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Treasury Secretary Mnuchin seeks "pause" in OECD Pillar 1 discussions of digital economy

U.S. Treasury Secretary Mnunchin—in a June 12, 2020 letter to the finance ministers of France, Italy, Spain, and the United Kingdom—wrote that the United States is calling upon the Organisation for Economic Cooperation and Development (OECD) to "pause discussions of Pillar 1, with a view towards resuming later this year…."

At the same time, the United States remains opposed to unilateral imposition of gross basis digital services taxes, the Secretary wrote, and will respond with "appropriate commensurate measures."

Read the **June 12 letter** [PDF 167 KB]

Background

The U.S. Treasury Secretary, in a letter to the OECD Secretary-General in December 2019 wrote that the United States "firmly opposes digital services taxes" because of the "discriminatory impact" such taxes would have on U.S. businesses. The letter concludes with a statement that the United States urges "all countries to suspend digital services tax initiatives, in order to allow the OECD to successfully reach a multilateral agreement." Read ***TaxNewsFlash***

The OECD then in January 2020 committed to reach a consensus-based long-term solution to the tax challenges arising from the digitalisation of the economy, and stated that the OECD will continue working toward an agreement by the end of 2020. Participants of the Inclusive Framework on base erosion and profit shifting (BEPS) during a January 2020 meeting agreed to pursue negotiations of new rules:

- On where tax should be paid ("nexus" rules)
- On what portion of profits should be taxed ("profit allocation" rules)
- On the basis of a "unified approach" on Pillar 1, so that multinational entities (MNEs) conducting sustained and significant business in places where they may not have a physical presence can be taxed in such jurisdictions

The unified approach agreed by the Inclusive Framework on BEPS draws heavily on the unified approach released by the OECD Secretariat in October 2019.

Inclusive Framework members have been considering competing proposals to address the tax challenges of digitalisation. A "Programme of Work" agreed in May 2019 was replaced with a revised "Programme of Work" under Pillar 1, that outlines the remaining technical work and political challenges to deliver a consensus-based solution by the end of 2020, as mandated by the G20 governments. The Inclusive Framework members were scheduled to meet next in July 2020. Read ***TaxNewsFlash***

Recent U.S. actions

The U.S. Trade Representative (USTR) earlier this month initiated an investigation of digital services taxes that had been enacted or were being considered by various countries (including France, Italy, Spain, and the United Kingdom).

The USTR testified at a House Ways and Means Committee hearing earlier this week, and based on that testimony it was reported that the Treasury Secretary's letter (addressed to the Finance Ministers of France, Italy, and Spain and the UK Chancellor of the Exchequer) had indicated that the United States would be withdrawing from the discussions about digital services taxation.

Letter to Finance Ministers

The Treasury Secretary's letter more accurately indicates that the United States is calling on the OECD to "pause" discussions of Pillar 1 in view of the current health crisis, with talks to resume "later this year."

The Treasury Secretary wrote the United States believes any change to the taxable nexus threshold of physical presence and the arm's length principle must be implemented on a safe harbor basis. Because the Finance Ministers rejected that approach, the Treasury Secretary noted "[w]e find ourselves at an impasse…."

The Secretary also wrote that discussions of Pillar 2 regarding a global minimum tax "have progressed more rapidly" and that the United States "fully supports bringing those negotiations to a successful conclusion this year."