Business at OECD (BIAC)
Committee on Taxation and Fiscal Affairs

Presentation to the ITU

November 3, 2022

OECD Overview

- OECD stands for the Organisation for Economic Co-Operation and Development
- Created in 1961, previously to administrate the Marshall Plan
- Today, it is an international organization of 38 countries with the goal of establishing evidence-based international standards and finding solutions to a range of social, economic and environmental challenges
- Best known for its capacity to provide expertise on technical subject linked to the global economy, and from this expertise, build international consensus amongst its members
- OECD is the lead organization for international tax standards

Business at OECD (BIAC) Overview

- Official representation of businesses at the OECD
- Created in 1962
- Harmonized (consensus based) business views on OECD’s work and initiatives – we have 30 Policy Groups including tax
- Focus of our work is tax polices that support inclusive growth, cross border trade and investment
  - Clear practical administrable rules
  - Importance of tax certainty, tax dispute prevention and resolution and cooperative compliance
- Engage actively with the OECD Center on tax Policy and Administration (CTPA) across the full international tax agenda
- Cover direct and indirect tax issues, and focus areas including BEPS implementation and tax and digital include tax and environment, tax and mobile workers, digitalization of tax systems

BIAC Tax Committee Overview

Leadership

- Chair: Alan McLean, Executive Vice President Taxation and Controller, Shell International Limited
- Vice Chairs (12) : ENI, PwC, USCIB, Dassault, PMI, PwC Japan, Google, AngloAmerican, Lafarge-Holcim, ZF Friedrichshafen, Intesa San Paolo, Volvo
- Tax Committee Membership: 400+ members

Modalities

- Spring and fall meetings at the OECD Headquarters in Paris
- Bi-weekly virtual meetings with Members; ad-hoc meetings on special topics as needed
- Monthly meeting with Bureau members
- Business advisory groups / working groups on select technical topics (e.g., Pillar One & Two, Tax and Development)
- Regular meetings and contact with OECD CTPA Secretariat and CFA Delegates
- Written submissions on a range of tax issues addressed by OECD
- Joint conferences and roundtables with Business at OECD Members (e.g., CNI, BDI, Keidanren, USCIB), OECD and government

BIAC Tax Committee Expert Groups on

- Pillar One and Two
- Digitalization of tax systems
- Tax and environment
- Taxation of mobile workers
- Tax and development
- VAT/GST
- CRS

Committee Objectives

Policies that address the challenges of a changing world (e.g., increasingly mobile workforces, tax policy's impact on the environment, tax policy's impact on gender equality and addressing needs of developing countries)

Implementation of the OECD/G20 Inclusive Framework Project two-pillar solution on the taxation of the digitalizing economy

Focus on practicality, administrability and tax certainty

Promote international tax rules that support cross-border trade and investment and foster inclusive growth

Implement OECD standards to ensure inclusive and growth-oriented taxation according to value creation and enhanced tax certainty, including tax dispute prevention and resolution

Ensure that the OECD tax and environment agenda is cross-cutting and broad in scope, and that it considers the potential impacts on innovation, growth and employment

Pillar One and Two Overview and Activity

Pillar One: Key considerations

Amount A: Allocation of a share residual profits to market jurisdictions

Scope

Threshold: EUR 20bn revenue and profit margin above 10%

- Scope thresholds apply on a group (not an entity-by-entity) basis
- Groups with below 10% profit margin can be in-scope if a disclosed segment meets thresholds
- Exclusions for extractives and regulated financial services

Amount A

25% of profits in excess of 10% margin

- Calculated from consolidated financial statements
  - Some adjustments – similar but not fully aligned to Pillar Two
- Marketing and distribution safe harbor (MDSH) can reduce Amount A in certain cases

Allocation to Market Jurisdictions

Allocation based on revenue-sourcing rules

- Market jurisdiction eligible if group derives more than EUR 1m in revenue from jurisdiction
  - EUR 250k for developing countries with GDP less than EUR 40bn
- Profits sourced to market jurisdictions using revenue-sourcing rules
- Physical presence / nexus with the jurisdiction not required

Elimination of double taxation

Based on Return on Depreciation and Payroll (RoDP)

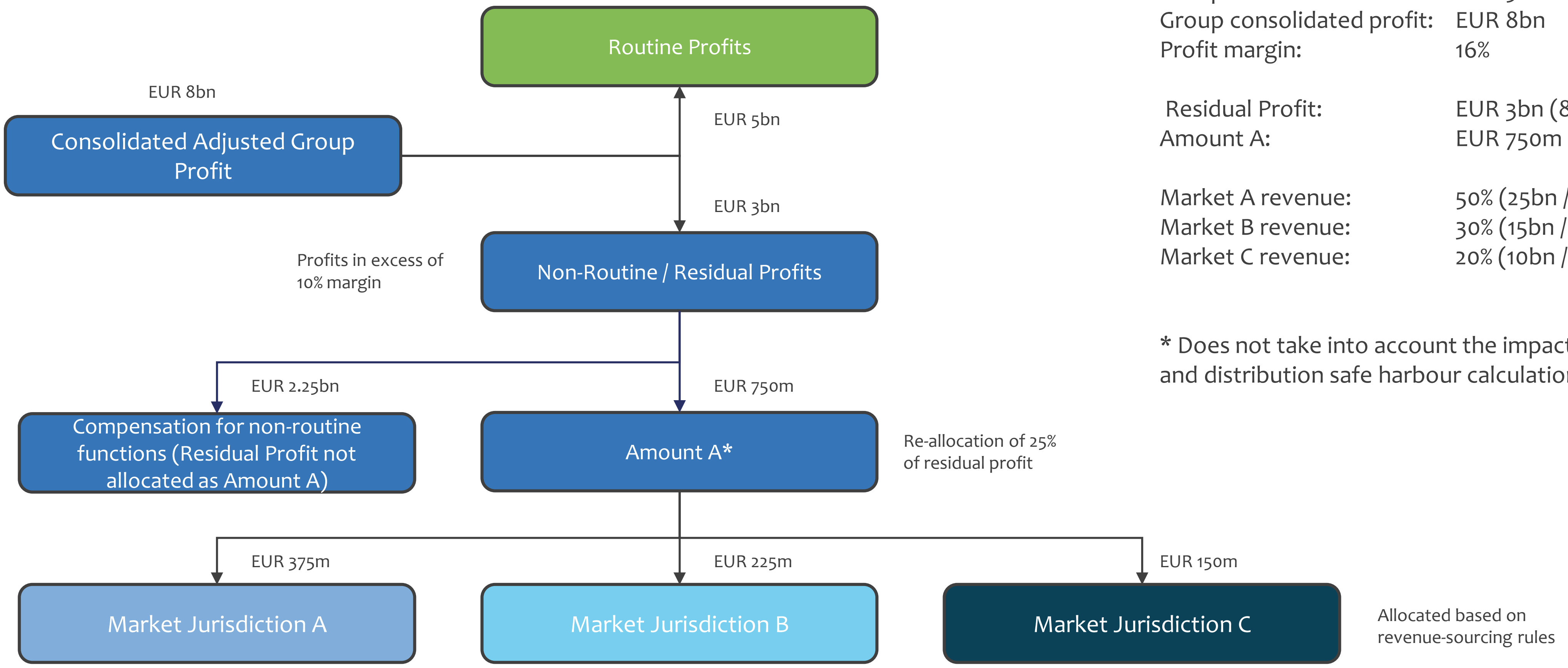
- Formulaic approach to identify the jurisdictions required to eliminate double taxation
  - Considers jurisdictional RoDP v group RoDP
  - Jurisdictions with de minimis profit levels excluding from elimination mechanism
  - Tiered approach to elimination: jurisdictions with highest RoDP providing relief for double taxation in priority
- Investment hubs more likely required to relieve double taxation (potentially lower levels of depreciation and payroll costs)

Additional Resources

- OECD Progress Report on Amount A of Pillar One
- Responses to the OECD public consultation on Amount A (including *Business at OECD* (BIAC) response)

Pillar One: Key considerations

Amount A: Allocation of a share residual profits to market jurisdictions (simplified example)



Group revenue: EUR 50bn
Group consolidated profit: EUR 8bn
Profit margin: 16%

Residual Profit: EUR 3bn (8bn – (50bn*10%))
Amount A: EUR 750m (3bn *25%)

Market A revenue: 50% (25bn / 50bn)
Market B revenue: 30% (15bn / 50bn)
Market C revenue: 20% (10bn / 50bn)

* Does not take into account the impact of the marketing and distribution safe harbour calculations

Pillar One: New Nexus

Additional components of Pillar One

Amount B	**Fixed 'baseline' return** For marketing and distribution functions based on the arm's length principle	Applies to all businesses
Tax certainty	**Tax certainty** Through effective dispute prevention and resolution mechanisms	Applies to all businesses

OECD public consultation processes expected later in 2022

Pillar Two: Global Minimum Tax

Pillar Two: Calculation of Top-Up Tax under the GloBE Model Rules

Scope

- Applicable to groups with revenues in excess of EUR 750m
- Certain Excluded Entities (e.g. pension funds, government entities, certain investment funds)
- Top-up tax applicable where effective tax rate for a jurisdiction is below the Minimum Rate (15%)

Calculation of Effective Tax Rate

- **Effective Tax Rate (ETR) = Adjusted Covered Taxes / GloBE Income**
  - *GloBE Income:* Starting point is financial accounting income in the consolidated financial statements – subject to a number of detailed adjustments
  - *Adjusted Covered Taxes*: Starting point is the tax expense (current and deferred) in the consolidated financial statements – subject to a number of detailed adjustments
- Calculated on a Jurisdiction-by-Jurisdiction basis
- Specific calculations required for certain types of entities (e.g. joint ventures)

Calculation of Top-Up Tax

- Top-up tax calculated by applying Top-Up Tax % to the Excess Profits for the jurisdiction
  - Top-up tax % = Minimum Rate of 15% less ETR for jurisdiction
  - Excess Profit is based on GloBE Income, with specific reductions for substance in the jurisdiction (payroll and tangible assets)

Pillar Two: Global Minimum Tax

Pillar Two: Collection of Top-Up Tax

Qualified Domestic Minimum Top-Up Taxes

- Jurisdictions have the option of introducing Qualified Domestic Minimum Top-Up Taxes (QDMTTs)
- Under a QDMTT, top-up tax due for a jurisdiction would be collected locally in that jurisdiction
- Top-up tax collected under a QDMTT reduces the amount of top-up tax that could be collected by the IIR
- Further guidance expected on how a minimum top-up tax will be considered to be qualifying

Income Inclusion Rule

- Under the Income Inclusion Rule (IIR), the group parent entity will collect the top-up tax due for any subsidiaries that are in a low-taxed jurisdiction
- Top-down approach applied: IIR collected by the highest parent entity in the ownership structure that applies the GloBE Model Rules (i.e. applies a qualifying IIR)
- IIR has priority over the Under-Taxed Payments Rule

Under-Taxed Payments Rule

- Backstop collection mechanism where there is residual top-up tax which has not been collected by the IIR
- Amount of UTPR top-up tax is allocated between all jurisdictions in the group which have introduced the UTPR.
    - Allocated using a formula based on value of tangible assets and number of employees in a jurisdiction
- Jurisdictions have scope to decide how to collect top-up tax using the UTPR (e.g. denial of deductions, deemed income, additional cash tax etc.)

Subject to Tax Rule

- Source country taxation of specific types of **intra-group payments**
- Gross level taxation (not a tax on net profits)
- Currently under development and subject to negotiation at OECD delegate level

Questions?

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