EU deal set to trigger ‘domino effect’ for global minimum tax deal

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Corporation tax

Bloc’s pledge to introduce levy expected to trigger wave of implementation across world

US secretary of state Antony Blinken, left, speaks at the OECD meeting in October 2021. The US has attempted to introduce a 15% tax floor but omitted parts of the OECD deal © Patrick Semansky/AFP/Getty Images

The EU’s promise to introduce a global deal to set a minimum tax rate for multinationals of 15 per cent is expected to trigger a wave of implementation across the world.

Achim Pross, acting deputy director at the OECD’s tax centre, said the approval of the directive last week was a “big moment” for the success of the deal and would “have a domino effect”, leading to other countries speeding up their efforts to implement the measure.

Plans, put forward at the OECD in Paris, to implement a tax floor of 15 per cent were agreed by 136 countries in October last year. But progress in implementing the floor has been slow, with none of the signatories so far making the pledges law.

The OECD views the directive as key to making the tax work because of the large number of multinationals in the EU, but Warsaw and Budapest had taken it in turns to block the legislation.

The UK, South Korea and Switzerland have already produced draft legislation, while the UAE, Australia, Hong Kong, New Zealand and Singapore have launched consultations on the OECD's rules. A further eight countries have formally indicated their support for the levy. However, none had finalised plans to implement it.

On Thursday, the Council of the European Union, which is made up of ministers from member states, approved a directive to introduce a minimum levy on large multinational businesses, ending months of fraught negotiations.

EU countries must now translate the proposals set out in the directive into domestic legislation by the end of 2023. Failure to do so could lead to a country being referred to the European Court of Justice.

Peter Barnes, a tax specialist at the Washington law firm Caplin & Drysdale, said the EU agreement "was quite remarkable" and gave "cover to other countries that support a global minimum tax but do not want to be first-movers".

Julian Feiner, director of tax at law firm Clifford Chance, said the EU agreement would "proliferate wider adoption".

The OECD estimates that between 1,800 and 2,000 companies headquartered in the EU will fall within scope of the tax, of a global total of around 8,000.

The tax deal was part of a wider package of measures approved at the EU leaders' summit last week.

The deal, designed to eliminate tax avoidance and end a race to the bottom in corporate taxation, will apply to all multinational companies with annual revenues of more than €750mn.

The next two to three months would be an "important window" for countries to adopt the tax, with enough time for businesses and the authorities to prepare ahead of the deadline, said Feiner.

The tax is expected to raise an additional $150bn annually around the world. The levy is also designed to have knock-on effects, with countries risking missing out on revenue if they do not implement it. Fiscal authorities complying with the tax floor can scoop up additional revenue by imposing a levy of up to 15 per cent on the income of foreign subsidiaries based in countries that do not comply with the deal.

The US attempted to introduce the 15 per cent floor earlier this year but omitted important elements of the OECD deal, including measures aimed at eliminating the practice of multinationals setting up subsidiaries in tax havens.

It would be “very challenging for US companies” to comply with both US and OECD rules, and the EU decision “should prompt” the US Congress to seek to align the systems, said Barnes. Doing so would ease the burden on multinationals forced to comply with multiple tax codes instead of one global standard, he added.

Progress in implementing a deal that many in the tax industry thought was destined to fail comes at a critical time for the OECD. The organisation’s tax department had also come under attack from some developing countries for creating a framework that was “not inclusive” and was too complicated to administer, according to Christine Kim, a professor of tax at Cardozo School of Law in New York.

Countries in Africa, many of which have not signed up to the OECD deal, are increasingly turning to the UN to obtain a bigger voice in global tax affairs. A resolution put forward by the African Group, one of five UN regional groupings, to draft proposals for a possible UN convention on tax, was passed in November.