Mazars BEPS & International Tax journal Newsletter n°1 – February 2021

Edito

This newsletter provides you with regular insights about the OECD's BEPS initiative and the ongoing international tax reforms.

This first edition deals with the new measures published in February 2021 by the OECD, the EU and in 27 countries: Belgium, Cayman Island, Chile, China, Costa Rica, Cyprus, Denmark, France, Germany, Gibraltar, Greece, Hungary, Ireland, Israel, Italy, Kenya, Luxembourg, Mexico, Poland, Russia, Serbia, Sweden, Taiwan, Thailand, UK, USA, Uruguay.

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OECD

Recently, Belarus and Samoa joined the Inclusive Framework on BEPS, bringing the total number of members to 139. As new Inclusive Framework members, both jurisdictions committed to comply with the BEPS minimum standards, which are contained in the final reports on Action 5 (Countering Harmful Tax Practices), Action 6 (Preventing Treaty Abuse), Action 13 (Transfer Pricing Documentation) and Action 14 (Enhancing Dispute Resolution). Both jurisdictions will also participate on an equal footing with the members of the Inclusive Framework in the remaining standard setting activities, as well as the review and monitoring of the implementation of the BEPS package.

On 27 and 28 January 2021, the OECD/G20 Inclusive Framework on BEPS held its first public meeting to provide an update on its ongoing international tax work. Over the two-day meeting, the Inclusive Framework focused on the major developments in international tax policy and administration in recent years, current policy challenges and the future ahead. The agenda covered the following tax policy issues:

(i) global economic context and tax policy after COVID-19;

(ii) tax and development;

(iii) tax challenges arising from digitalization and the future of international taxation;

(iv) BEPS, tax certainty, transparency and tax administration; and

(v) tax and the environment.

Considering the global economic context, the discussions during the meeting highlighted that the pandemic has severely affected economies from all over the world. Political leaders also continued to express strong support for the project ‘’Addressing the Tax Challenges of the Digitalization of the Economy’’ (BEPS 2.0 project). While the six finance ministers speaking at the meeting acknowledged the existence of different views among countries, they also expressed the view that there is a clear need for compromise and that a global consensus agreement is the only way forward. In relation to BEPS implementation, it was highlighted that the BEPS project has been adopted widely in many countries. Action 13 was indicated as the most visible of the minimum standards in terms of application and impact on businesses. Further, the Inclusive Framework also discussed options for a sustainable, resilient, prosperous tax system and pathways to greener, more inclusive growth through tax post COVID-19.

On 21 January 2021, the OECD published an updated version of its guidance on tax treaties and the impact of the COVID-19 pandemic. This guidance revisits the guidance published on 3 April 2021 by the OECD Secretariat. In particular, the updated guidance addresses the following issues:

(i) permanent establishment;

(ii) residence status of companies (based on place of effective management) and individuals; and

(iii) treatment of employment income.

This updated version of the guidance considers some additional fact patterns not addressed in detail in the early guidance, examines whether the analysis and the conclusions outlined in the early guidance continue to apply where the circumstances persist for a significant period, and contains references to country practices and guidance during the COVID-19 pandemic.

On 1 February 2021, the OECD held a public consultation meeting with respect to the review of the minimum standard on dispute resolution under BEPS Action 14. The public consultation meeting followed a consultation document published in November 2020 that attracted over 200 pages of comments from professional service providers, businesses, industry associations, and individuals. The consultation focused on three key areas:

(i) Experiences with, and views on, the status of dispute resolution and suggestions for improvement;

(ii) Additional measures that may strengthen the Action 14 minimum standard; and

(iii) Additional measures that may strengthen the MAP Statistics Reporting Framework.

There is continued strong support for the OECD's Action 14 proposals in a number of area, including increased dispute prevention through the use of bilateral APAs, greater transparency around countries' MAP and APA programs through statistics reporting frameworks, and improved training regimes for domestic auditors on the international impact of domestic adjustments and penalties. Mandatory binding arbitration is another area which enjoys strong support given its role in achieving greater tax certainty and moving forward MAP timelines. However, there are divergences in opinion both on the best way forward for these proposals and on their implementation in developing countries. This divergence stems from a concern that there is a disparity in the requisite resources and experience between tax authorities in different jurisdictions and that further support from the OECD is needed to uniformly implement the Action 14 proposals. Key areas of challenge continue to be persistent issues with access to MAP, timelines in resolving MAPs or agreeing on APAs, and the further need for transparency on domestic law issues that affect the availability or implementation of MAP negotiations. It was recognized that there are still numerous barriers to accessing MAP, with particular concern over an increasing trend in access being denied where adjustments are structured through domestic non-deductibility. This was an issue that was specifically raised in the comment submission, reflecting heightened concerns around this trend in light of the BEPS 2.0 Pillar Two Blueprint. Going forward, dispute resolution and prevention will be increasingly important given the BEPS 2.0 project and the increasing need for tax certainty, which means that continued work on Action 14 will remain critical. These comments are made against a background of increasing complexity in tax audits and disputes as well as the disruption wrought by the COVID-19 pandemic. In such circumstances, the need to increase the accessibility, efficiency, and efficacy of cross-border dispute resolution programs is critical to the proper operation of the international tax system. To prepare for navigating this disruptive and ever-changing landscape, multinationals will need to make sure that their tax controversy function is fit for the future.

The OECD released the 10th batch of peer review reports, which relate to the implementation by Aruba, Bahrain, Barbados, Gibraltar, Greenland, Kazakhstan, Oman, Qatar, Saint Kitts and Nevis, Thailand, Trinidad and Tobago, United Arab Emirates (UAE), and Vietnam of the Base Erosion and Profit Shifting (BEPS) minimum standard on Action 14 (Making Dispute Resolution Mechanisms More Effective). Overall, the reports conclude that most of the assessed jurisdictions meet almost all or the majority, of the elements of the Action 14 minimum standard, with the

exception of Kazakhstan and Vietnam which meet less than half of the elements of the Action 14 minimum standard. In the next stage of the peer review process, each jurisdiction's efforts to address any shortcomings identified in this Stage 1 peer review report will be monitored.

The Platform for Collaboration on Tax (the Platform) – a joint effort of the Organization for Economic Co-operation and Development (OECD), United Nations (UN), International Monetary Fund (IMF) and World Bank Group (WBG) – will host a webinar to discuss their recently released toolkit (the Toolkit) designed to help developing countries with the successful implementation of effective transfer pricing documentation requirements. The webinar will feature a presentation by the Toolkit authors, followed by a panel discussion on how the Toolkit can help countries address issues in implementing effective transfer pricing documentation requirements. The Toolkit compiles information on transfer pricing documentation and analyzes policy choices and legislative options. It states that robust transfer pricing documentation rules are a prerequisite for the effective implementation of transfer pricing rules. The Toolkit identifies measures that governments could put in place relating to the documentation of all stages of a taxpayer's transfer pricing analysis. Furthermore, it describes approaches for gathering additional transfer pricing related information, including information required in, or to be filed along with, the tax return (such as transfer pricing return schedules), and other measures such as questionnaires. The Toolkit reflects current international approaches and country practices for transfer pricing documentation and discusses various policy considerations and options to guide developing countries. The Toolkit should not be regarded as the officially endorsed views of the organizations participating in the Platform or their member countries but is primarily intended as a sourcebook of guidance on implementing transfer pricing documentation requirements for developing countries. In addition to the webinar, virtual learning opportunities based on the Toolkit will also be available.

European union

On 14 and 18 January, the European Commission launched, respectively, a roadmap and a public consultation on 'a fair & competitive digital economy – digital levy.' The initiatives aim to gather stakeholders' feedback and views on the introduction of a digital tax to address the issue of fair taxation of the digital economy. The new initiative, according to the roadmap, is to be designed in a way that is compatible with the international agreement to be reached in the Organization for Economic Co-operation and Development (OECD) as well as broader international obligations. The new EU digital levy initiative could potentially include a corporate income tax top-up to be applied to all companies conducting certain digital activities in the EU, a tax on revenues created by certain digital activities conducted in the EU, and/or a tax on digital transactions conducted business-to-business in the EU. Mazars expects the new initiative regarding EU digital taxation by the European Commission to have an impact on businesses engaging and operating in the digital economy, including foreign businesses operating in the EU. In addition, it will also affect tax compliance costs, tax revenues, competitiveness of EU digital companies, and ultimately consumers. While stating that the Commission proposal is not supposed to interfere with the OECD negotiations, and previously committing to withdrawing its proposal in case of an agreement at the OECD level, the European Commission has recently confirmed that it

will move forward with publishing a proposal on an EU digital levy in June 2021, regardless of the outcome of the global negotiations. The upcoming Commission proposal is likely to use an eventual OECD agreement as a basis and add additional requirements for businesses operating within the EU, the details of which remain unclear for the moment. However, such approach could pose a risk of legal fragmentation and might encourage more EU Member States to adopt national digital tax measures in the meantime. Furthermore, businesses are fearing unilateral measures, national or European, as they might lead to double taxation, market distortion and retaliation from other countries. Both the EU and the OECD initiatives will likely target automated digital services and consumer-facing businesses, such as search engines, social media platforms, online marketplaces and businesses selling goods and services to consumers online. It has been clarified that intermediate products and components for consumer products would be out of scope, with some of them remaining subject to possible exceptions. In terms of thresholds, companies falling under the scope of the initiatives will have revenues of at least €750 million, with sales in each country reaching a specific revenue threshold. However, the details of the scope of the future initiative are still a subject of debate at the OECD negotiations. Similarly, as the EU proposal is in a very early stage, one might infer that the OECD requirements will translate as minimum requirements in the EU proposal. While the digital tax measures are generally supposed to target large digital companies, their effects are likely to have a wider impact. When being confronted with a new digital tax, there are various ways in which companies can integrate it into their business model. As can already be seen from the introduction of unilateral digital taxes in some European countries, some companies might decide to absorb the additional costs themselves, while others might decide to pass on the extra costs to their business customers or users via price increases.

The Court of Justice of the European Union (CJEU) issued a judgment concluding that the “10% rule” in the Swedish interest deduction limitation rules is contrary to the European Union (EU) freedom of establishment. According to Swedish tax law, a company linked in a group of associated companies may not deduct interest expenses in relation to a debt owed to an associated company, unless the corresponding income would have been taxed at a nominal rate of at least 10% under the legislation of the State in which the company in the group of associated companies actually entitled to the income is established. However, if the main reason for incurring the debt is that the group of associated companies would receive a substantial tax benefit, then no deduction for interest expenses may be made (the exception to the 10% rule).The CJEU concluded that such national legislation, which provides that a company established in one Member State is not permitted to deduct interest payments made to a company belonging to the same group, established in another Member State, on the ground that the principal reason for the debt linking them appears to be the obtaining of a substantial tax benefit, whereas such a tax benefit would not have been deemed to exist if both companies had been established in the first Member State, is contrary to EU law.

EU Commission opens second round of public consultation on review of VAT rules for financial and insurance services.

Belgium

The Federal Public Service (FPS) Finance of Belgium announced that, due to the current

COVID-19 pandemic and communication issues between Relevant Taxpayers and Intermediaries, no penalties for late filing will apply for reportable cross-border arrangements under DAC6 that should be reported in January and February 2021. The FPS grants this administrative tolerance until 28 February 2021.

Cayman island

Companies formed or registered in the Cayman Islands have been subject to economic substance requirements from 1 January 2019 pursuant to the International Tax Co-operation (Economic Substance) Act, as amended (ES Law) in respect of certain geographically mobile types of business (Relevant Activities). For companies that were registered prior to 1 January 2019, their obligations under the ES Law commenced on 1 July 2019, but for other companies the obligations commenced upon incorporation. Typically, any company that carries on a Relevant Activity during a financial year is required to file an economic substance return (ES Return), demonstrating compliance with the economic substance test, within 12 months of the relevant financial year end. So, for financial years ending on 31 December 2019, ES Returns would normally have been due by 31 December 2020. However, the online portal for such returns has only been functional since late January 2021, so the Department for International Tax Co-operation of the Cayman Islands government (DITC) has extended the filing deadlines for ES Returns in respect of financial years ending between 31 December 2019 and 30 April 2020.

Chile

On 25 January 2021, the Netherlands and Chile signed a double tax treaty. The tax treaty contains a number of treaty-based recommendations from the BEPS project contained in Action 6 (preventing the granting of treaty benefits in inappropriate circumstances), Action 7 (permanent establishment) and Action 14 (making dispute resolution mechanisms more effective).The tax treaty also provides that in cases where a person other than an individual is resident in both Chile and the Netherlands, both competent authorities shall endeavor to determine by mutual agreement, the Contracting State of which the person shall be deemed to be a resident. Furthermore, the tax treaty contains a principal purpose test. In the permanent establishment (PE) clause, the tax treaty contains a contract splitting rule for construction activities and service PE, an anti-fragmentation rule and the new definition of agency PE. Moreover, the tax treaty provides a period of three years for submission of a MAP request beginning on the date of the first notification of the action resulting in taxation not in accordance with the provisions of the treaty. In cases where the competent authorities are unable to reach an agreement after three years of submission, the tax treaty contains an arbitration clause to resolve the case within two years from the presentation of the case to the competent authority of the other contracting state. The OECD Multilateral Convention (MLI) has no effect on this treaty since Chile and the Netherlands have not included this tax treaty as a Covered Tax Agreement (CTA). For the MLI provisions to have effect on the tax treaty, both jurisdictions would need to include the tax treaty in their respective list of CTAs, indicating whether the tax treaty falls within the scope of any of the reservations made by that respective jurisdiction. The treaty will enter into force on the last day of the month following the month in which the ratification process is complete, and the exchange of ratification instruments has taken place.

China

After a meeting between Wang Jun, Head of the Chinese State Tax Administration, and Pascal Saint-Amans, Director of the Center for Tax Policy and Administration at OECD, China has agreed to strengthen cooperation on global taxes. Wang and Saint-Amans committed to assisting developing countries enhance tax collection capabilities and to improving bilateral taxation cooperation.

Costa Rica

Costa Rica's President and the Ministry of Finance publish "guidelines for the implementation of treaty provisions and agreements for the importation of goods".

Cyprus

On 3 February 2021, the Cypriot Tax Department issued an announcement to extend the deadlines for submission of information on reportable cross-border arrangements for the Mandatory Disclosure Rules (MDR) regime. The deadline was extended until 31 March 2021 for the following cases:

- Reportable cross-border arrangements that have been made between 25 June 2018 and 30 June 2020 with a deadline for submission on 28 February 2021.
- Reportable cross-border arrangements that have been made between 1 July 2020 and 31 December 2020 with a deadline for submission on 31 January 2021.
- Reportable cross-border arrangements that have been made between 1 January 2021 and 28 February 2021 with a deadline for submission within 30 days beginning on the day after they were made available for implementation or were ready for implementation or when the first step in the implementation has been made, whichever occurred first.
- Reportable cross-border arrangements for which secondary intermediaries provided aid, assistance or advice, that have been made between 1 January 2021 and 28 February 2021, and had to submit information within 30 days beginning on the day after they provided aid, assistance or advice.

Denmark

The Danish Government presented a law proposal (L 150) to the Danish Parliament which aims to counteract structures using tax havens. Under the proposal, Danish taxpayers would not be able to deduct payments if the recipient of the payments is affiliated with the taxpayer and is resident or registered in a country or territory included on the domestic list – which corresponds to the EU list of non-cooperative countries and territories for tax purposes, excluding Trinidad and Tobago. Further, dividends paid to a recipient resident or registered in a country or territory included on the list would be subject to a 44% withholding tax. If adopted, the Law would apply with effect as from 1 July 2021 onwards.

France

On 3 February 2021, France published a decree to update the list of jurisdictions that have Country-by-Country (CbC) reporting requirements similar to those under French legislation and that have concluded an agreement on the automatic exchange of CbC reports with France. For fiscal years commencing on or after 1 January 2019, the following jurisdictions are included on the list: Anguilla, Belize, British Virgin Islands, Hong Kong, Kazakhstan, Mauritius, Panama, San Marino, Saudi Arabia and the United Arab Emirates. French companies held or controlled by a company resident in the jurisdictions included on this list are not subject to CbC reporting obligations in France.

The French Supreme Administrative Court ruled that Valueclick International, an Irish company in the digital sector, had a permanent establishment in France, for purposes of both corporate income tax (CIT) and value-added tax (VAT), through another Valueclick subsidiary, Valueclick France.

Germany

German Ministry of Finance publishes working draft of Act to Combat Tax Avoidance and Unfair Tax Competition.

Germany and Ireland signed an amending protocol to update the Germany-Ireland tax treaty. The amending protocol contains new preamble language which clarifies that the tax treaty is not intended to be used to generate non-taxation or reduced taxation through tax evasion or avoidance. The amending protocol also includes a principal purpose test. Further, the amending protocol includes an anti-fragmentation clause. Both Germany and Ireland have signed the MLI but neither of them has included this tax treaty as a CTA. The amending protocol is yet to be ratified and enters into force on the day of the exchange of the instruments of ratification.

The German Ministry of Finance (MoF) finalized additional guidance addressing the currently discussed nonresident taxation of royalty income and capital gains relating to rights solely because these rights are registered in a public German book or register. Initially, it was proposed to eliminate this debatable rule given the significant administrative burden that it causes for both taxpayers and the tax authorities as well as that Germany should eventually not have a taxing right under applicable treaties. However, the proposed change of the law was not pursued further by the German Government. In order to simplify the administration of the rule in all open cases, the MoF has now finalized additional guidance following a first public letter decree on 6 November 2020. According to the guidance, nonresident licensees can abstain from withholding, declaring and transferring taxes for relevant payments made up to 30 September 2021 if certain requirements are met. Most importantly, this only applies if treaty eligibility of the recipient of the royalty payments is not doubtful and an application for an exemption from withholding tax is filed by the recipient of the payments by 31 December 2021. It is currently unclear whether another legislative attempt to address the topic will be made at a later point in time, taking into account the additional information becoming available to the tax authorities through the process set forth in the guidance. In light of the general election in Germany to take place in September 2021, we do not expect a new legislative initiative before then and any further developments will likely be impacted by the results of the election.

Gibraltar

HM Government of Gibraltar announced its approach to the mandatory disclosure and exchange of cross-border tax arrangements following the end of the Brexit transition period on 31 December 2020. Following the lead set by the United Kingdom (UK) in its recent announcement, Gibraltar will be realigning its reporting requirements under the retained provisions of EU Directive 2018/822 to the standard required by the OECD. The realignment reduces the level of reporting obligations linked to DAC6 by omitting the main benefit test and hallmark categories A, B, C and E as formerly transposed. As a result, the exchange of information is limited to hallmark category D (specific hallmark concerning automatic exchange of information and beneficial ownership) in line with the previously approved change to UK legislation.

Greece

Greece's Independent Authority for Public Revenue (IAPR) issued Circular A. 1017/2021 which provides for an extension of the deadline for the submissions of reportable arrangements under DAC6. In accordance with this decision, the 30-day deadline for reporting shall start as of 1 February 2021:

- For arrangements concerning the deferral period, i.e., the period between 1 July 2020 and 31 December 2020.
- For arrangements concerning the period between 1 January 2021 and 31 January 2021In addition, it is clarified that the deadline for reporting "historical arrangements" (i.e., arrangements the first step of which was implemented between 25 June 2018 and 30 June 2020) expires on 28 February 2021. The deadline for filing the first quarter periodic report for cross-border arrangements also remains unchanged, i.e., 30 April 2021.

Greece submitted its MLI positions at the time of signature, listing its reservations and notifications and including 57 tax treaties that it wishes to be covered by the MLI. The instrument of ratification still needs to be deposited before the MLI enter into force with respect to its CTAs. A definitive list of reservations and notifications will also need to be provided upon the depositing the instrument of ratification.

Hungary

Hungarian Ministry of Finance issues guidance on Mandatory Disclosure Rules.

Ireland

The Irish Revenue Commissioners published eBrief 014/21 to update the filing instructions where, under MDR, certain information is subject to Legal Professional Privilege (LPP). In such cases, the "Form DAC6 (LPP)" should be used to file the cross-border arrangement. The Form DAC6 (LLP) sets out the identity of the relevant taxpayer and other intermediaries involved in the reportable cross-border arrangement.

The Irish Minister for Finance published an update to Ireland's Corporation Tax Roadmap (the Roadmap). The Roadmap serves to give investors a signal of Ireland's future policy intent and sets out timelines for action. The Roadmap builds on the original publication of September 2018, the purpose of which was to provide a clear indication of the actions that Ireland would take to ensure that its corporation tax code remains competitive, fair and sustainable. The Roadmap also contains a foreword from the Minister for Finance where he reiterates Ireland's. commitment to the 12.5% rate of corporate taxation, the importance of certainty for businesses and Ireland's position on ongoing tax reform. Among other items, the Roadmap includes commitments to further action for public consultation and consideration in the following areas:

(i) introduction of interest limitation rules;

(ii) legislating for the reverse hybrid aspects of EU's Anti-Tax Avoidance Directive;

(iii) the possibility of Ireland moving to a territorial tax regime;

(iv) introduction, if necessary, of further defensive measures against countries on the EU's list of non-cooperative jurisdictions; and

(v) adoption of the Authorized OECD Approach (AOA) for the attribution of profits to branches.

Israel

Israeli Tax Authority publicly presents its view on profit split application for R&D centers.

Italy

The Italian Revenue Agency issued a press release announcing that the Italian guidance relating to MDR (in its final version) will be issued soon and will clarify that no penalties will be applied for late filing provided the submissions of reportable arrangements are made by 28 February 2021.

The Italian Tax Authorities released the final guidelines on the Digital Services Tax (DST) on their official website, considering the comments received during the public consultation of the draft guidelines issued on 16 December 2020. DST is effective from 1 January 2020, however, the deadlines for 2020 have been postponed to 16 March 2021 for the tax payment and 30 April 2021 for the annual return for 2020. The guidelines clarify that the tax is applied to businesses who, individually or as a group, in the previous calendar year (i.e., 2019 for 2020 tax) have:

(i) accrued a total amount of global revenues of at least €750 million; and

(ii) cashed revenues from digital services in Italy of at least €5.5 million.

The guidelines provide clearer definitions of most of the items set forth in the DST Law.

Kenya

High court of Kenya rules that transportation services for goods in transit are subject to VAT and input tax incurred in making exempt supplies is non-deductible.

Luxembourg

The Luxembourg Parliament adopted Bill no. 7547 which disallows the tax deductibility of interest and royalties owed by Luxembourg corporate taxpayers to a related enterprise established in a country or territory included on the EU list of non-cooperative jurisdictions for tax purposes (the EU list). The Bill introduced a few changes to the draft Bill including the postponement of the entry into force date which was initially expected to be 1 January 2021 and the change to definitions so that the new measures only apply to interest and royalties ”owed” and not to interest and royalties actually paid. For the first year, the Bill will only be applicable to those jurisdictions still officially listed on the EU list as of 1 March 2021. For the following years, it will apply to all jurisdictions that are listed on the most recent EU list as of 1 January of the relevant year. If a jurisdiction is removed from the EU list during the year, the new provisions will cease to apply as from the official date of publication in the Official Journal of the EU. The new law will enter into force on 1 March 2021 and applies to interest and royalties accruing as from that date.

Luxembourg published a Decree in the Official Gazette updating the list of jurisdictions with which the Luxembourg Tax Authorities will exchange CbC reports. The Decree adds Andorra, Monaco, Panama and Seychelles to the list of jurisdictions. The change will be effective as from 30 January 2021 and the CbC reporting concerns fiscal years beginning on or after 1 January 2018.

Mexico

On 2 February 2021, Mexico’s tax authorities published the agreement 13/2021 in the Mexican Official Gazette to establish a threshold for reportable cross-border arrangements under the Mandatory Disclosure Regime in Mexico. The agreement provides that taxpayers or tax advisors must report arrangements with an aggregate tax benefit of more than $100 million Mexican pesos (approx. US$5 million). In order to calculate the threshold, taxpayers or tax advisors must aggregate the tax benefit for all transactions that meet a hallmark for reporting and have at least

one tax year in common. This threshold does not apply to generic transactions or transactions meeting the hallmark for avoiding the exchange of information with foreign tax authorities.

Poland

New obligatory report concerning fulfilment of tax strategy should be prepared by the end of 2021.

Russia

On February 10, Russian Deputy Finance Minister Alexei Sazanov announced that Russia was considering a digital services tax. While noting the OECD's work on a global digital tax, Sazanov stated that "so far there has been no tangible progress," leading some countries to act unilaterally. Russia will study the digital taxes imposed by Italy, Spain, England and France in its consideration of a digital services tax.

Serbia

The double Tax Treaty between Serbia and Hong Kong, signed in August 2020, will come into force by mid-February after it was ratified by the Serbian Government on 3 February 2021.

Sweden

The Swedish Tax Agency (STA) updated its guidance on MDR with respect to reporting deadlines. In its updated guidance, the STA confirms that the so-called "Sunday rule" applies in determining statutory deadlines for reporting arrangements, meaning that if the standard 30-day deadline for reporting falls on a Saturday, Sunday, or a public holiday, then the information must be reported on the next working (business) day. The above also applies for the initial 31 January 2021 deadline and the 28 February 2021 deadline. Consequently, the information on reportable arrangements due by those deadlines must be submitted by 1 February 2021 and 1 March 2021, respectively.

Taiwan

In response to global trends around transfer pricing (TP) and effective anti-tax avoidance for cross-border related party transactions, the Taiwan Ministry of Finance has issued Tai-Tsai-Shuei-Zi Ruling No. 10904654700 on 28 December 2020 to detail the amendments to the Regulations Governing Assessment of Profit-Seeking Enterprise Income Tax on Non-Arm's-Length Transfer Pricing (TP Regulations). The official amendments will apply to the 2020 Taiwan corporate income tax filings. Among others, the amendments:

(i) redefine the definition of intangibles;

(ii) prescribe steps that the profit-seeking enterprise and the tax authorities shall follow when evaluating the comparability of the risks borne by the enterprise under a controlled transaction;

(iii) require comparability analysis on DEMPE functions in the valuation of intangible transactions;

(iv) add Income-based Approach as a TP method in the valuation of intangibles; and

(v) stipulate penalties for the undisclosed controlled transactions.

Thailand

Thailand enacts new VAT rules for foreign e-business and digital services.

UK

On February 12, Rishi Sunak, British Chancellor of the Exchequer, chaired his first meeting of the G7 Finance Ministers since the UK took on its 2021 presidency. Sunak noted that finding an international solution to the taxation of the digital economy was priority. Treasury Secretary

Janet Yellen affirmed that the US was committed to multilateralism in her first G7 meeting. G7 heads of state will gather in June 2021, around the time of the OECD's deadline for a global digital tax plan.

USA

The United States (US) Internal Revenue Service (IRS) updated its website which includes an up-to-date listing of the jurisdictions with which the US Competent Authority has entered into a Competent Authority Arrangement (CAA) for the automatic exchange of CbC reports and the jurisdictions that are in negotiations for a CAA. In this update, the IRS added Argentina to the list of countries with which the US has signed a CAA for the automatic exchange of CbC reports.

Maryland General Assembly overrides Digital Advertising Tax veto. On February 12, 2021, the Maryland General Assembly overrode Governor Hogan's veto of 2020 H.B. 732 and enacted the first targeted state tax on digital advertising services. "Digital advertising services" is defined as including "advertisement services on a digital interface, including advertisements in the form of banner advertising, search engine advertising, interstitial advertising, and other comparable advertising services." The tax rate varies from 2.5% to 10%, depending on the taxpayer's global annual gross revenues. The 10% maximum tax rate applies to persons with global annual gross revenues exceeding $15 billion. As Mandated by the Maryland Constitution, the tax will take effect in 30 days and is applicable to all taxable years beginning after December 31, 2020.

Kansas Governor announces marketplace facilitator proposal.

On February 9, 2021, Governor Laura Kelly announced a plan to add market facilitator collection and remittance to other tax related legislation, Senate Bill 22. The governor noted that Kansas is one of only three states that has not enacted marketplace facilitator provisions and that this change would allow Kansas "…to collect from fewer entities and increase compliance." The plan also proposes a tax on digital products, including video streaming services. The governor stated that the additional revenue generates by marketplace facilitator and digital goods provisions would allow the state to increase the Kansas standard deduction by 20% in 2021 and 35% in 2022. Earlier in February, Kansas introduced H.B. 2230, which would impose sales tax on digital property and subscription services.

Uruguay

Uruguayan Executive Power increases tax benefits granted to investment projects.

The General Directorate of Taxation from Uruguay published Resolution 75/2021 to extend the deadline for submission of CbC reports. The resolution provides that CbC report filing has been extended until 28 February 2021 for fiscal years ending from 1 January 2020 to 31 January 2020. Prior to this extension, the deadline for CbC report filing was within 12 months following the end of the reporting fiscal year.

Uruguay modifies "tax holiday" regime.

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About Mazars

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[1] Where permitted under applicable country laws

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