

ATOZ ALERT

Global minimum taxation Directive finally ready to be approved by EU...

14 December 2022

Back in December 2021, the EU Commission published a Directive proposal on ensuring a global minimum level of taxation for multinational groups in the Union for the implementation of the OECD GloBE rules (also called “Pillar Two”) at EU level. However, this proposal raised concerns for few member states, a consensus was difficult to reach, and its adoption has been postponed many times, keeping everyone in suspense.

On Monday evening, the EU Council released a press communication according to which EU member states finally reached agreement to implement the minimum taxation Directive.

GloBE: State of Play

According to the communication of the EU Council, *“the ambassadors of EU member states decided to advise the Council to adopt the Pillar 2 directive, and a written procedure for the formal adoption will be launched”*. The Committee of Permanent Representatives reached the required unanimous support on Monday.

It means that the formal adoption has not taken place yet, but it should occur in the coming days by means of a written procedure.

At the 6 December ECOFIN meeting, the EU Pillar Two Directive Proposal was not adopted, as initially planned. It was removed from the agenda at the last minute and was only discussed after the public session. It was widely reported that the recent delays were due to political negotiation on other unconnected issues and that the Pillar Two Directive had been used as a bargaining counter.

Once the Directive proposal will be adopted, member states shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 31 December 2023 and they shall apply those measures in respect of the fiscal years beginning from 31 December 2023. For more details on Pillar Two developments, see our previous articles on the topic: [The GloBE Rules of the OECD and the EU: overview and the big picture for investment funds](#) and [The global minimum taxation: State of play at OECD and EU level](#).

Some member states, such as the Netherlands for example, have already issued their draft laws to implement Pillar Two into their domestic legislations. In his Autumn Statement, the UK Chancellor of the Exchequer, also confirmed that the government would legislate to implement the internationally agreed OECD Pillar Two framework in the UK for accounting periods beginning on or after 31 December 2023.

Implications

The practical implementation of Pillar Two will be challenging for the tax authorities but it will also be the case for multinational businesses. Multinational groups of companies should seek advice from their tax advisors in order to analyse the potential tax impact of Pillar Two on their investments and their tax liabilities. Moreover, national regulations of each jurisdiction in which entities of the group are located should be closely monitored to anticipate the way Pillar Two will be implemented locally and will affect the group as a whole. In addition, some of the concerns expressed about the compatibility of the Pillar Two Directive with double tax treaties may need to be tested.

Do you have further questions?



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