermediaries, as well as their administrators, can benefit from the said tax deduction only if they act either as co-investors or as co-lenders, subject to certain other conditions.
- In case of a corporate investor, the eligible shares must be full-risk ordinary shares, and must be held in the investor's possession for at least three years.

These amendments are expected to enhance the attractiveness of investments in Cyprus-based innovative SMEs, as well as further boost the entrepreneurial and innovative ecosystem of Cyprus.



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# Judicial

## Mexico

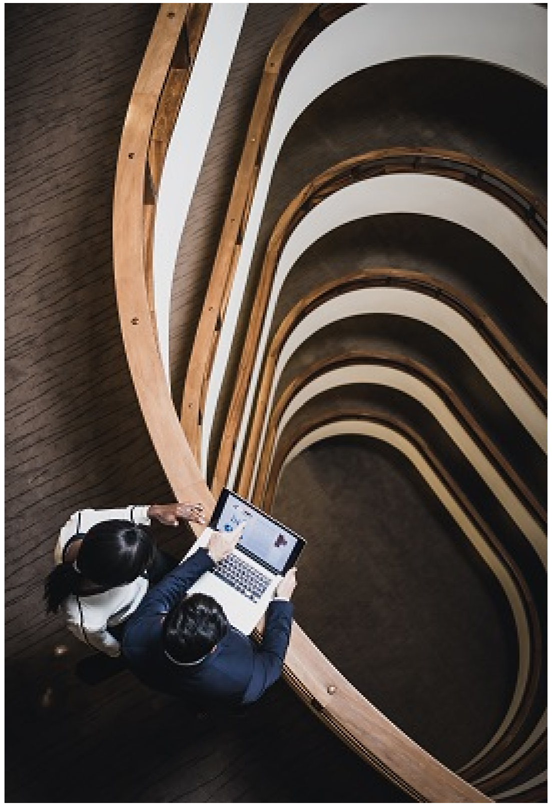
### Federal Court denies 0% VAT export rate based on PE assessment

A court ruling by the Mexican Federal Court ('Mexican Court') published in the Mexican Judicial Gazette on August 2022 resolved in favor of the Mexican Tax Authorities (MTA) a challenge to the application of the 0% Value Added Tax (VAT) rate for exportation of goods vehicles on a permanent establishment (PE) assessment. The main elements of the case are:

- A non-MX resident ('ForeignCo') incorporated a Mexican subsidiary ('MexCo') whose core business is acquiring in the Mexican market automotive vehicles from third parties which are then sold by MexCo to ForeignCo. ForeignCo commercializes the vehicles among unrelated clients in its residency jurisdiction. ForeignCo is resident in a European jurisdiction that has in force a double tax treaty with Mexico.
- The sale of the vehicles by MexCo to ForeignCo complies with arm’s length principles. MexCo's only source of revenue derives from the sale of the automotive vehicles to ForeignCo.
- MexCo applied a 0% VAT rate to the sale of the automotive vehicles to ForeignCo based on the Mexican VAT rules that allow for the application of said 0% VAT rate to definitive exportations of goods based on Mexican Customs Law.
- The MTA challenged the taxpayer's position and the Mexican Court resolved under the argument that the 16% VAT rate should had applied on the sales to ForeignCo since a PE was triggered by ForeignCo under the arguments that 1) MexCo activities altogether qualify as a cohesive entrepreneurial activity, 2) the activities of MexCo are not of a preparatory or ancillary nature and 3) that MexCo should be considered as an independent agent that acts outside of its ordinary framework of activities as it acts exclusively for ForeignCo (i.e., ForeingCo is its only client and single revenue source).

The court resolution did not impose any Income Tax burden to ForeignCo in connection with the PE assessment, but rather limited the assessment to the inapplicability of the VAT 0% rate by MexCo.

The arguments utilized by the MTA and validated by the Mexican Court are aligned with the PE domestic rules introduced in FY 2020. It is important to highlight that so far this position has not been generalized nor frequently observed as part of the recent arguments used by the MTA; nonetheless, the recommendation is to re-assess and analyze similar fact patterns to understand whether a potential risk may exist and determine whether applicable actions to strengthen and robust technical merits should be included as part of the defense file. The Mexican Court resolution does not constitute case law and further appeals could be expected by the taxpayer.



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# Judicial

## France

### French Court rules nil interest rate is not *per se* prohibited

French tax authorities can reassess entities when they have unduly shifted profits abroad through transfer pricing.

In the present case, a French company had entered into a cash management agreement with a German company under which its cash surplus deposits were remunerated according to a rate formula. Several years after the signing of the cash management agreement, application of the said formula resulted in a zero-interest rate.

French tax authorities challenged the normal nature of this absence of remuneration and proceeded to reassess the profits of the French company considered as indirectly transferred to the German company.

In two decisions dated September 20, 2022, the Administrative Supreme Court held that FTA could not rely on the fact that the interest rate had become negative in the subsequent years of implementation to consider that the French company had unduly transferred benefits abroad. Compliance with transfer pricing regulations should be assessed at the time of signing of the agreement.

MNEs can secure their transfer pricing policy by documenting that they comply with the arm's length principle at the time of signing of intragroup transactions, even though the price of these transactions evolves later on.

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# Judicial

## Italy

### Italian Supreme Court rules that withholding tax on Italian-sourced dividends paid to non EU funds violate EU law

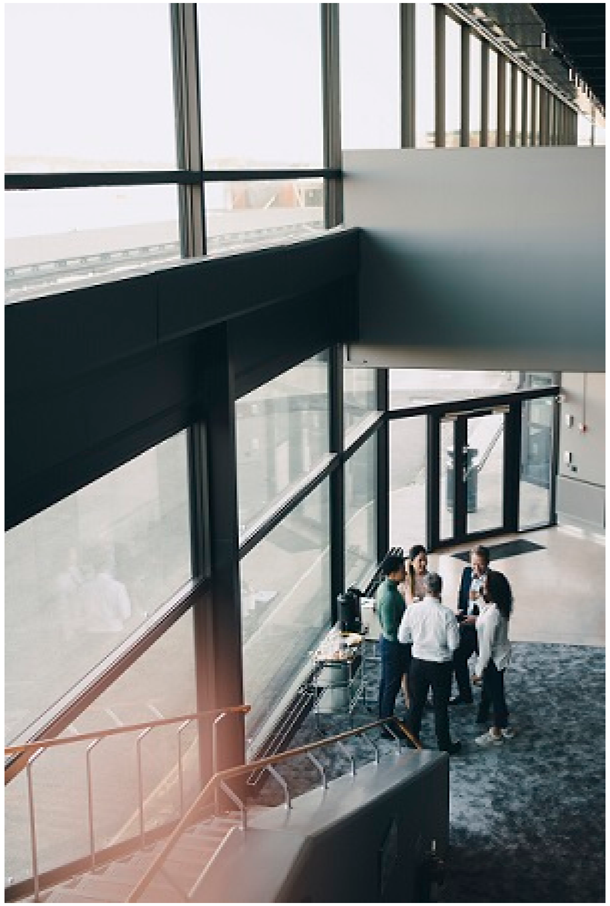
The Italian Supreme Court (ISC) decisions no. 25691, 25692, 25963, published in September 2022, acknowledge the validity of the refund request submitted by some USA pension funds on the withholding tax (WHT) levied on Italian-sourced dividends (for the portion exceeding the taxation applicable to Italian / EU pension funds). Open to further investigation is whether non EU pension funds could now claim the refund of the WHT incurred for the portion exceeding the 11% WHT applicable to EU pension funds.

Dividend distributions to non EU pension funds are subject to a 26% (or WHT provided by the tax treaty) while Italian pension funds are subject to a 11% substitutive tax (20% starting from 2015) and EU pension funds are subject to 11% WHT.

The ISC ruled that the different tax regime applicable to non EU pension funds represents an unjustified restriction to the free movement of capital (art. 63 of TFEU) since it discourages investments from non EU pension funds.

EU and non EU investment funds should consider filing WHT refund claims for the open tax periods (*i.e.,* for non EU investment funds all dividends paid from September 2018 onwards and for EU investment funds only dividends paid from September 2018 up to December 2020) in order to safeguard their rights to achieve the same tax treatment (*i.e.*, 0%) applicable to the Italian investment funds.

Where tax authorities have rejected a WHT refund claim, recent ISC decisions can be leveraged in front of the tax court to obtain reimbursement of the WHT paid.



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# Judicial

## Italy

### Recent Supreme Court judgment raises foreign tax credit considerations

The Italian Supreme Court (ISC) recently published a judgment (no. 25698) that retraced the co-existence of the tax treaty between the US and Italy and the Italian tax law on the Foreign Tax Credit (FTC). Even though the case refers to an Italian individual, the principle stated by the ISC can have significant implications for the computation of the FTC claimed by Italian corporations having non Italian-sourced incomes.

In the case at hand, a person resident in Italy with a minority shareholding in a US partnership was notified by the Italian Tax Authorities about his failure to pay the Substitute Tax (ST) on his US-sourced income. Indeed, the taxpayer had offset the ST with the FTC.

Foreign-sourced dividends paid to Italian individuals are subject to tax both in the source country and in Italy. According to the Italian law, withholding tax (WHT) levied in the source country cannot offset the 26% Italian WHT/ST, ultimately resulting in juridical double taxation for the Italian individual. The US-Italy tax treaty provides that the FTC can be denied only if the ST is paid *"upon request of the beneficiary."* However, Italian tax law mandatorily applies the ST leaving no ability to opt for this tax regime.

For the first time, the ISC considered as creditable the taxes paid on the foreign-sourced income taxed in Italy under a domestic mandatory ST. Furthermore, the ISC has reconstructed the relationship between the domestic rule and the treaties discipline. Most Italian treaties have provisions similar to the US-Italian tax treaty whilst only a minority are aligned with the Italian FTC provision and bear the current wording of the rule.

This judgment has significant impacts for all those US partnerships having an Italian individual shareholder who can claim FTCs on all US-sourced dividends paid from partnerships to Italian shareholders. However, by relying on this decision, Italian corporate taxpayers can claim that their FTC cannot be forfeited by the Italian FTC rule unless a similar provision is included in the applicable tax treaty.

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# EU/OECD

## European Union

### EC proposes to address high energy prices through excess profits taxes and consumption reductions

The European Commission (EC) published, on 14 September a proposal for a Council Regulation on an emergency intervention to address high energy prices. The proposal includes four measures:

- An obligation for EU Member States to reduce their gross electricity consumption by 10% (until 31 March 2023),
- An obligation for EU Member States to reduce their gross electricity consumption by at least 5% during selected peak price hours (until 31 March 2023),
- A temporary revenue cap on electricity generators with lower marginal costs (such as renewables, nuclear, lignite and crude oil) until 31 March 2023, and
- A temporary mandatory solidarity contribution tax on 2022 excess profits generated from activities in the oil, gas, coal, and refinery sectors.

According to the EC, these measures seek, inter alia, to mitigate the impact of high electricity prices and protect consumers, while preserving the benefits of the internal market and a level playing field.

For more information see our PwC Tax Policy Alert.

The measures put forward in this proposal would take effect on an EU-wide basis, and with almost immediate effect. It remains to be seen the extent to which Member States would support this EC initiative, because of the interplay with similar domestic measures, although the EC indicates that uncoordinated national measures could endanger the supply chain at the Union level.

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# EU/OECD

## OECD

### OECD issues new Crypto-Asset Reporting Framework

The OECD on 10 October published a much-anticipated two-part document — the Crypto-Asset Reporting Framework (CARF) and Amendments to the Common Reporting Standard (CRS) — setting forth a global tax transparency compliance framework with model rules for the automatic reporting and exchange of taxpayer information between countries relating to financial accounts and crypto-assets.

The OECD amended the CRS and developed the stand-alone CARF as a complementary compliance framework intended to address this deficiency. Similar to the CRS, the CARF contains (1) model rules that can be enacted as domestic legislation and (2) related commentary to support legislative implementation. The implementation timelines for both the CARF and the CRS amendments will be determined at a future date in an effort to avoid overlapping rules and the potential for duplicate reporting.

For more information see our PwC Insight.

Groups that may be affected by the CARF or amendments to the CRS should consider the following steps to assess the impact: conduct an analysis of any entities in their group that may have reporting requirements, identify relevant reporting jurisdictions, and monitor legislative developments as local CARF legislation is adopted; review user and investor onboarding processes so that the necessary know-your-customer (KYC) information is gathered and an appropriate governance and due diligence framework is in place; and understand how the transaction information is gathered and analyze whether systems are in place to gather, report, and maintain the information.

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# EU/OECD

## OECD

### OECD public consultation meeting: Amount A of Pillar One

The OECD's public consultation on the Progress Report on Amount A of Pillar One ('The Progress Report') was held on 12 September 2022. The OECD previously released the Progress Report on Amount A of Pillar One on 11 July 2022, and comments were due 19 August 2022.

The Progress Report contains design rules for different building blocks relating to the new taxing right under Amount A. These rules include proposals, seen for the first time, for the marketing and distribution safe harbour (MDSH) and the elimination of double tax. They also include updates to rules on other building blocks based on previous consultations.

The public meeting provided insights from the OECD and the Task Force on the Digital Economy (TFDE), as well as panels representing a range of views from those who submitted written comments on the Progress Report.

For an overview of the consultation meeting and some initial observations see our PwC Tax Policy Alert.

The consultation process demonstrated that business still has many serious concerns, including complexity and the arbitrary nature of several of the formulas, but it does seem that the OECD is taking stakeholder comments seriously. The OECD has a continuing urgency to move the project forward to its estimated completion date in mid 2023, but time will tell how realistic that is. Taxpayers should continue to model the provisions and engage with government and business organisations to achieve more simplicity and manageability in the final set of rules.

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# EU/OECD

## European Union

### Spain, Italy, Germany, France and the Netherlands have released a new statement on Pillar Two implementation

Italy, Germany, France, the Netherlands and Spain released a Joint Statement on 9 September concerning implementation of the global minimum effective taxation in 2023 (Pillar Two). In this statement they affirm their intention and commitment to implement a global minimum taxation by 2023 by any possible legal means.

This statement was signed after the failure to achieve unanimity in June 2022, when 26 of 27 Member States of the European Union “expressed their willingness to implement this important step towards tax justice.”

Taking into account that the first goal of these countries remains “to gather a consensus," they announced that if “unanimity is not reached in the next weeks” they are fully determined to follow through with their commitment.

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# Glossary

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

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**Worldwide Tax Summaries**

If you're operating globally, are you aware of changes to the myriad tax rates in all the jurisdictions where you operate?

If not, we can help - visit our comprehensive tax guide, or explore rates in over 150 countries using our online tools, updated daily.

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