KPMG

Meijburg & Co

Tax & Legal

Update taxation of the Digital Economy

On January 31, 2020, the OECD confirmed in a webcast that agreement has been reached upon an outline of the architecture of a 'Unified Approach' on Pillar 1.

A total of 137 countries and jurisdictions (i.e. the 'Inclusive Framework') of the OECD/G20 have committed to continue working together on the development of a consensus-based long-term solution by the end of 2020. Reaching consensus is vital since uncoordinated unilateral tax measures would undermine the relevance and sustainability of the international tax framework, and would damage global investment and growth. An important step will be the next meeting in early July, at which it is intended to reach agreement on the key policy features of the solution that would form the basis for a political agreement.

High stakes

The stakes are very high for all parties concerned. In the balance are: the allocation of taxing rights between jurisdictions; fundamental features of the international tax system, the applicability of the arm's length principle, the future of multilateral tax co-operation, the prevention of aggressive unilateral measures, and the intense political pressure to tax highly digitalized MNEs.

Pillar 1

Pillar 1 aims to expand the taxing rights of market/user jurisdictions. Based on a formulaic approach, *new taxing rights* may be created for such market/user jurisdictions, thereby diverging from the arm's length principle.

To be able to exert these new taxing rights, a new nexus rule will be created based on a significant and sustained engagement with market/user jurisdictions, instead of reference to physical presence. As such, this new nexus rule will directly have an impact on the application of the OECD and UN Model Tax Conventions.

These proposals do not only impact businesses that provide automated and standardized digital services. They may also impact all other consumer-facing businesses that generate revenue from the sale of goods and services commonly sold to individuals. As such, the scope of the Pillar 1 is intended to be much broader than the typical tech companies.

Pillar 2

Through Pillar 2, the OECD predominantly seeks to ensure a minimum level of taxation by developing rules that provide jurisdictions with a right to 'tax back' where other jurisdictions have not exercised their primary taxing rights, or if payment is otherwise subject to low levels of effective taxation. The OECD admits that significant work still needs to be undertaken in this regard. Another public consultation on Pillar 2 is expected to take place in March/April of this year.

We can help you

KPMG Meijburg & Co has developed proven technology that helps businesses to model and understand their tax exposures under the contemplated new rules and to assess the potential impact.

Information

Would you like to know more how these OECD developments can impact your business? Please feel free to contact Robert van der Jagt, Sinan Gelici, Jaap Reyneveld or Charlotte Straatman from our team of experts. See our website for their contact details and for more information.

In March/April we will organize a roundtable meeting regarding the latest OECD developments. If you are interested you can pre-register via this link. You will then receive an invitation in due course.