SwissHoldings

TAX DEPARTMENT

Contact **Martin Hess** Head Tax & Member Executive Committee
martin.hess@swissholdings.ch
+41 (0)78 805 04 95

International Tax Law

OECD/G20 Project on the Taxation of the Digitalized Economy

Executive Summary

The OECD project still faces an uncertain future. Technical differences of opinion on Pillar 1 should soon be resolved and Pillar 2 is already being implemented by most European countries, but not by major economies such as the USA, China, Brazil or India. The minimum tax is therefore currently more of a European project. China is rumoured to be considering the introduction of a supplementary tax and the election of Donald Trump could increase resistance in the USA and influence other countries. Switzerland must constantly monitor international developments and promote a balanced competitive environment and instruments to promote the attractiveness of Switzerland as a business location.

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The OECD project on the taxation of the digitalised economy is based on two pillars and aims to improve the acceptance of international corporate taxation. The new tax rules are formally adopted by the OECD/G20 Inclusive Framework on BEPS (hereinafter: IF), which comprises more than 140 countries. In October 2021, the IF states adopted the political parameters for the two pillars. Since then, intensive work has been carried out on the technical implementation provisions. For Pillar 1, a multilateral agreement is to be submitted to the states for signature and subsequent ratification in 2024. Pillar 2 will not be implemented by means of a multilateral agreement, but by means of a standardised implementation of the rules developed jointly but adopted individually by the states (common approach).

Stance

The project initiated by the G20 to tax the digitalised economy still faces an uncertain future. Even among the G20 member states, the initial euphoria has faded. The last technical differences of opinion on Pillar 1 are to be resolved so that the multilateral convention can be signed and later ratified. The signing process should have started at the end of June 2024, but there is still no date in mid-July. There are doubts as to whether the rules will ever come into force, as the USA is unlikely to ratify the agreement. Without the USA, the redistribution of the tax base cannot start. Things are looking better for the OECD minimum taxation (Pillar 2): Almost all European countries have started implementation at the beginning of 2024. However, the USA, China, Brazil and India are showing no signs of introducing it. If Donald Trump is elected, resistance from the USA could increase. Switzerland and its companies should therefore prepare for a highly fragmented and uncertain international tax landscape in the coming years.

Outlook

The future of OECD minimum taxation is uncertain, as global enforcement by major economic powers such as the USA, China, India and Brazil is uncertain. Many countries want to promote industrial companies and attract additional investment instead of creating tax obstacles. The earlier euphoria has faded, and the outcome of the US elections will play a decisive role. Switzerland cannot significantly influence the rules but should prevent protectionist advantages for other countries. Swiss companies are therefore faced with complex application and location issues.

Position

SwissHoldings has taken note of the Federal Council's decision in December 2023 to introduce the Swiss supplementary tax at the beginning of 2024. While the introduction of the IIR from 2025 is supported by the business community, SwissHoldings is strictly opposed to the introduction of the UTPR. We fear that taxation by Switzerland will not be accepted by countries such as the USA and China and could provoke countermeasures. Before the UTPR is introduced, its international acceptance should be monitored for several years, as there are considerable reputational and location risks. In particular, the risk of trade wars with major trading partners must be taken into account. The UTPR is politically and academically controversial and could lead to threats of sanctions and conflicts with double taxation. SwissHoldings recommends reviewing the steps towards minimum taxation with regard to possible collateral damage and emphasises the need for flexibility and compensation for locational disadvantages. The following factors should be taken into account:

- International requirements such as the implementation of the EU Foreign Subsidy Regulation of OECD minimum taxation
- Effects on the attractiveness of various locations industries
- Financial and economic consequences (short, medium and long term) without countermeasures
- Possibility of creating internationally accepted and targeted location measures
- Effects under transfer pricing law
- Domestic political aspects

More information on the OECD/G20 project on the taxation of the digitalised economy can be found on our website.

Scan or click QR-Code.