Kluwer International Tax Blog

The Global Tax Deal Memorandum is another wake-up call for Europe

Raffaele Russo (Amsterdam Centre for Tax Law (ACTL) of the University of Amsterdam; Chiomenti) · Wednesday, January 29th, 2025

Within hours of his appointment, Donald Trump issued a memorandum in which he rejects the Global Tax Deal conceived by the OECD/G20. The new US president stresses that it has "*no force or effect within the United States"* without an act by the Congress adopting the relevant provisions of the agreement. The memo is bluntly critical of the agreement, which was supported by the previous administration, arguing that it allows extraterritorial taxation on United States income and limits the ability of the country to adopt tax policies for its businesses and workers.

This position should come as no surprise.

It confirms what was already expressed by dozens of members of Congress in a letter to the Secretary General of the OECD on 17 September 2024. The letter, which emphasizes the US's strong opposition to the implementation of the Under-Taxed Profits Rule (UTPR), already stated that: "*Should foreign governments seek to target Americans through the UTPR or other mechanisms in the OECD Global Tax Deal, we will be forced to pursue countermeasures*".

The memorandum directs the Secretary of the Treasury, in consultation with the US Trade Representative, to investigate possible violations of Double Taxation Conventions, in conjunction with the application or introduction of discriminatory or extraterritorial tax rules by other jurisdictions. They will have to present to the President a list of options for "*protective measures or other actions that the United States should adopt or take in response to such non-compliance or tax rules."*

The findings, along with recommendations, are to be submitted to the President within 60 days. Thus, the critical moment is approaching.

This is likely to culminate in 2026, when the UTPR comes into effect and the *Safe Harbour* period, which currently covers both the United States and also countries such as China and India.

At the same time, the first data will come in on revenues from the implementation of the Global Minimum Tax in those countries that have decided to implement it. The operational complexities of the Global Minimum Tax are now clear to all, and the revenue results may fall short of the original optimistic expectations (and early empirical evidence points in this direction).

This context may lead to a necessary rethinking of the whole approach, also in light of the push by developing countries to bring discussions on international taxation back to the United Nations and this will inevitably intersect with the dynamics related to tariffs and customs duties (or the threat thereof), making the global tax environment even more complex and unpredictable.

In this scenario of increasing uncertainty, the European Union must adopt a clear position.

A change of pace is needed: a true European CIT using the GloBE Rules as a starting point for determining the tax base, together with a common approach on DSTs, already adopted by Austria, Denmark, France, Finland, Hungary, Italy, Poland, Portugal, and Spain. The same applies to a European DST, which would tax the extraction of data, which represents to large companies, technological and otherwise, what oil was for the big oil companies of the past.

As suggested by eminent scholars, thought should be given to the possibility of creating a European Tax Agency that could directly manage the European Union's own resources in the future (Traversa E., Marino G., "*A European Tax Agency. An academic proposal for the next Commission*," Justice Together, Tax Law, 25th Oct. 2024).

The memorandum of 20 January 2025 is (yet another) warning sign for the European construction. On the positive side, the decision to reject the Global Tax Deal reinforces the need for the European Union to develop a unified and resilient tax strategy.

This is the English translation of an editorial which appeared in Italian on Il Sole 24 Ore

To make sure you do not miss out on regular updates from the Kluwer International Tax Blog, please subscribe here.

This entry was posted on Wednesday, January 29th, 2025 at 10:26 am and is filed under Double Taxation, G20, Global minimum tax, GloBE Rules, OECD, UTPR
You can follow any responses to this entry through the Comments (RSS) feed. You can leave a response, or trackback from your own site.