International Tax News Flash
Hong Kong

The G7 agreed on certain key aspects of Pillars One & Two, including a global minimum tax of 'at least' 15%

June 11, 2021
Issue 2

In brief

The G7 announced on June 5, 2021 that its member countries agreed, among other things, on a global minimum tax of 'at least' 15% under Pillar Two and a taxing right for market jurisdictions on at least 20% of the profits exceeding a 10% margin of large multinational groups under Pillar One of the BEPS 2.0 project.

In detail

The G7 agreement on Pillar One and Pillar Two

The G7 Finance Ministers held a meeting in London on June 4-5, 2021. After the meeting, the G7 issued a communiqué[1] on June 5 indicating the following agreement reached on Pillars One and Two of the BEPS 2.0 project[2]:

1. committed to reach an equitable solution on the allocation of taxing rights, with market countries awarded taxing rights on at least 20% of profit exceeding a 10% margin for the largest and most profitable multinational enterprises; and

2. committed to a global minimum tax of at least 15% on a country by country basis.

In addition, the G7 agreed to provide for appropriate coordination between the application of the new international tax rules and the removal of all Digital Services Taxes (DST), and other relevant similar measures, on all companies.

The relevant statements in the communiqué are extracted below for reference:

*"We strongly support the efforts underway through the G20/OECD Inclusive Framework to address the tax challenges arising from globalisation and the digitalisation of the economy and to adopt a global minimum tax. We commit to reaching an equitable solution on the allocation of taxing rights**, with market countries awarded taxing rights on at least 20% of profit exceeding a 10% margin for the largest and most profitable multinational enterprises.** We will provide for appropriate coordination between the application of the new international tax rules and **the removal of all Digital Services Taxes**, and other relevant similar measures, on all companies. We also commit to **a global minimum tax of at least 15% on a country by country basis**. We agree on the importance of progressing agreement in parallel on both Pillars and look forward to reaching an agreement at the July meeting of G20 Finance Ministers and Central Bank Governors."*

Implications of the G7 agreement on the work of the BEPS Inclusive Framework

The G7 members are Canada, France, Germany, Italy, Japan, the United Kingdom, and the United States. Although the G7's agreement may have certain influence on the ongoing discussion and work of the G20/OECD Inclusive Framework on BEPS 2.0 (BEPS Inclusive Framework), the G7 members have no formal power to fashion an agreement that is binding on other countries. As such, it has yet to see whether the G20 and the 139 members of the BEPS Inclusive Framework can reach a global consensus on Pillars One and Two and if yes, whether the outcome will follow or deviate from the G7 agreement.

In this regard, the key events in the next few months are the Inclusive Framework meetings at the end of June 2021 and the next G20 Finance Ministers meeting on July 9-10, 2021. The OECD has recently indicated that the model legislation of Pillar Two may be available in July and an agreement on the full package on Pillars One and Two may be reached in October 2021. The OECD also indicated that it will produce a framework by October 2021 for identifying unilateral measures (e.g. DST) to be withdrawn as part of the agreement on Pillar One. The framework will also include a peer review mechanism to ensure that countries fulfil their commitments to withdraw the relevant unilateral measures.

Other recent related developments

Other than the G7 agreement discussed above and the latest timeline on BEPS 2.0 indicated by the OECD, the following recent developments in the United States and the European Union (EU) are also relevant to the progress of developing a global consensus-based solution to international corporate tax reform:

- In a press release issued by the US Department of the Treasury on May 20, 2021[3], the United States indicated its position that the global minimum tax rate under Pillar Two should at least be 15% and underscored that 15% is a floor and that discussions should continue to be ambitious and to push that rate higher; and

- The European Commission released a “Communication on Business Taxation for the 21st Century” on May 18, 2021[4], setting out its long-term vision and short-term legislative agenda on business taxation in the EU. The EU supports the OECD’s BEPS project and plans to implement the consensus-based solution shortly after its agreement later this year. The Communication outlines that Pillar One will be mandatory for participating countries and the rule will be implemented for EU Member States by way of an EU Directive. Pillar Two will also be implemented for EU Member States by way of an EU Directive and will reflect the BEPS Inclusive Framework rules but with necessary adjustments (the necessary adjustments may be substance-based carve outs to comply with the EU fundamental freedoms). A Pillar Two Directive may also have ramifications for the EU list of non-cooperative jurisdictions and could end up becoming one of the criteria against which third countries will be assessed.

The takeaway

While the G7 agreement should give new momentum to the ongoing discussions on Pillars One and Two at the global level, a more important indicator of the coming international tax changes will be those determinations made by the G20 and the BEPS Inclusive Framework in the next few months. Even with an agreement on the key aspects at a global level, the detailed technical elements of the two pillars will still need to be worked out. Having said that, the G7 agreement signifies an important step towards reaching a global consensus on the two pillars.

In the 2021/22 Hong Kong Budget, the Financial Secretary indicated that the directions of Hong Kong’s response to BEPS 2.0 are to: (1) actively implement the OECD’s proposals according to international consensus; (2) minimise the impact on local small and medium sized enterprises and strive to maintain the simplicity, certainty and fairness of Hong Kong’s tax regime; (3) minimise the compliance burden on affected corporations while safeguarding Hong Kong’s taxing rights and (4) keep up the efforts in improving Hong Kong’s business environment.

For foreign-headquartered multinational groups with business operations in Hong Kong, the major concern under Pillar Two will be whether their effective tax rates in Hong Kong will be below the agreed minimum tax rate after taking into account an offshore claim, a concessionary tax treatment (e.g. a 8.25% concessionary tax rate for certain insurance businesses, aircraft leasing and ship leasing businesses, a 5% deemed profit taxation basis for life insurance businesses) or the other available tax deductions (e.g. the 300%/200% enhanced research and development deduction). If that is the case, the groups may either need to pay a top-up tax in the ultimate parent jurisdiction under Pillar Two or a top-up tax in Hong Kong should Hong Kong introduce a domestic minimum tax regime as a response to BEPS 2.0.

On the other hand, for Hong Kong-headquartered groups with foreign business operations, if their effective tax rates in the relevant foreign jurisdictions are below the agreed minimum tax rate, they may need to pay a top-up tax in Hong Kong if Hong Kong implements the Income Inclusion Rule under Pillar Two or introduces a domestic minimum tax regime.

The affected multinational business groups should assess the potential impacts of BEPS 2.0 developments on their global tax exposure and compliance burden as soon as possible if they have not done so and consider options to alleviate the impacts, including possible reallocations of different business activities to different jurisdictions.

Endnotes

1. The full text of the communiqué can be accessed via this link: https://www.gov.uk/government/publications/g7-finance-ministers-meeting-june-2021-communique/g7-finance-ministers-and-central-bank-governors-communique

2. For more details about the blueprints on Pillars One and Two, please refer to the PwC Global Tax Policy Alert, October 2020 via this link: https://www.pwchk.com/en/tax/publications/beps2-oecd-blueprints-oct2020.pdf

3. The US Department of the Treasury's press release can be accessed via this link: https://home.treasury.gov/news/press-releases/jy0189

4. The European Commission's communication can be accessed via this link: https://ec.europa.eu/taxation_customs/sites/default/files/communication_on_business_taxation_for_the_21st_century.pdf

Let's talk

For a deeper discussion of how this impacts your business, please contact:

PwC's Corporate Tax Leaders based in Hong Kong

Charles Lee
+852 2289 8899
charles.lee@cn.pwc.com

Jeremy Ngai
+852 2289 5616
jeremy.cm.ngai@hk.pwc.com

Jeremy Choi
+852 2289 3608
jeremy.choi@hk.pwc.com

Rex Ho
+852 2289 3026
rex.ho@hk.pwc.com

Cecilia Lee
+852 2289 5690
cecilia.sk.lee@hk.pwc.com

Jenny Tsao
+852 2289 3617
jenny.np.tsao@hk.pwc.com

Kenneth Wong
+852 2289 3822
kenneth.wong@hk.pwc.com

PwC's International Tax Advisory Team

Jesse Kavanagh
+852 2289 1100
jesse.kavanagh@hk.pwc.com

Andrew D'Azevedo
+852 2289 5697
andrew.f.dazevedo@hk.pwc.com

In the context of this News Flash, China, Mainland China or the PRC refers to the People's Republic of China but excludes Hong Kong Special Administrative Region, Macao Special Administrative Region and Taiwan Region.

The information contained in this publication is for general guidance on matters of interest only and is not meant to be comprehensive. The application and impact of laws can vary widely based on the specific facts involved. Before taking any action, please ensure that you obtain advice specific to your circumstances from your usual PwC's client service team or your other tax advisers. The materials contained in this publication were assembled on June 11, 2021 and were based on the law enforceable and information available at that time.

This News Flash is issued by the **PwC's National Tax Policy Services** in Mainland China and Hong Kong, which comprises of a team of experienced professionals dedicated to monitoring, studying and analysing the existing and evolving policies in taxation and other business regulations in China, Hong Kong, Singapore and Taiwan. They support the PwC's partners and staff in their provision of quality professional services to businesses and maintain thought-leadership by sharing knowledge with the relevant tax and other regulatory authorities, academies, business communities, professionals and other interested parties.

For more information, please contact:

Long Ma
+86 (10) 6533 3103
long.ma@cn.pwc.com

Please visit PwC's websites at http://www.pwccn.com (China Home) or http://www.pwchk.com (Hong Kong Home) for practical insights and professional solutions to current and emerging business issues.

www.pwchk.com