



TaxNewsFlash

Canada

OECD Seeks Feedback on Taxing Rights under Pillar One

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Large multinational companies may want to follow the Organization for Economic Cooperation and Development (OECD)'s latest consultation on its two-pillar approach to address the tax challenges from the digitalization of the economy. The OECD has now launched the first in a series of planned public consultations to consider different elements of its Pillar One proposal, which is intended to ensure certain multinational enterprises (MNEs) pay tax in countries where they have consumer-facing activities but do not have a physical presence. Specifically, the OECD is asking for feedback on draft model nexus and revenue sourcing rules under "Amount A" of Pillar One, which it notes that not all countries have reached consensus on. Affected parties are asked to provide comments on these elements by February 18, 2022.

The OECD is expected to launch additional related consultations in the coming months, including on additional elements of Amount A. The OECD also provided a schedule for other upcoming consultations on Amount B of Pillar One (mid-2022), Pillar Two's implementation framework (February 2022) and Pillar Two's "subject-to-tax rule" (March 2022).

Background

The OECD first released details of the proposals under review to address challenges of tax and the digital economy in 2019 as part of its base erosion and profit shifting (BEPS) project. Generally, the OECD/G20 Inclusive Framework contemplates tax proposals under two specific "pillars". More than 135 countries and jurisdictions of the OECD/G20 Inclusive Framework (including Canada) agreed to certain key aspects of this approach in October 2021.

The OECD's Pillar One proposal introduces a new mechanism for allocating profit, which applies to MNEs with global revenue above €20 billion and profit before tax above 10% of revenue, with 25% of profit above the 10% threshold (i.e., Amount A) to be reallocated to market jurisdictions. Pillar One also contemplates simplifying the application of the arm's length principle to in-country baseline marketing and distribution activities (Amount B), with further details to be developed. Extractives and regulated financial services are excluded from the scope of these rules.

Pillar One also outlines a proposed approach to mandatory binding dispute prevention and resolution for Amount A.

The OECD/G20 Inclusive Framework recently published model rules to help Canada and other jurisdictions to implement changes under Pillar Two of these rules, including that certain MNEs will be subject to a minimum 15% tax rate.

For details, see *TaxNewsFlash-Canada* 2021-63, "[OECD Releases Model Global Minimum Tax Rules](#)", *TaxNewsFlash-Canada* 2021-48, "[OECD Clarifies Global Minimum Tax Plan for 2023](#)" and *TaxNewsFlash-Canada* 2021-47, "[OECD Moves Forward with 15% Global Minimum Tax for 2023](#)".

Consultation for Amount A

The OECD advises that the revenue sourcing rules under Amount A are intended to allow affected multinational companies to accurately identify the market jurisdiction and the associated revenue, while limiting and simplifying compliance burdens. In particular, the OECD states that the rules allow companies to draw on existing information where possible and also to use proxies such as allocation keys to approximate the end market.

The OECD is asking stakeholders to comment on ways to achieve a better balance between accuracy and operational realities, and to help finalize revenue sourcing rules that achieve the desired policy objective but are also practical and avoid unnecessary compliance burdens.

KPMG observations

MNEs and other large Canadian corporations should follow the progress of these rules, since Canada has indicated that it will move forward a 3% digital services tax (DST) if the tax changes in Pillar One have not come into force by January 1, 2024. Under these proposals, businesses that earn revenue from certain digital services may be liable for the DST, effective for certain revenues earned as of January 1, 2022. For details, see *TaxNewsFlash-Canada* 2021-64, "[Canada Lays Out Digital Tax Proposals for Businesses](#)".

For further details on the OECD announcement, see a report from KPMG's U.S. member firm, "[Public consultation document on Pillar One: Draft model rules for nexus and revenue sourcing](#)".

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.

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