



BEPS and international tax newsletter
Edition 38 – March 2024

Introduction

This newsletter provides regular updates and insights on the OECD's BEPS initiative and ongoing international tax reforms.

Our thirty-eighth edition deals with the new measures published in March 2024 by the OECD, EU, WATAF and in 24 countries: Argentina, Bahamas, Canada, China, Cyprus, Denmark, Estonia, Greece, Hong Kong, Italy, Kenya, Lithuania, Luxembourg, Netherlands, New Zealand, Nigeria, Poland, Senegal, Singapore, Switzerland, Thailand, Trinidad and Tobago, UK and USA.

If you have any questions, please don't hesitate to get in touch with a member of our team.



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OECD

During its Tax and Development Days 2024 on 12 and 13 March, the OECD presented an update on several of its ongoing initiatives. OECD officials shared insights into the perspectives of developing countries regarding the implementation of the Two-Pillar Solution. Developing countries have identified a range of challenges relating to the economic impact of the rules, such as impact on specific industries, incentive regimes and special economic zones. For some jurisdictions, accessing vital data and information of multinational enterprises could be difficult. The challenges trigger an essential need for targeted capacity building and training for tax administration staff. Politically, persuading stakeholders about the advantages of certain policies is another challenge. OECD officials also focused on the economic impact assessment related to the Two-Pillar Solution. This session highlighted the consequences of the two pillars on global allocation of taxing rights, corporate income tax profits and corporate profit shifting. In addition, OECD officials underscored potential strategies, particularly for developing countries, to conduct their own impact assessments with a specific focus on the QDMTT. They also elaborated on how the OECD is currently coordinating and assisting these countries. Moreover, the OECD also facilitated two other sessions. The first session focused on transfer pricing and international taxation capacity building programs, including an in-depth discussion of associated impacts and challenges. The second session primarily revolved around tax transparency and cooperation with an aim to enhance tax compliance and uphold the fairness of the tax system. In this session, OECD officials explored the benefits that developing countries could reap in terms of tax compliance and revenue mobilization from the implementation and application of tax transparency and information exchange.

The OECD updated the Arbitration Profiles of the Netherlands and Singapore, which contain information regarding their position with respect to applying Part VI (mandatory binding arbitration) of the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (MLI on

BEPS). Arbitration profiles contain references to (i) the jurisdictions' MLI positions; (ii) Mutual Agreement Procedure (MAP) profiles; (iii) synthesized texts obtainable from the MLI Matching Database; (iv) hyperlinks to the competent authority agreements concluded in respect to the Arbitration clause of the MLI; and (v) the type of arbitration process. Singapore and the Netherlands have updated their competent authority agreements section, reciprocally including each other on their respective lists on mandatory binding arbitration.

Hong Kong notified the OECD Depository of the MLI on the completion of its internal procedures for the entry into effect of the MLI provisions with respect to its Covered Tax Agreements (CTAs) with Mexico and Vietnam. This notification is required when a Contracting Jurisdiction has made the reservation under Article 35(7)(a) of the MLI. Article 35(7)(a)(i) allows a Contracting Jurisdiction to reserve the right to delay the entry into effect of MLI provisions until 30 days after the Depository receives the last notification from all Contracting Jurisdictions making the reservation, informing the Depository that internal procedures for the entry into effect of the MLI with respect to that particular CTA are complete. In line with the above, the MLI shall enter into effect for the CTAs mentioned above no sooner than 30 days after Hong Kong issued a notification that it has completed its internal procedures (Mexico and Vietnam have not made a similar reservation and have notified their ratification of the MLI at an earlier stage).

The Secretariat of the Global Forum on Transparency and Exchange of Information for Tax Purposes (the Global Forum) launched the Model Manual for Common Reporting Standard (CRS) Compliance Audits. This new tool aims to assist jurisdictions in the effective implementation of the Standard for Automatic Exchange of Financial Account Information in Tax Matters (AEOI). Jurisdictions can use this tool when developing, improving or implementing their national procedures and methodologies for conducting CRS compliance audits. The tool is available on demand in English, French and Spanish to interested jurisdictions.

The OECD Council approved an update to the Commentary on Article 26 (Exchange of information) of the OECD Model Tax Convention

on Income and on Capital. According to the OECD, this update clarifies the use of information received through administrative assistance on tax matters for other persons than those for whom the information was initially obtained. It also offers interpretative guidance on confidentiality, especially relating to a taxpayer's opportunity to access exchanged information that may impact its tax position and reflective non-taxpayer-specific information (i.e., information about or generated on the basis of the information that was received by a Contracting State through the exchange of information such as, statistical data, as well as non-taxpayer specific notes, summaries, and memoranda incorporating exchanged information). Further, it clarifies that reflective non-taxpayer-specific information may be disclosed to third parties if it does not, directly or indirectly, reveal the identity of the taxpayer and the sending and receiving states have consulted with each other in writing and concluded that the disclosure and use of the information would not impair their tax administrations.

The OECD released the Secretary-General Tax Report (the Report), providing an update on international tax matters including progress on the implementation of the minimum standards of the original BEPS project, and the work on tax progressivity. Among other things, the Report provides an update on the work around inequality and progressivity of tax systems, noting that OECD analysis suggests there is considerable scope to enhance the design and effectiveness of taxes on capital to raise more revenue and reduce inequality. The Report indicates that the OECD intends to release two papers in 2024 focusing on the taxation of capital gains and closely held businesses. The Report also notes the need for further work in this area, including potential work to identify challenges involved in taxing high-net-worth individuals in a globalised economy. In addition, the Report provides a status update on jurisdictions' implementation of the minimum standards established in the original BEPS project, relating to Actions 5 (harmful tax practices), 6 (tax treaty abuse), 13 (country-by-country reporting) and 14 (mutual agreement procedure). It also contains an update on the activity of the Global Forum on Transparency and Exchange of Information for Tax Purposes, as well as brief discussions of ongoing work in the areas of tax and development, tax and crime, and indirect tax. At the conclusion of the 28-29 February 2024

meeting of the G20 Finance Ministers and Central Bank Governors, the Chair issued a meeting summary underscoring the importance of enhanced international economic cooperation and reiterating the G20's focus on finalising the BEPS 2.0 project.

EU

The Council of the EU (the Council) held a General Affairs Council meeting in which Ministers approved the Council Conclusions on the revised EU List. In this update, the Council adopted a revised Annex I of the U List that removes the Bahamas, Belize, the Seychelles and Turks and Caicos Islands. The revised Annex I of the EU List now includes 12 jurisdictions (American Samoa, Anguilla, Antigua and Barbuda, Fiji, Guam, Palau, Panama, Russia, Samoa, Trinidad and Tobago, the US Virgin Islands and Vanuatu).

The Council also amended the list of jurisdictions included on Annex II of the EU List, which covers jurisdictions that have made sufficient commitments to reform their tax policies but remain subject to close monitoring while they are fulfilling these commitments. The Council removed Albania, Aruba, Botswana, Dominica, Hong Kong and Israel from Annex II after they satisfied their respective requisite commitments. As a result, the revised Annex II now comprises 10 jurisdictions (Armenia, Belize, British Virgin Islands, Costa Rica, Curaçao, Eswatini, Malaysia, the Seychelles, Turkey and Vietnam). The Council will continue to review and update the EU List biannually, with the next update due in October 2024.

EU Council approves Corporate Sustainability Due Diligence Directive.

WATAF

On 28 February 2024, the West African Tax Administration Forum (WATAF) Secretariat issued a communiqué expressing concerns about certain aspects of the newly released report on Amount B under Pillar One. The primary issues raised by WATAF centred around the definition of low-capacity jurisdictions, the design factors of the pricing methodology, the use of a single commercial database for the pricing matrix that lacks geographical representation, and the absence of a qualitative criteria to ensure that only baseline distributors fall within the scope of Amount B. WATAF recommends that its members continue to use

the OECD Transfer Pricing Guidelines alongside their transfer pricing legislation until the optional qualitative scoping criteria and the list of low-capacity jurisdictions are finalised on 31 March 2024, depending on their specific situations.

Argentina

Argentine Senate approves treaties with China, Turkey and UAE.

Bahamas

The government of Bahamas announced its intention to introduce a Qualified Domestic Minimum Top-up Tax (QDMTT). According to the announcement, the government will release QDMTT draft legislation by the end of May 2024, subject to a public consultation over the summer. The aim is to finalise the legislation and submit it to Parliament after the summer. The announcement does not include the rule's effective date and makes no reference to the introduction of either the Income Inclusion Rule (IIR) or the Undertaxed Profits Rule (UTPR).

Canada

Canada Revenue Agency (CRA) released Information Circular No. IC94-4R2 on International Transfer Pricing: Advance Pricing Arrangements (APAs) replacing Information Circulars 94-4R and 94-4RSR, dated 16 March 2001 and 18 March 2005, respectively. A taxpayer might qualify for an APA with the CRA if the taxpayer adheres to transfer pricing rules under Section 247 of the Income Tax Act, conducts business in Canada or a tax treaty jurisdiction through a permanent establishment, or participates in international transactions with related parties. This information circular provides comprehensive guidance on APAs, focusing in particular on establishing the taxpayers' entry requirements to the APA. The Information Circular provides a detailed, stage-by-stage guide for the APA process, ranging from pre-filing to processing and casework, all the way through to resolution. It also addresses issues such as APA administration during audits or disputes, scenarios under which the CRA may revise, cancel, or revoke an APA, and the procedures and timing for taxpayers to request a renewal. Furthermore, the updated Informational Circular includes some revisions related to procedures and policies, largely to update the guidance to reflect how the Canadian APA program has been operating over the past decade. The CRA encourages APAs because they present several

advantages, such as enhancing tax certainty across multiple jurisdictions, lowering the risk of audits, safeguarding against transfer pricing penalties, and simplifying resolution of complex issues. According to the Information Circular, these benefits can result in time and compliance cost savings for taxpayers who, in return, are anticipated to fully cooperate throughout the APA process by meeting all deadlines, promptly responding to information requests and proactively providing tax authorities with complete, up-to-date information suitable for an APA. The goal of the guidelines is to enhance transparency with respect to the CRA's APA program by offering taxpayers explicit instructions on the process and requirements of the program.

China

China advances toward tax certainty with trial implementation of advance tax rulings.

Cyprus

Cyprus publishes 10-year government bond yield rates for notional interest deduction purposes.

Denmark

Denmark published a draft amendment law subject to public hearing until 22 March 2024 in relation to the Pillar Two legislation. Among other items, the amendments add some provisions from the July and December 2023 Administrative Guidance released by the OECD as well as provisions related to the anti-abuse rules for Transitional Country-by-Country Reporting (CbCR) Safe Harbor. Furthermore, the amendment addresses a concern raised by different stakeholders regarding language in the legislation concerning the application of the UTPR. Currently, the UTPR legislation would appear to apply for fiscal years starting on or after 31 December 2023 in certain fact patterns, namely:

- An in-scope multinational with at least one Danish constituent entity that has an ultimate parent entity (UPE) resident in a jurisdiction that has not adopted an IIR
- The in-scope multinational has at least one low-taxed constituent entity in an EU Member State that has adopted Article 50 of the EU Minimum Tax Directive; this article allows the deferral of the IIR and UTPR to countries with fewer than 12 UPEs, namely Estonia, Latvia, Lithuania, Malta and Slovakia. The amendments intend to clarify

that the application of the UTPR in 2024 would only apply for Multinational Enterprise (MNE) Groups that are headquartered in a Member State that has deferred the implementation of Pillar Two and have a low-taxed constituent entity in an EU Member State. Following the hearing, a final bill will be presented to Parliament. The law is expected to be enacted before 1 July 2024 and would be effective for fiscal years starting on or after 31 December 2023.

Estonia

Estonia's government submitted a bill to Parliament implementing the EU CbCR Directive into domestic law. The rules set forth in the Directive require both MNEs based in the EU and non-EU-based MNEs doing business in the EU through a branch or subsidiary with total consolidated revenue exceeding €750m in each of the last two financial years to publicly disclose additional information, including income taxes paid. To lower the administrative burden and because the presence of in-scope entities in Estonia is limited and these are already subject to an obligation to submit a similar report to the Tax and Customs Board, Estonia has decided to transpose the Directive through amendments to tax legislation, allowing the tax authorities to publish online already-submitted Country-by-Country (CbC) reports instead of requiring taxpayers to submit an additional report. Estonia has not opted to grant the "website exemption" (i.e., exemption from publication of the report on the website of a subsidiary or a branch) nor the safeguard clause (i.e., option of temporarily withholding information from the report if its disclosure would be prejudicial to the commercial position of the MNE group to which the report refers). The deadline for publishing the report is 12 months after the balance sheet date of the reporting year for which the CbC report is prepared. The rules will apply for financial years beginning on or after 22 June 2024. The first reading of the draft bill has now been completed and amendments could be submitted until 20 March 2024.

Greece

The Greek government released a public consultation to incorporate the Pillar Two legislation into domestic law. This proposed legislation includes an IIR and a QDMTT for fiscal years starting on or after 31 December 2023. The legislation also includes the UTPR for fiscal years

starting on or after 31 December 2024. The draft legislation is generally in line with the EU Minimum Tax Directive and includes the transitional CbCR Safe Harbor, UTPR Safe Harbor and a QDMTT Tax Safe Harbor.

Hong Kong

Hong Kong announces 2024/25 annual Budget with new patent-box regime.

Italy

Deadlines for submitting Corporate Income Tax returns have been shortened by two months (i.e., nine months after fiscal-year end, rather than the 11 months previously applicable). Consequently, natural persons, partnerships and entities subject to Corporate Income Tax must file their respective tax returns by 30 September (instead of 30 November) of the tax period following the close of the fiscal year. For tax returns relating to 2023, the deadline has been postponed for an additional 15 days (i.e., to 15 October). Considering that the possession of transfer pricing (TP) documentation qualifying for the penalty protection regime should be communicated in the tax return, deadlines for preparing Italian Local File and Group Master File have also been shortened by two months. Taxpayers must prepare their TP documentation with an electronic signature and time stamp within the new deadline for submitting the tax return. In line with paragraph 9 of the Circular Letter n. 15 of 26 November 2021 of the Italian Revenue Agency, a taxpayer also may communicate possession of TP documentation by submitting a "late return" or a "supplementary/replacing return," amending the one already presented, within 90 days from the ordinary deadline for submitting the tax return.

Kenya

On 23 February 2024, the Tax Appeals Tribunal (TAT or Tribunal) in Kenya issued a ruling (M-Kopa LLC v. Kenya Revenue Authority, Tax Appeal No. 65 of 2023) in favour of a digital financial service provider, affirming that for non-resident companies the place of effective management (POEM) for tax-residency purposes, is determined based on the location where the board of directors met and made key management and commercial decisions necessary for the entity to conduct business. This decision also emphasised that the location of the majority of directors is vital in determining the POEM. The implication of this judgment is that

the place of a taxpayer's effective management is where the top level of management is exercised.

Lithuania

On 6 March 2024, the Lithuanian government adopted a resolution to submit draft legislation implementing Pillar Two into domestic law. The draft legislation will be presented to Parliament for adoption. In line with the EU Minimum Tax Directive, Lithuania has elected to delay the application of the IIR and UTPR until 31 December 2029. Consequently, the draft legislation does not address the specific application of the IIR or UTPR and focuses on filing obligations and administrative aspects. If adopted by Parliament, the legislation will come into force on 1 July 2024.

Luxembourg

The Government Council of Luxembourg adopted an updated list of Reportable Jurisdictions for purposes of CbCR. This expanded the scope to include Costa Rica, Israel and Thailand for fiscal years commencing from 1 January 2023. The Faroe Islands was also added to the list for fiscal years starting from 1 June 2023 onwards. The amendments came into effect on 27 February 2024.

Netherlands

On 1 March 2024, the Netherlands published on its Official Gazette the Decree implementing the EU Public CbCR Directive into domestic law. The Decree mandates the Dutch Ultimate Parent Entity of multinational enterprises (MNEs) with annual consolidated revenues exceeding €750m in each of the last two consecutive financial years and stand-alone Dutch entities with similar revenue to annually publish a CbC report. Dutch subsidiaries of non-EU parent companies (i.e., non-EU headquartered MNE groups meeting the €750m threshold) that (on a standalone basis) qualify for at least two of the following three criteria should also submit a groupwide CbC report: (i) balance sheet exceeding €6m; (ii) net turnover equal to or exceeding €12m; and (iii) an average of more than 50 employees. Dutch branches of non-EU MNEs meeting the €750m threshold should submit a CbC report as well (unless there is already a Dutch subsidiary of a non-EU MNE that has a reporting obligation). In line with the Directive, the CbC report should be published in the Commercial Register within 12 months following the closing date of the financial

year for which the report is drawn up and it should remain accessible on the website for at least five consecutive years. The Netherlands has chosen not to grant an exemption from the requirement to publish the report on the website of a subsidiary or a branch. The Netherlands has opted for the safeguard clause (i.e., option of temporarily withholding information from the report if its disclosure would be prejudicial to the commercial position of the MNE group to which the report refers) for a period of up to five years after the publication of the report. However, information concerning non cooperative jurisdictions may never be omitted. In line with the Directive, the new provisions will be applicable for financial years starting on or after 22 June 2024.

New Zealand

On 11 March 2024, New Zealand's Parliament's Finance and Expenditure Committee (FEC) has reported back the Taxation Bill (the Bill) to Parliament. The FEC has recommended several changes across the mix of proposals outlined in the Bill. Among other items, the Bill includes measures for the implementation of Pillar Two. The recommended proposals include amending the Bill so that the IIR and UTPR apply from 1 January 2025, while the Domestic IIR applies from 1 January 2026. Additionally, the proposals clarify that tax paid under a QDMTT is eligible for a foreign tax credit and allow the Commissioner of Inland Revenue to make binding rulings on Pillar Two. The Bill is set to be read a second time when Parliament recommences sitting on 19 March 2024. The plan is to progress the Bill through the final legislative stages under urgency, ensuring enactment by 28th March 2024.

New Zealand decided not to adopt the OECD's recently published simplified and streamlined approach to in-country baseline marketing and distribution activities. Accordingly, existing transfer pricing rules and practice will continue to apply to determine arm's-length outcomes for both foreign-owned distributors operating in New Zealand and New Zealand-owned distributors operating in foreign jurisdictions. New Zealand-owned distributors operating in foreign jurisdictions will equally need to continue to apply New Zealand transfer pricing rules in respect of their New Zealand tax obligations, regardless of whether the foreign jurisdiction has opted to apply the streamlined and simplified approach.

Nigeria

Nigeria enacts tax incentives to encourage development in oil and gas sector.

Poland

The Polish government announced on its website that the draft bill implementing the EU Minimum Tax Directive was added to the list of legislative processes in Poland. The legislation will include an IIR, a QDMTT and a UTPR and is expected to be released in March 2024. The legislation is expected to be adopted in the third quarter of 2024 and enter into effect for fiscal years starting on or after 1 January 2025.

The Polish Council of Ministers issued a draft bill introducing amendments to the act on the exchange of tax information with other countries. The amendments include rules implementing DAC7 into national law. DAC7 expands reporting obligations and exchange of information to cover sales through digital platforms. The draft bill is closely aligned with the Directive and includes penalties for noncompliance up to 1 million Polish zloty (PLN1m). If approved by the Council, the bill will be sent to the Parliament for discussion and voting, and once approved will be signed into law by the President. Upon enactment, the rules are expected to enter into force on 1 July 2024. For sellers registered on the platforms as of the law's effective date, the reporting obligation starts on 31 December 2024. However, the reporting obligation also extends to entities identified as reporting platform operators as of 1 January 2023.

Senegal

The Minister of Finance of Senegal issued Implementing Order No. 001697 outlining the format and content requirements for CbCR set out in the domestic General Tax Code as of 2018. According to the Implementing Order, the CbC report should include financial and tax data of the group, such as income taxes paid, and details of the group's structure and primary activities, including management or support services and dormant activities. The Implementing Order includes an Annex embedding the standardized form to be used for filing the CbC report electronically, and it mandates a penalty of 25 million African Financial Community francs (F.CFA25m) in the event of failure to file, or filing an incomplete or inaccurate report, within the prescribed time limit.

Singapore

the Inland Revenue Authority of Singapore published its updated list of jurisdictions with which it will exchange CbC reports under the Multilateral Competent Authority Agreement on the exchange of CbC reports. Updating the preceding update (19 January 2024), Singapore added to the list Papua New Guinea, with which the exchange relationship is effective from fiscal years beginning on 1 January 2024. Following this update, Singapore has an exchange relationship with a total of 92 jurisdictions.

Switzerland

The Swiss Federal Tax Authorities released comprehensive guidance in question and answer (Q&A) format on the practical application of transfer pricing rules in Switzerland. This guidance is intended to clarify selected issues and assist companies in complying with transfer pricing regulations, emphasising the importance of adhering to the arm's-length principle to ensure fair taxation of cross-border intra-group transactions. The Swiss Federal Tax Authorities' Q&A guidance offers helpful insights and analysis concerning the application of transfer pricing principles in Switzerland, further reinforcing the application of the OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations and providing examples of application of specific methods, comparability analysis and the treatment of financial transactions and adjustments within the context of Swiss tax law.

Thailand

On 1 March 2024, the Thai government released a public consultation on the implementation of Pillar Two into domestic law. The consultation document notes that Thailand intends to incorporate an IIR, a QDMTT and a UTPR consistently with the OECD Global Anti-Base Erosion (GloBE) Rules. The document also includes details on the compliance side of the rules and penalties. The consultation document does not provide any details as to when the rules will enter into effect. The consultation ended on 15 March 2024.

Trinidad and Tobago

On 6 March 2024, the House of Representatives of Trinidad and Tobago approved a bill implementing CbCR (BEPS Action 13) into domestic law. The bill is part of a larger legislative

package aiming to comply with one of the three criteria for which Trinidad and Tobago is placed under the EU list of noncooperative jurisdictions for tax purposes. The bill also strengthens the jurisdiction's legislative, administrative, and operational frameworks to align with international standards. The bill specifies that UPEs of MNE groups, if tax residents in Trinidad and Tobago, should submit a CbC report within 12 months after the last day of the relevant reporting fiscal year. Non-parent constituent entities in Trinidad and Tobago should also comply with secondary local filing rules under specific conditions. The rules prescribe that the MNE group should designate the parent entity to file the CbC report if multiple of its constituent entities are required to submit one. An exemption to this requirement can be invoked if the designated parent entity is required to file the report in another jurisdiction, given that specific conditions are met, including sharing the CbC report with Trinidad and Tobago. Additionally, the bill includes provisions on the CbC notification requirements. Any MNE group's constituent entity that is a tax resident in Trinidad and Tobago should inform the Board of Inland Revenue (BIR) about its status as an ultimate or designated parent by the end of the reporting fiscal year. In case of an error in the report, the BIR should notify the reporting entity in writing and instruct it to correct the error. The entity should submit a corrected report within 14 days. Failure to comply might lead to penalties of up to 500,000 Trinidad and Tobago dollars (TTD500k) and/or imprisonment for up to 10 years. As for next steps, the bill needs to be assented by the President and will come into effect after its publication in the Official Gazette at a date to be fixed by Proclamation.

UK

On 14 March 2024, the United Kingdom (UK) government announced that it will apply the anti-arbitrage rules in the OECD Administrative Guidance on Pillar Two published in December 2023. The rules include anti-abuse measures for hybrid arbitrage arrangements to qualify for the Transitional CbCR Safe Harbor. The UK government intends to apply these rules from 14 March 2024 and will legislate in a future Finance Bill. The UK government will consult with interested stakeholders on how the provisions are legislated, with a view to ensuring the legislation operates as envisaged without any unintended outcomes.

USA

In its FY 2025 explanation of the Biden Administration's revenue proposals issued on March 11, 2024 (Green Book), the United States (US) Treasury explains several international tax proposals in the administration's FY 2025 budget (Budget). Most proposals presented in this year's Budget appeared in the FY 2024 budget. The international tax proposals would:

- Raise the corporate income tax rate to 28% and limit the IRC Section 250 deduction to 25%, thereby raising the effective rate on global intangible low-taxed income (GILTI) to 21%;
- Modify the GILTI regime to align with the global minimum tax rules under Pillar Two of the Base Erosion and Profit Shifting initiative of the Organisation for Economic Co-operation and Development (OECD);
- Replace the Base Erosion Anti-abuse Tax (BEAT) with an "undertaxed profits rule" (UTPR) that is consistent with the UTPR in the Pillar Two rules;
- Repeal the deduction for foreign-derived intangible income (FDII);
- Create a new general business credit equal to 10% of eligible expenses incurred when onshoring a trade or business to the United States;
- Disallow deductions for expenses incurred when moving a US trade or business offshore;
- Create a second type of US shareholder to include in income amounts determined with respect to non-taxed dividends distributed by a controlled foreign corporation (CFC);
- Eliminate the "one-month deferral election" for CFCs, mandating the use of the same tax year for the CFC and its majority US shareholder;
- Limit foreign tax credits (FTCs) on sales of hybrid entities;
- Restrict deductions of excess interest expenses of members of a financial reporting group;
- Revise the scope of the portfolio interest exclusion for 10% shareholders;
- Modify the treatment of certain derivative transactions for foreign investors;
- Permit taxpayers to retroactively elect, in certain circumstances, to treat a passive foreign investment company (PFIC) as a

- qualified electing fund (QEF) without IRS consent; and,
- Require IRC Section 6038 reporting for each foreign "taxable unit".

The proposals have various effective dates. Even though the likelihood of these proposals being enacted this year is low, taxpayers should familiarise themselves with these proposals in case they appear as revenue offsets in future legislation.

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