Virtual Case Experience
Corporate Tax

Model Work Task 5

pwc

Step 1 - OECD Standards

OECD Standards

You
To Dominik Bischof

Reply | Reply All | Forward | ...

Dear Dominik,

I gathered the following input for you:

The OECD is indeed no legislator, but the member countries of the OECD agreed via international contract to implement the OECD standards into the national law (minimum standards). Switzerland implemented the minimum standards such as e.g. country-by-country reporting, abolishment of harmful tax practices, the spontaneous exchange of information on advance tax rulings, the access to the mutual agreement procedure for resolving disputes, the inclusion of anti-abuse clauses in the double tax agreements as well as the criteria for the taxation of intangible property into national law.

I also looked at the European Union. The EU adopted Anti-Tax Avoidance Directives (ATAD I and II) to implement BEPS 1.0 into European Law. ATAD contains the following five anti-abuse measures and goes beyond the minimum standards:

- Limitation of interest deductibility for tax purposes
- Mandatory exit taxation on hidden reserves upon relocation of entities/assets
- General anti-abuse rules (disregarding of non-genuine arrangements)
- Controlled foreign corporation rules: Mandatory inclusion of certain types of non-distributed income of foreign subsidiaries or permanent establishments in the tax basis of the parent entity or the head office
- Hybrid mismatch rules: Mandatory add-back (denial of deduction or requirement for inclusion) of double deductions or deductions without inclusion due to differing qualifications of payments, entities, financial instruments.

I also checked the current state of the BEPS 2.0 development. In 2020 the OECD published two blueprints on the architecture of Pillar One (new allocation of taxing rights) and Pillar Two (global minimum tax rate) in October 2020. BEPS 2.0 is officially focused on addressing the tax challenges of the digitalisation of the economy, it continues to be clear that the focus is much broader and large companies in most industries will be impacted to some degree. I, therefore, expect FlyByU Group to be impacted by this too in the future.

Kind regards,
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Step 2 - BEPS 2.0

BEPS 2.0

You

To Liz Bumblebee (CEO, FlyByU Holding AG)

Reply | Reply All | Forward | ...

Dear Ms. Bumblebee,

The OECD's Base Erosion and Profit Shifting Project (BEPS) aims to secure and sustain the international tax system and to increase tax equity among traditional and digital businesses. BEPS 2.0 is so far split in two pillars.

- Pillar 1 concerns the reallocation of taxation rights. It aims to fill international non-taxation loopholes, in order to reduce legal but harmful corporate structures, which only aim to reduce/avoid taxes without any other economic reasoning behind them. The scope of Pillar 1 are automated digital services and consumer-facing businesses. It is expected that the OECD will provide a final list of businesses affected.
- Pillar 2 is concerning global anti-base erosion, which means that it aims to combat the shifting of substance between countries solely for tax purposes. Pillar 2 intends to implement a global minimum taxation for all business. Based on the current blueprints multinational groups with annual global revenues exceeding EUR 750m should be in scope of pillar 2.

The OECD has the goal to deliver a final proposal by mid of 2021 based on which the political variables can be negotiated between the approx. 130 countries participating in the inclusive framework.

As outlined above and considering the total revenue generated in FY 2021 of CHF 1bn BEPS 2.0 and in particular Pillar 2 could certainly have an impact on the taxation of FlyByU Group in the future.

Given the complexity we would be happy to discuss this topic and the potential impact on FlyByU Group with you and your team in a workshop. What do you think?

We are looking forward to hearing from you.

Kind regards,

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