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EU Commission proposes swift transposition of international agreement on minimum taxation of multinationals

On 22 December 2021, the European Commission proposed a draft directive to ensure effective minimum taxation of the worldwide activities of multinational corporations.

Background

In October of this year, 137 countries supported a landmark multilateral agreement to transform global corporate taxation, addressing longstanding injustices while preserving competitiveness. Two months later, the first step is taken to put an end to the tax race to the bottom that harms the European Union and its economies.

The proposals of the Commission

The proposed rules would apply to large domestic and international group companies that have their parent company or a subsidiary located in an EU member state. In cases where the minimum effective tax rate is not applied by the country of residence of a low-taxed company, the Member State of the parent company may – under the new provisions - levy a "**top-up tax**". The proposal also ensures effective taxation in cases where the parent company is established outside the EU in a low-tax country that does not apply equivalent rules.

Income Inclusion Rule und Untertaxed Payments Rule: In accordance with the OECD Model Rules, the Draft Directive provides for the introduction of an Income Inclusion Rule (IIR) and an Undertaxed Payments Rule (UTPR). In principle, the IIR is to be applied with priority. The IIR is generally to apply at the level of the ultimate parent company and covers income of downstream, low-taxed consolidated companies. In principle, the UTPR is to be applied supplementary to the IIR. If the UTPR is applied, the **top-up tax** is levied at the level of other consolidated companies which are resident in a member state.

In line with the global agreement, the proposal also provides for certain exceptions. To reduce the impact on groups with genuine economic activity, companies may exempt income equal to 5% of the value of tangible assets and 5% of payroll. In addition, an exemption for low profits is provided to reduce compliance costs in situations involving low risk. Thus, when the average profit and revenues of a multinational group in a jurisdiction are below certain minimum thresholds, that income is not taken into account in the calculation of the rate.

Next steps

The Commission's tax agenda is complementary to, but broader than just the elements covered by the OECD agreement. By the end of 2023, a new framework for business taxation in the EU will be published by the Commission , which will reduce the administrative burden for businesses working across Member States, remove tax obstacles and create a more business-friendly environment in the Single Market.

The provisions of the draft directive are to be transposed into national law by 31 December 2022 and are generally applicable as of 1 January 2023. The Undertaxed Payments Rule (UTPR), on the other hand, is to be applied later, from January 1, 2024.

Source:

European Commission: **Press release** of 22 December 2021

Schlagwörter

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