



Mr Zbyněk Stanjura

Minister for Finance of the Czech Republic
and President of the Economic and Financial
Affairs Council
Government of the Czech Republic
Nábřeží Edvarda Beneše 4
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28 November 2022

Dear Minister,

BusinessEurope continues to support a global and harmonised implementation of the OECD's Two-Pillar Framework as this has the potential to ensure the stability and coherence of the international corporate tax framework.

However, we are concerned that the proposed EU's Pillar Two Directive implementing the global minimum taxation rate does not yet address critical administrative burdens and uncertainties that these rules introduce for businesses. Moreover, as you noted at the EU's Economic and Financial Affairs Council in November 2022, the effectiveness and fairness of this corporate tax reform relies on its worldwide implementation. Therefore, **we are concerned that the introduction of unilateral and diverging implementation of digital and minimum tax rules within the EU would result in the fragmentation of the Single Market, undermining the fundamental freedoms, and jeopardising European competitiveness.**

Whilst the amended draft of the EU's Pillar Two Directive of June 2022 clarifies that the OECD's GloBE Implementation Framework (expected to be released by the end of this year) will supplement the EU Pillar Two Directive and will introduce mechanisms to apply the Global Anti-Base Erosion Rules ('GloBE rules') in a consistent and coordinated manner, there remain several aspects where clarification is crucial for the rules to be workable.

Absent clearer rules to address these issues, there is a risk that the cost of investing and conducting business in the EU will be significantly higher via higher taxes and higher compliance costs than in other parts of the world, thereby damaging EU competitiveness and growth. This would lose sight of the core policy aim of the OECD's Pillar Two rules which were intended to create a level playing field on a global level on the taxation of corporate profits rather than increasing the likelihood of the double taxation of income through, for example, the current lack of equivalence of the US rules with the Pillar Two rules.

It is therefore crucial that the Member States, supported by the Commission, prioritise and promote strongly the development of the following key elements of the Pillar Two



rules during the **remaining technical negotiations on the implementation framework at the OECD level:**

Administrative Simplification

The development of **simplification measures** is crucial to make the GloBE rules easier to implement and administer for taxpayers and tax administrations alike. The GloBE rules involve lengthy and complex calculations to determine whether any profits are in scope of the rules. Developing effective **safe harbour rules** that simplify and/or remove unnecessary calculation requirements is fundamental for businesses in order to reduce compliance costs whilst ensuring that the policy objectives of the rules are still achieved. It is also essential that reporting requirements are kept as simple as possible to help businesses and tax administrations alike to be able to meet the ambitious implementation timetable and focus on the correct reporting and collection of any top-up tax at stake.

Safe harbours based on existing information (such as Country by Country Reporting) or on a periodically reviewed whitelist of countries that apply an effective tax rate ('ETR') above 15 per cent would be particularly useful in this context. Our view is that it is extremely important for safe harbour measures to be applied as soon as possible to reduce the compliance burden for in-scope companies based in countries that already have an ETR above 15 per cent or that apply the QDMTT in accordance with the ultimate parent entity's accounting standard.

Dispute Resolution

Whereas we recognise that the OECD's Implementation Framework will consider a multilateral convention incorporating a dispute resolution framework for the effective implementation of the GloBE rules, we want to stress that competitiveness in the EU requires **better solutions to prevent and resolve cross-jurisdictional tax disputes**. There is potential for even more controversy at the international level between taxpayers and jurisdictions (and among jurisdictions themselves) pursuant to the introduction of the GloBE rules. As such, enabling taxpayers to effectively resolve their cross-border tax disputes where more than one tax authority is involved will be crucial to maintain the efficacy and efficiency of cross-border trade and to ensure that the incidence of double taxation does not become an acceptable cost of doing business in the EU. In this context, and as we noted in our Position Paper dated February 2022, we continue recommending the use of the EU's existing dispute mechanism to resolve cross-border tax disputes in the EU.

BusinessEurope continues to support the EU's efforts to remain consistent with its global commitments. However, given the uncertainties in the timeline and methodology for adopting the final rules in the EU, European businesses (and tax authorities) are facing enormous challenges to appreciate the implications of the final rules with a view to be able to apply these from the beginning of 2024, in line with the EU's proposed timetable. Businesses are unable to apply the rules appropriately until their final form is known. Applying the rules requires businesses to assess the data and reporting/compliance requirements, evaluate their existing technology ecosystem and capabilities, establish processes and controls, and prepare and train their resources.



On this basis and considering the existing lack of clarity on the above-mentioned key issues as well as the delay in finding unanimous agreement in the EU for adopting the Pillar Two directive, it is necessary to consider a transitional period or a 'soft landing' approach to implementing the EU's Pillar Two Directive to allow businesses to adopt the rules appropriately before facing charges for non-compliance.

We hope you share our concerns, and we remain at your disposal should you wish to discuss any aspects of this letter in more detail.

A copy of this letter is being sent to Executive Vice-President Valdis Dombrovskis and Commissioner Paolo Gentiloni.

Yours sincerely,

Markus J. Beyrer