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OECD agreement on international tax overhaul wins G20 endorsement

G20 finance ministers on October 13 endorsed an implementation plan for revising international tax rules that was recently announced by the OECD/G20 group known as the Inclusive Framework (IF) on base erosion and profit shifting (BEPS) and agreed to by 136 of the 140 IF members.
URL: https://www.oecd.org/tax/international-community-strikes-a-ground-breaking-tax-deal-for-the-digital-age.htm

The two-pillar solution, which is the product of several years of work, is intended to address the tax challenges of the digitalization of the global economy. It is expected to get its final sign-off at the G20 Leaders' Summit in Rome at the end of October.

More work remains

While this agreement is a key milestone in the process, there is still a great deal of technical work ahead, and implementation of the agreement—targeted for 2023—will have its own challenges.

Pillar One of the plan, which would reallocate profits of the largest and most profitable multinational enterprises to more jurisdictions, is expected to require a multilateral convention and tax treaty changes. Treaty approvals in the US usually require supermajority support by two-thirds of the Senate (67 votes), although there may be other avenues to bring Pillar One into effect outside the treaty context.

Republican members of Congress are already pushing back. GOP Sens. Mike Crapo of Idaho, Jim Risch of Idaho, and Pat Toomey of Pennsylvania—respectively, the ranking members of the Finance Committee, the Foreign Relations Committee, and the Banking Committee—contended in an October 8 letter to Treasury Secretary Janet Yellen that "[t]he lack of consultation . . . calls into question how serious Treasury is in achieving bipartisan consensus on any Pillar One agreement." The letter also cites concerns over the process for implementing Pillar One in the US and notes that "Treasury has not detailed how much profit would be reallocated from the United States and to which foreign countries."
URL: https://www.finance.senate.gov/imo/media/doc/crapo_risch_toomey_letter_to_treasury.pdf

Pillar Two of the OECD/G20 plan would apply a global minimum tax of 15 percent to large multinationals on a country-by-country basis. Failure to move the US's own minimum tax on global intangible low-taxed income (GILTI) to a country-by-country determination would leave the US out of step with the Pillar Two agreement and could cause the rest of the world to treat the US as outside the deal, with potentially negative consequences for US multinationals.

Congressional Republicans created the tax on GILTI in 2017's Tax Cuts and Jobs Act (P.L. 115-97).
But Republicans have criticized plans by the Biden administration and congressional Democrats to increase the rate on such income in the Build Back Better Act, the large tax-and-spending bill currently being negotiated and which Democratic leaders hope to move through Congress under fast-track budget reconciliation protections later this year. Specifically, GOP lawmakers argue that the US should wait until other countries implement Pillar Two before making any changes to the GILTI regime.

House Ways and Means Committee ranking member Kevin Brady, R-Texas, and Senate Finance Committee ranking member Crapo contended in a joint statement released October 8 that “[the OECD/G20] announcement confirms the Biden administration has overshot the mark in its race to raise the US global minimum tax to the highest in the world, putting America at a serious disadvantage and making it better to be a foreign company or worker than an American one.”
URL: https://www.finance.senate.gov/ranking-members-news/brady-crapo-biden-global-tax-deal-puts-politics-over-progress-surrenders-fate-of-us-economy-to-foreign-competitors

For her part, Secretary Yellen has indicated she supports the work being done on GILTI by congressional Democrats.

“I am confident that what we need to do to come into compliance with the minimum tax will be included in a reconciliation package,” she said October 10 on ABC’s *This Week*. “I hope . . . that it will be passed and we will be able to reassure the world that the United States will do its part.”

Deloitte Tax alert available

Details on the OECD/G20 agreement and a discussion of the issues ahead as the project moves to the implementation phase are available in this alert from Deloitte Tax LLP.
URL: https://dhub.blob.core.windows.net/dhub/Newsletters/Tax/2021/TNV/211015_2_suppA.pdf

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