



GLOBAL TAX REFORM

REGIONAL PERSPECTIVES

OCTOBER 2021

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INTRODUCTION

The OECD has unveiled the final framework of what has come to be known as global tax reform: 136 of the 140 members of the OECD/G20 Inclusive Framework have agreed to the OECD's two-pillar approach to taxing the digital economy and ensuring that multinational enterprises (MNEs) pay their fair share of tax. In a [statement released on 1 July 2021](#), the OECD set an ambitious time frame for the Inclusive Framework, and on 8 October, [agreement](#) was reached. How are markets around the world reacting to this historic agreement and how will each jurisdiction implement the measures in practice?

Numerous publications in recent months have attempted to tackle the open questions that remain. Few of these efforts, however, have focused on a comparative review of the participating countries' attitudes toward the two-pillar approach proposals. In this new report from BDO, we provide that regional perspective—views expressed by governments and leading commentators in local markets with input from BDO tax partners from across the globe. In the coming months, we plan to take a closer look at implementation of the proposals, i.e., how they are actually being implemented across the globe.

Readers can also refer to [BDO's Interactive Taxation of the Digital Economy tool](#) for an update on the current range of unilateral measures, including new digital taxes, that have been enacted or are planned around the world.

CONTEXT

The OECD's global tax plan is designed to shape a new framework for international taxation by reallocating taxing rights among jurisdictions where MNEs do business and introducing a global minimum tax. The original proposals included a global minimum corporate tax of at least 15% and the reallocation of taxing rights on more than USD 100 billion of profits annually to "market jurisdictions" (essentially those countries where companies may do business without establishing a physical presence).

The revised and final plan released on 8 October is detailed in a five-page statement that outlines the two prongs of the new framework. Pillar One applies to MNEs with global sales exceeding EUR 20 billion and profitability above 10%, with 25% of profits exceeding the 10% threshold to be reallocated to market jurisdictions. Under Pillar Two, the new minimum tax rate will apply to companies with revenue exceeding EUR 750 million. Read more on the 136-country agreement [here](#).

Following the July announcement, we asked our tax practitioners across the organization to provide a broad indicator of the differing viewpoints, both regionally and in local markets. Although the OECD has since finalized the framework, this summary of what we learned provides important insights into the attitudes to this global tax deal across various jurisdiction—attitudes that likely will influence how the measures are implemented (and perhaps even evolve) in the coming years.

THE TAX AUTHORITY VIEW OF THE INITIATIVE AND ITS IMPACT LOCALLY

Q1 WHAT IS THE GENERAL VIEW OF THE TAX AUTHORITIES IN YOUR JURISDICTION REGARDING THE PROPOSED OECD APPROACH TO TAXATION OF THE DIGITAL ECONOMY THROUGH THE PILLAR ONE AND PILLAR TWO WORKSTREAMS? DO THEY SUPPORT THE INITIATIVE? WHAT DO THEY THINK THEIR IMPACT ON BUSINESSES AND THE ECONOMY WILL BE? ARE THERE ANY ISSUES THAT MAY BE OF PARTICULAR RELEVANCE OR IMPORTANCE TO YOUR REGION OR LOCAL MARKET?

As of 8 October 2021, 136 out of the 140 jurisdictions in the Inclusive Framework had signed on to the agreement.

In general terms, the answer to the question on the tax authorities' general view with respect to Pillar One will depend on whether a particular country is one of the "market jurisdictions" that would be on the receiving end of the newly created taxing rights over a portion of the turnover of the largest and most profitable MNEs, or conversely, whether the country expects to lose tax revenue.

Australia, for example, does not expect Pillar One to have much of an effect on Australian businesses because there are very few Australian businesses with global revenue in excess of the EUR 20 billion threshold. Moreover, most of the Australian MNE groups that do have global revenue in excess of that threshold are mining companies and banks, which are specifically excluded from Pillar One.

However, the Australian government is likely to benefit from Pillar One by becoming entitled to tax sales of goods and services to Australians by large foreign multinational tech companies that currently pay little income tax in Australia.

In the U.S., the Biden administration has stepped into the process with strong support to help drive consensus in the negotiations. The Pillar One proposal would probably result in the loss of U.S. tax revenue (although this may be mitigated by the impact of Pillar Two, which sits alongside Pillar One). As the Biden administration's tax priorities continue to take shape, various U.S. federal tax proposals are being explored, including potential changes to the Global Intangible Low-Taxed Income (GILTI) regime that may create more alignment with Pillar Two.

Large U.S. technology companies are generally supportive, as long as an appropriate dispute resolution process is put in place to mitigate double taxation, specifically as it relates to Pillar One. Canada is also supportive of the proposals.

In Indonesia, the general view of the proposed OECD approach is positive, and the government is optimistic that the two pillars will contribute to Indonesia's economic growth.

The UK has been an early supporter of the OECD project and the government rallied its G-7 counterparts to work together to tackle the tax challenges arising from the global digital economy at the June 2021 G-7 finance ministers meeting. Ireland, despite estimating a material loss to the exchequer of about EUR 2 billion per annum, had publicly supported Pillar One since July.

For other countries, it is not clear that the measures would result in a net benefit to the country. In India, for instance, the general view is that the measures recommended under Pillar One and Pillar Two are complicated and likely to result in litigation. India currently imposes a 2% equalization levy on e-commerce transactions, with a threshold of EUR 0.23 million. If the Pillar One parameters reduce to EUR 10 billion and profitability above 10% after the initial seven-year period, as they are scheduled to do, India may stand to lose its share of equalization levy revenues.

Acceptance of Pillar Two's minimum tax in broad terms will hinge on whether a jurisdiction

imposes a corporate tax rate above or below the agreed upon rate of 15%. But the calculation is not necessarily that straightforward. For example, given Australia's comparatively high corporate tax rates of 25% to 30%, it is unlikely that Pillar Two would apply to Australian subsidiaries of foreign-headquartered MNEs, unless they receive tax concessions – such as an R&D incentive – that reduce the effective Australian tax rate below 15%. However, because Australia has controlled foreign company (CFC) rules that do not attribute the active income of CFCs, if Pillar Two is implemented without providing concessions for CFCs with active income, it has the potential of increasing the tax payable by Australian entities with CFCs that derive active income in countries with tax rates below 15%.

In Africa, organizations such as the African Tax Administration Forum (ATAF) and the Tax Justice Network Africa (TJNA), have taken differing positions on the proposals. ATAF supports the measures but would have preferred that 35% (rather than the agreed 25%) of the residual profit of subject MNEs be allocated to market jurisdictions under Pillar One. For Pillar Two, [the ATAF has called for a 20% global minimum tax](#) rather than the agreed 5% rate.

The TJNA has been more outspoken, [stating](#) that the solutions in Pillars One and Two favour developed economies rather than Africa, and that the global minimum corporate tax rate of 15% would have negative implications for African countries' debt servicing, as it would reduce the tax revenues accruing to those countries.

Kenya and Nigeria are among the few countries that have not yet signed on to the OECD/ Inclusive Framework statement. Some African countries have opted to implement unilateral measures aimed at taxing the digital economy, which the OECD agreement would require signatories to remove. For example, Kenya has introduced a digital services tax (DST) on service income generated through digital marketplaces at a rate of 1.5% of the gross transaction value. Tunisia has a 3% tax on gross income from sales of computer applications and digital services, and Zimbabwe has introduced a 5% tax on gross income from satellite broadcasting services and e-commerce operators providing/delivering goods to Zimbabwe residents. On balance, whether African nations would stand to gain more from the limitation of Pillar One and Pillar Two than they lose through the removal of DSTs is not yet clear.

The treatment of the extractive industry under the OECD framework is of particular relevance to many African countries. The Pillar One blueprint states that certain sectors are out of scope, and extractive services are explicitly excluded. But even if the extraction of resources is currently out of scope, the processing of those resources into finished or semi-finished goods is within scope.

The UK is a popular holding company jurisdiction and, as is the case in Australia, the existing CFC rules generally exclude the profits of trading subsidiaries from UK CFC apportionment. Therefore, Pillar Two has the potential of increasing the tax payable by UK holding companies with CFCs that trade in countries with tax rates below 15%.

Ireland was perhaps the best-known opponent of Pillar Two of the OECD/Inclusive Framework statement in July but the Irish government has now agreed to support the plan on the basis that the minimum effective rate of corporate tax is set at 15%.

Switzerland, unlike Ireland, signed on to the OECD/Inclusive Framework plan at an early stage, but has been vocal about its reservations regarding the specifics of the plan. In a 25 August 2021 letter to the OECD Secretary General Matthias Corman, Switzerland's Finance Minister Ueli Maurer expressed the country's conditional support of the key parameters of the OECD/ Inclusive Framework proposals, but also listed concerns, including the need for the development of a multilateral instrument for both pillars (rather than just for Pillar One, as currently proposed). Switzerland also has made it clear that it would require at least three years to implement both pillars.



In Australia, the principal issues for Australian businesses may arise in relation to the additional tax that could result from Pillar Two tax on active income CFCs of Australian resident companies and Pillar Two tax on foreign controlled companies that enjoy the R&D incentive or other tax concessions that reduce the Australian effective tax rate below 15%".

Australia

FAIR SHARE OF GLOBAL TAX?

Q2 DOES YOUR GOVERNMENT CONSIDER THAT IT WOULD BE ADEQUATELY COMPENSATED THROUGH THE APPLICATION OF THE PROPOSED RULES (NOW 25% OF GLOBAL PROFIT ABOVE A 10% MARGIN ON REVENUE, WITH GLOBAL REVENUE THRESHOLD OF EUR 20 BILLION AND LOCAL NEXUS OF EUR 1 MILLION IN REVENUE OR EUR 250,000 FOR SMALLER ECONOMIES) OR WOULD IT KEEP TAXES ON DIGITAL GOODS AND SERVICES IN PLACE FOR NOW TO ACT AS AN ON-GOING BARGAINING CHIP FOR A HIGHER SHARE OF GLOBAL TAX?

The OECD/Inclusive Framework statement addresses the issue of unilateral measures adopted by multiple jurisdictions by stating that “[T]his package will provide for appropriate coordination between the application of the new international tax rules and the removal of all Digital Service Taxes and other relevant similar measures on all companies.” The reality may be more complex, given the significant number of countries that have announced, proposed or implemented some form of digital tax that taxes gross revenue streams of large companies providing services through digital means.

In Singapore, for example, digital services provided by overseas service providers and electronic marketplace operators to end consumers in Singapore have been subject to the Goods and Services Tax (GST) based on consumption since 1 January 2021. From 1 January 2023, GST will be levied on low-value goods and remote services provided by overseas service providers and electronic marketplace operators to end consumers in Singapore.

India’s equalization levy has been in place since 2016, initially with a 6% levy on advertising services based on a nominal threshold limit. The scope of the tax was expanded to include e-commerce transactions, with a 2% levy imposed on turnover and a local turnover threshold of approximately EUR 213,000. If the recommendations of Pillar One are adopted, India may realize lower taxes as compared to its existing equalization levy regime. For example, India may only be able to recover tax at 0.8% of turnover (assuming the margins of the foreign MNE are 20%), as compared to the present recovery of 2% of turnover.

In 2019, Canada determined that it was losing CAD 169 million of tax revenue on digital property and services. A new 3% DST was scheduled to enter into effect on 1 January 2022, but this will now be delayed until at least 1 January 2024, following the OECD announcement on 8 October 2021 that disallows new DSTs. However, in the event a global agreement has not come into force by then, the DST would be payable as of 2024 in respect of revenues earned as from 1 January 2022.

In the UK, the government has said it would cease to apply its DST if an appropriate global solution was successfully agreed and implemented, and this remains its position. The government has announced that there will be a review of the DST by HM Treasury before the end of 2025: in practice, the new multilateral convention is now expected to result in the UK’s DST being revoked before this date.

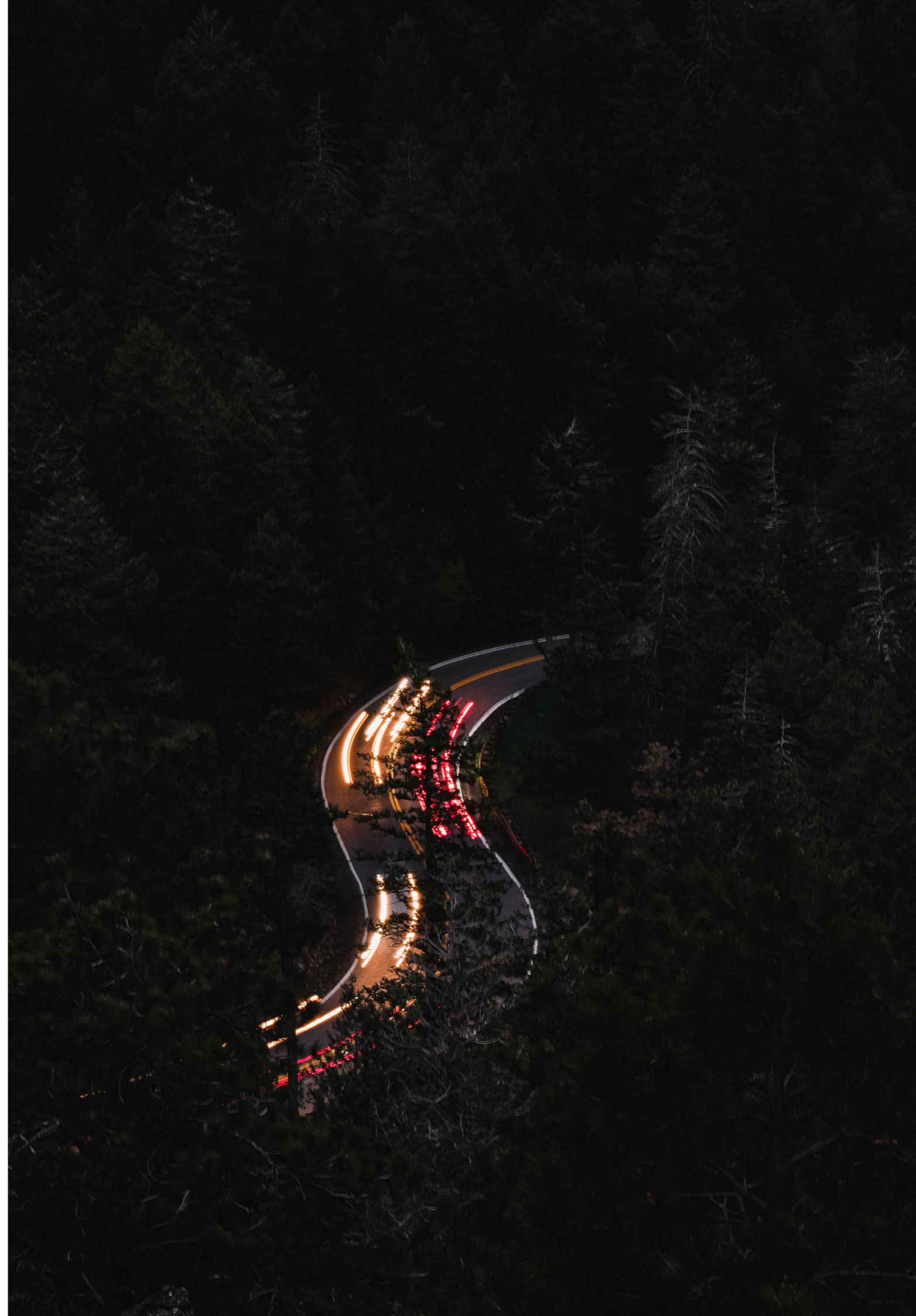
At the opposite end of the spectrum, the Australian government decided not to introduce a DST as it awaited finalisation of the Pillar One proposal. The government also has not commented on the adequacy of the Pillar One tax. Similarly, the New Zealand government has considered the possibility of implementing its own DST policies, but has chosen to work with the OECD/Inclusive Framework to determine a multilateral approach. And perhaps not surprisingly, the U.S. is adamantly against taxes on digital goods and services and continues to voice opposition to them.

Of broad relevance is whether the approach to the removal of DSTs could be influenced by the current and emerging fiscal requirements of jurisdictions seeking to recover from the financial impact of the COVID-19 pandemic.

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Broadening the tax net through the “digital PE” concept—that is, a digital company that has a permanent establishment in a jurisdiction in spite of not having a physical presence within the jurisdiction - is an attractive prospect to generate tax revenue in Africa. However, African revenue authorities’ application of existing PE legislation remains uncertain at best, without the “digital presence” that may further confuse matters. Moreover, the digital PE concept may require tax administrations to incur significant expenses with regards to administrative systems and highly skilled staff to monitor compliance. Most African countries do not currently have the capacity to do this. Driving effective taxation of value creation through the PE “nexus” is a noble idea, and may be the answer in the future, but resource limitations and financial constraints in developing countries are ever-present.

Zimbabwe



POTENTIAL LOSS OF TAX REVENUE

Q3 DO YOU HAVE ANY DATA ON THE POTENTIAL LOSS OF TAX REVENUE FOR YOUR COUNTRY AS A RESULT OF THE REALLOCATION OF TAXING RIGHTS OVER PART OF THE RESIDUAL PROFIT TO OTHER JURISDICTIONS? OR MORE GENERALLY, IS THERE A CONCERN IN YOUR COUNTRY ABOUT THE POTENTIAL LOSS OF TAX REVENUE AS A RESULT OF PILLAR ONE?

Most countries surveyed do not appear to have made public any data regarding the potential loss (or gain) of tax revenue expected as a result of the implementation of Pillar One. Any conclusions reported by our respondents seem to be based on observations. For example, in New Zealand there is no data available regarding the potential loss of tax revenue as a result of Pillar One. However, given the high revenue threshold, the loss of revenue may be expected to be minimal. New Zealand's economy is heavily reliant on its exports, so the approach could result in exporters paying more tax in overseas jurisdictions than in New Zealand.

While Canada has not released data directly addressing the potential loss or gain from the Pillar One principles, some rough calculations can be made based on available information. Canada is largely an inbound economy and as a result, should have a Pillar One gain in tax revenue. As mentioned above, in 2019 the Office of the Auditor General published a [report](#) that estimated the country lost CAD 169 million in indirect taxes on "foreign digital products and services sold in Canada in 2017." Presumably, a similar amount would not escape taxation under the Pillar One principles.

In the UK, there has been a great deal of data crunching "behind the scenes," but this has been largely predicated on assumptions to date. In theory, larger, more developed economies should stand to lose when compared to smaller, developing economies (since in principle there would be a shift in profits to market jurisdictions), but it does depend on the economic mix, and the UK is both an inbound (i.e., market) and outbound (i.e., headquarters) jurisdiction. This would need to be factored in and compared with the impact of loss of tax revenues from unilateral DSTs already in place but due to be repealed once Pillar One is finalised and operative.

As mentioned above, prior to the Irish government signing up to the agreement, the publicly stated estimates were for a loss of tax revenue of about EUR 2 billion per annum. Ireland now intends to apply an effective tax rate of 15% on MNEs with turnover of EUR 750 million or more as per Pillar Two. Revenues raised by Ireland under such a measure may lead to a reduction in the previously forecast losses.

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The Irish government appears to have been vindicated in its decision to hold out on signing up to the agreement in July and securing the removal of the "at least" wording in Pillar Two. The clear indication from the EU at this point is that it is supportive of Ireland's intention to continue with a headline rate of 12.5% for businesses with turnover of less than EUR 750 million without falling foul of EU state aid rules. However, the implementation of an EU Directive for Pillar Two remains important and any deviation from the OECD agreement could cause concern for the EU that countries could veto it. Under Pillar One it is expected that a number of Ireland based companies will be impacted so further details will be examined thoroughly.

Ireland

IMPACT ON CONCESSIONAL REGIMES

Q4 WOULD YOU EXPECT ANY CONCESSIONAL REGIMES IN YOUR COUNTRY (SUCH AS INNOVATION/PATENT BOX TYPES, R&D INCENTIVES) TO BE IMPACTED BY THE GLOBAL MINIMUM TAX (NOW TO BE IMPLEMENTED AT 15%)?

In general terms, it is not yet clear what the proposed minimum corporation tax rate means in the context of incentive regimes (for example, whether certain types of regime may be permitted to provide for an effective tax rate below 15%).

In Australia, it is possible that tax concessions such as the R&D incentive may be affected by the global minimum tax proposal. Companies that are eligible for the R&D incentive and that results in their Australian effective tax rate being reduced below 15% and that are part of a foreign controlled group may, in effect, have these Australian tax concessions reversed by Pillar Two tax imposed on the global parent. The Australian government announced plans to introduce a patent box regime in its [2021-22 budget](#); however, because the tax rate for this regime is proposed to be 17%, it should not be affected by Pillar Two.

India already has a patent box regime, which provides for a concessional rate of 10% on patent-related income, but the regime has not found significant takers, so only a small population of taxpayers may be impacted by the global minimum tax regime. Further, India offers a weighted deduction of R&D-related expenditure, which is generally claimed by businesses as a deduction against their taxable income. Thus, the overall impact of R&D-related incentives is not likely to be significant, given that the generally applicable headline tax rate is 22%, well above the 15% global minimum tax.

The UK also has a patent box regime that enables UK companies to elect a lower tax rate of 10% for profits earned from patented inventions and other intellectual property rights. As the rules currently work, incentive regimes such as the UK patent box could lower the tax rate so that more taxpayers may find themselves within the scope of Pillar Two where the effective tax rate falls below 15%. The UK's corporation tax rate is increasing to 25% in April 2023, so the patent box will still be beneficial to groups in the appropriate circumstances, irrespective of how Pillar Two specifically applies to the regime.

HOW SHOULD BUSINESSES PREPARE?

Q5 WHAT SHOULD BUSINESSES LOOK OUT FOR IN YOUR COUNTRY UNTIL SUCH TIME AS THE RULES ARE FINALISED?

Although the OECD has announced the final reform structure, implementation of the Pillar One and Two rules will likely take years—even the OECD's optimistic time frame calls for implementation to begin in 2023. What should taxpayers focus on during this period of transition?

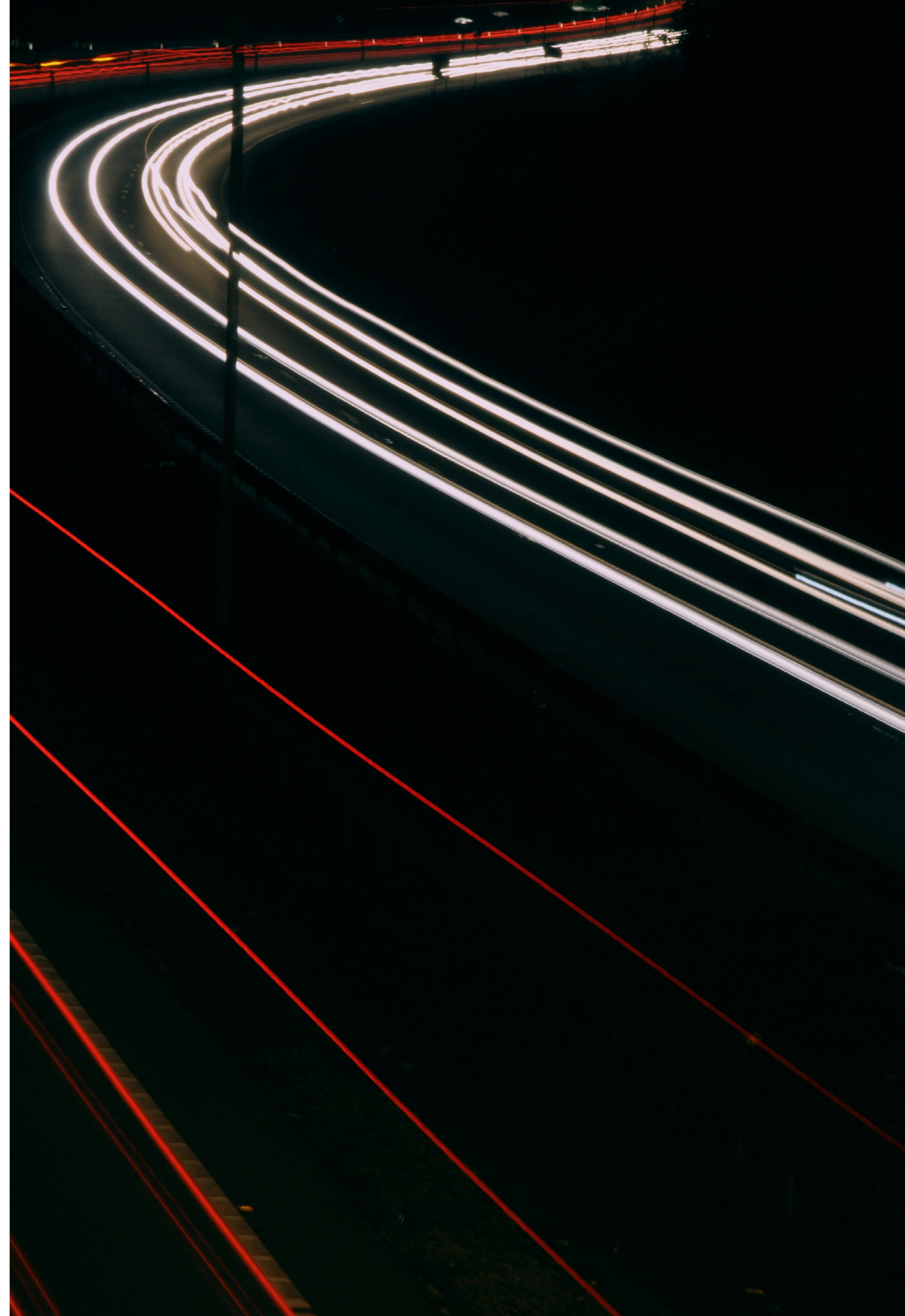
Our UK respondents suggest that it is important for potentially impacted businesses to understand what is changing and prepare for the future. In particular, businesses should monitor developments and the impact of digital taxes already in operation. It is particularly important that multinational businesses monitor the implementation timetable across the globe to understand how and where they will be affected.

In Australia, the concerns are more specific. One of the main concerns for Australian businesses before the rules are finalised would be commitments for the acquisition of CFCs with active income in countries with income tax rates below 15%.

From Canada's perspective, businesses must be agile and open to change. Strategies that have worked previously may need to be reconsidered as the Pillar One and Two rules are implemented. Outbound MNE companies—those headquartered in Canada, with operations/sales in other countries—could consider modelling out the Pillar One tax impact on total global tax liability versus the global tax liability that would result from putting simple, routine permanent establishments in market jurisdictions to better manage taxes in each country using existing acceptable transfer pricing models.

As the international tax framework evolves, tax strategies of MNE groups generally will need to be reviewed and reassessed to determine if they remain fit for their purpose.

“*In the U.S., the prospects for enactment are challenging, as much as the Biden administration is in favor of the plan. The U.S. would likely need 60 out of 100 votes in the Senate to pass Pillar Two reforms as a part of an overall tax package, and 67 out of 100 to amend treaties to “enact” Pillar One.*”
United States





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There is no doubt that a significant amount of progress has been achieved, but it is questionable how sustainable a system would be if the U.S. is not ultimately able to enact the plan. If enacted, the impact of the plans for most UK businesses is likely to be a question of administration rather than absolute tax cost, and ensuring that structure, systems and processes are designed to streamline the compliance obligations will be an important consideration.

United Kingdom

COMMENTS

How the implementation of Pillars One and Two plays out for any country will depend on its particular level of economic development and the current makeup of its tax regime. The comments throughout the report bear witness to this.

With 136 countries signing up to the Inclusive Framework's proposals, the core deal on reform has been achieved. However, implementing it may be another matter: as our Malaysia correspondent put it succinctly: "The devil is in the details."

We plan to take a further look at implementation – how the proposals are in practice being implemented across jurisdictions, as the months unfold. Look out for future BDO insights in this series.

For more information go to:



[Taxation of the Digital Economy and pushing fiscal boundaries](#)

[BDO Global Tax](#)



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