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Canada

Digital Economy — OECD Releases Taxation Blueprints

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Canadian companies that conduct business internationally should determine how they may be affected by the OECD's latest reports on its multilateral approach for taxing the digital economy. As part of its ongoing work to address tax challenges arising from the digital economy, the OECD released two new reports, which it calls "blueprints", on it's proposed two-pillar approach on October 12, 2020. The blueprint for Pillar One, which deals with the allocation of taxing rights, is meant to provide a basis for political agreement across the Inclusive Framework of 137 countries. The blueprint on Pillar Two, which addresses remaining BEPS challenges by ensuring that the profits of internationally operating businesses are subject to a minimum rate of tax, is also intended to provide a basis for a future agreement.

The OECD also released a 14-page public consultation document setting out questions on both Pillars. The OECD will accept written comments on these questions by December 14, 2020 and has scheduled public consultation meetings for January 2021. The OECD now hopes an agreement on taxing the digital economy can be reached by mid-2021 (previously an agreement was expected by the end of 2020).

Background
The OECD released details of the proposals under review to address challenges of tax and the digital economy in a program of work in May 2019, following a consultation report in February 2019 and an earlier 2018 OECD interim report based on its base erosion and profit shifting (BEPS) project.

Generally, the OECD is looking at new tax proposals under two specific "pillars". The first pillar focuses on the allocation of taxing rights, including nexus issues. These proposals typically allocate more taxing rights to market or user jurisdictions where value is created through businesses' participation in the user or market jurisdiction that is not recognized in the current framework for allocating profits.

The OECD released a consultation paper on Pillar One in October 2019 that proposed a "unified approach" to ensure that certain multinational enterprises pay tax in countries where they have consumer-facing activities but do not have a physical presence. The OECD's paper discussed possible features of a multilateral approach and expressed concerns that jurisdictions may introduce uncoordinated unilateral tax measures where a global consensus is not reached. The OECD proposal called for the introduction of a three-tier mechanism for allocating profit.

The OECD also released a consultation paper on Pillar Two, the Global Anti-Base Erosion (GloBE) proposal in November 2019. This pillar addresses remaining BEPS challenges by ensuring that the profits of internationally operating businesses are subject to a minimum rate of tax.

For more details, see *TaxNewsFlash-Canada* 2020-03, "Digital Economy — OECD Clarifies Unified Approach", *TaxNewsFlash-Canada* 2019-51, Digital Economy — OECD Explores Minimum Rate of Tax" and *TaxNewsFlash-Canada* 2019-42, "Digital Economy — OECD Proposes Unified Tax Approach". For KPMG's submissions on these proposals, see *TaxNewsFlash-Canada* 2019-54, "Digital Economy — KPMG on OECD's Minimum Rate of Tax" and *TaxNewsFlash-Canada* 2019-49, "Digital Economy — KPMG on OECD's "Pillar One" Proposal".

Pillar One blueprint

The OECD's Pillar One blueprint confirms its proposal to introduce a new mechanism for allocating profit, which includes:

- *Amount A* — Applies a formulary approach to allocate a portion of a multinational enterprise's deemed residual profits to market jurisdictions and provides those jurisdictions with nexus for taxing that allocation.

- *Amount B* — Provides a fixed return for certain baseline marketing and distribution activities that is intended to be consistent with the arm's length principle.

The OECD's Pillar One blueprint also outlines a proposed approach to mandatory binding dispute prevention and resolution for Amount A and explores broader approaches to enhance dispute prevention and resolution.

For full details, see a KPMG analysis of the Pillar One blueprint.

Pillar Two blueprint

The Pillar Two Blueprint proposes rules intended to determine that large internationally operating businesses pay a minimum level of tax regardless of where they are headquartered or the jurisdictions in which they operate and proposes four new rules to accomplish this goal.

For full details, see a KPMG analysis of the Pillar Two blueprint.

Upcoming webcast on OECD blueprints

You can now register for a KPMG webcast on October 19, 2020 that will discuss the OECD's new blueprint reports and how they may affect multinational companies. During this 90-minute webcast, senior KPMG U.S. tax professionals will discuss:

- Pillars One and Pillar Two — High-level overview of the latest proposals
- Politics state of play — Where does the initiative stand?
- Practical observations on the proposals' designs
- What comes next?

KPMG observations
Although Canada is participating in these discussions, it is not yet known whether Canada will agree to the OECD's approach. During the 2019 election campaign, all of Canada's political parties pledged changes to ensure multinational tech companies pay a digital services tax on the revenue they generate in Canada. More recently, the federal government indicated that it intends to tax digital giants in its recent Throne Speech (see *TaxNewsFlash-Canada* 2019-73, "Canada Extends Wage Subsidy and Signals Tax Plans"). Previously, some government officials indicated that Canada should wait for the OECD to obtain global consensus for a solution for taxation on the digital economy before moving ahead with any unilateral measures.

We can help

Your KPMG adviser can help you assess the effect of the OECD's proposals on your business and provide guidance on how this might impact you going forward. For more details, contact your KPMG adviser.