PwC International Tax Update

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Agenda

1. International tax – why should you care…
2. Permanent establishments
3. Virtual remote working – policy and risks
4. Transfer pricing
5. OECD Pillar 2

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International tax

Why should you care…

Permanent establishments

What, how and why should I be concerned

01 Permanent establishment is a tax branch, essentially where you have presence in an overseas territory creating local tax obligations.

02 Drives corporate tax and employment tax obligations. There are similar (but not same!) obligations for VAT re fixed establishments.

03 Key is what is being done where i.e. level and location of activity is key. Most commonly see risks from dependent agents and virtual working

04 Established international principles **BUT** beware of varying domestic tax law (and state obligations e.g. in US).

05 Double tax treaties can provide some protection, but not always.

06 Key then to understand local law and have clear established policies in place.

International Remote Work – Background

The world of work evolved following the COVID-19 pandemic

Displaced employees during the pandemic highlighted the challenges of managing a remote workforce.

Acceleration of remote and hybrid work as a business imperative

Remote Work – it's here to stay

Remote work has evolved from a risk issue to a talent issue. International remote work can be defined in several ways but the key focus will be on:

Short term overseas remote work

- Sometimes known as 'Working holidays'
- Managed ideally via a remote work policy which Employees are aware of.

Longer term remote work

- Typically involves a period of at least a month where the individual is working outside of their employers jurisdiction.
- This can create additional complexities to consider around compliance and employer responsibilities.
- Outsourcing solutions is possible but not without risk

Remote work policy implementation – considerations

Key considerations

- Which countries are individuals allowed to visit?
- Duration and frequency – per trip and annual
- Right to work in the remote work location
- Must be an employee rather than a contractor.
- Restrictions for certain roles
- What does the approval process look like

Governance

Where does the responsibility lie?

- HR
- Tax
- Finance
- Senior leadership

Determining how best to track and govern policy

- Tax and regulatory compliance are complex issues
- Once a policy is in place, what guardrails are there to ensure compliance?
- Pre and post remote work – Policy may dictate a limit to the level of remote work but how do you manage the guardrails put in place?
- Data collection – utilising technology or existing processes. Multiple data sources

Update on UK TP documentation requirements

Following HMRC's release of a policy paper and draft legislation

Effective from 1 April 2023 (accounting period beginning on or after)
Relevant for taxpayer groups that meet the CbCR consolidated revenue threshold of €750 million

Mandatory UK Master File and Local File requirements

- Now prescribes the format in which sufficient records to the kept and maintained to demonstrate that tax returns are complete and accurate (including in respect of any figures affected by the transfer pricing rules).
- Exemption where a UK entity either has no intercompany transactions, or only has transactions where the counterparty is another UK entity.

New Summary Audit Trail

- Since being originally proposed in the initial consultation (Nov 2021), HMRC are will undertake a separate public consultation that is expected to begin post April 2023 (therefore will likely for later accounting periods).

Awaiting more detailed information on the substance of the documentation / records, which will be set out in regulations yet to be specified.

Significant changes to information powers and penalties for transfer pricing

- The right for HMRC to request transfer pricing documents outside of a transfer pricing enquiry.

- The removal of the requirement for documents to be in the "power and possession" of a UK entity when they are in the "power or possession" of another group entity.

- A presumption of carelessness where a taxpayer fails to do the work necessary to maintain or to produce relevant records on request, with associated implications for penalties.

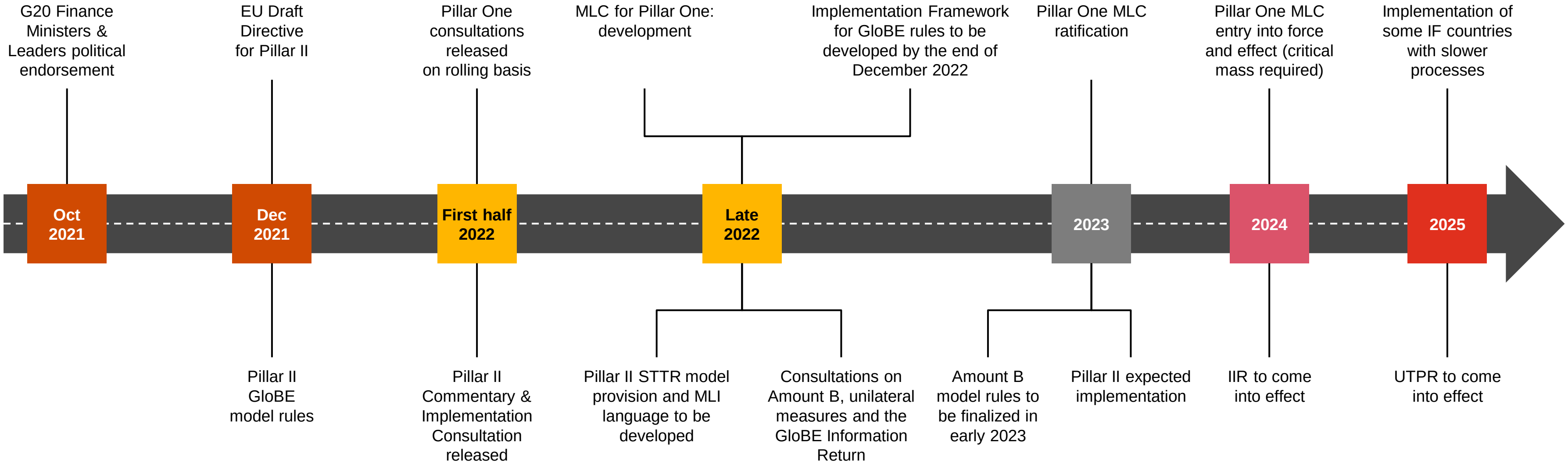
What is Pillar II?

What?	• Framework for a global minimum tax for large multinational enterprises (MNEs) - Annual consolidated book revenue > EUR 750M in at least two the last four years immediately preceding the tested year - Limited exceptions for so-called “excluded entities” (e.g., governmental entities, pension funds) • 15% minimum tax paid with respect to **EVERY** country where income is earned
How?	• Top-up Tax • Collected by the Global anti-Base Erosion Rules (GloBE) rules - Income Inclusion Rule (IIR) + Undertaxed Payment/Profits Rule (UTPR) • Treaty based Subject to Tax Rule (STTR) • Qualified Domestic Minimum Top-up Tax (QDMTT)
Impact?	• Additional tax revenue will be collected - but by which countries? • Significant costs - expected and unexpected (non-creditable foreign taxes) • Administration headaches • Heightened risk for tax controversy

How are the Pillar II Rules intended to work?

Overall design of Pillar II	• Establishes a global minimum ETR of 15% at jurisdictional level • Top up the tax liability to reach established minimum rate • Two interlocking domestic rules that are together known as the Global anti-Base Erosion (GloBE) rules: - Income Inclusion Rule (IIR) - Under-taxed Profits Rule (UTPR) • Not mandatory to implement, but if a State chooses to, it must follow the framework / model rules published by OECD. 138 countries so far have agreed to Pillar II • EU Directive adopted on December 15, 2022 requires implementation by EU member states (broadly IIR effective in 2024 and UTPR effective in 2025) • Territories may also implement a Qualified Domestic Minimum Top-up Tax (QDMTT). A low taxed territory implementing a QDMTT takes priority in collection of the top-up tax. • A transitional safe harbor was approved on December 15, 2022 to simplify application of the rules based on country-by-country reporting data
Scope of the rules	• All multinational enterprises (MNE) Groups with global turnover above EUR 750m - Exception for those within the pension, investment fund and international shipping services

OECD Official Timeline



Interim period where signatory countries will not introduce any newly enacted DSTs

State of Pillar II Around the World

EU
The IIR shall be effective from December 31, 2023 and the UTPR from December 31, 2024.

Canada
Intention to adopt Pillar II and a QDMTT (IIR & QDMTT apply in 2023). Public consultation on the Canadian implementation of Pillar II.

United Kingdom
The draft legislation includes IIR, which would apply to accounting periods beginning on or after December 31, 2023.

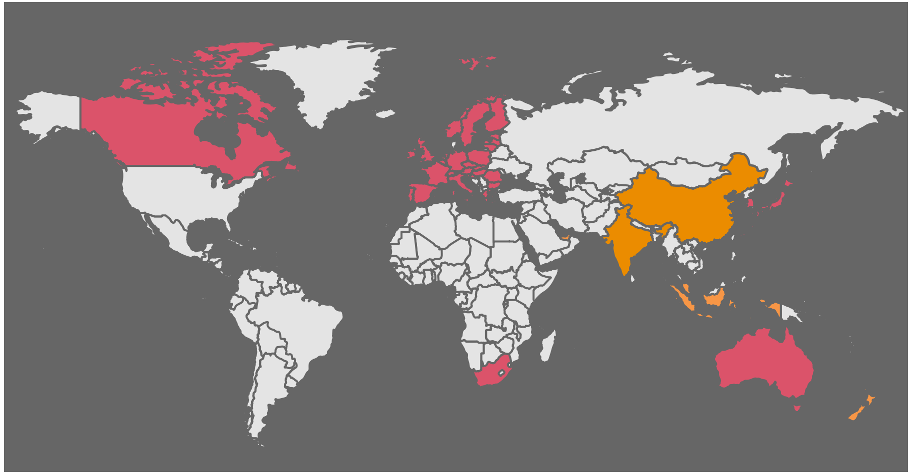
Switzerland
Released draft ordinance to be effective January 1, 2024.

Belgium
Working on draft legislation - intention to release in coming months and implementation by summer.

Norway
As per the 2023 Budget, rules in development with the goal to be in force from 2024.

South Africa
A draft position on the implementation of Pillar II for public comment to be published in 2023 and draft legislation to be included in 2024 Taxation Laws Amendment Bill.

Bermuda
Working on the Global Minimum Tax as per the 2023-2024 Budget.



Mauritius
Currently drafting the primary legislation for Pillar II.

New Zealand
Public consultation on whether and how New Zealand should participate in Pillar II (2022).

UAE
The recent introduction of a CIT regime helps provide the UAE with a framework to adopt Pillar II. A different tax rate (to be specified) will apply for large MNCs that meet specific Pillar II criteria.

Australia
Exposure Draft legislation expected early-mid 2023.

India
No information announced by the government yet.

Indonesia
Indonesia is considering implementing the Pillar II GloBE Rules from 2024 and is preparing QDMTT legislation (as per the Director of International Taxation of the Directorate General of Taxes states (February 2023).

China
No official guidance from the government.
China State Taxation Authority set up a taskforce to collect data.

Japan
Japan's 2023 tax reform proposals, issued December 16, 2022, include an IIR that would apply to FY starting on or after April 1, 2024.

South Korea
2023 budget bill approved by Parliament on December 23, 2022. It includes the Korea-adopted version of GloBE Rules.

Hong Kong
Hong Kong plans to apply the global minimum effective tax rate and implement the domestic minimum Top-up Tax starting from 2025 onwards
(as per the 2023 - 2024 Budget).

Singapore
Singapore’s 2023 Budget was presented before Parliament and GloBE rules would be implemented from January 1, 2025.

Malaysia
Published a Budget 2023 Public Consultation Paper which summarises the IF agreement and OECD Model rules. Malaysia intends to introduce Pillar II measures in 2023, but this likely will occur in 2024 or later.

Pillar 2

Key takeaways

01 Threshold for large business is €750m of revenues. Doesn't apply if below that threshold.

02 UK rules expected to come into force in 2024 (IIR and QMDTT). QMDTT means can still apply if wholly UK domestic (but still with large company threshold)

03 Unsure of timelines for UK UTPR (but not before 2025)

04 Complex rules where they apply, so start preparing now…

05 Safe harbour regimes can be helpful in minimising compliance obligations but still need to ensure they are met.

06 Complex international picture of who is implementing when

Q&A

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