Chair, GFIA taxation working group
Mervyn Skeet
Association of British Insurers

Local and global

Tax issues related to profit shifting and the worldwide pandemic have preoccupied GFIA this year

Taxation continues to be a significant focus of the G20 and at a wider global level as countries maintain their search for a multilateral solution to overhaul the international tax system. GFIA has been busy on the complex technical work of the OECD and the position of the EU, as well as that of individual countries.

Busy on BEPS

The OECD and G20 are seeking to reach a consensus-based, long-term solution to the tax challenges arising from the digitalisation of the economy through the proposal from the Inclusive Framework on Base Erosion and Profit Shifting (BEPS), which seeks to ensure that profits are taxed where economic activity and value creation occur. During their meeting in January 2020 they decided to continue with a two-pillar approach to address these challenges.

Under Pillar 1 they agreed to pursue the negotiation of new rules on where tax should be paid (“nexus” rules) and on what portion of profits should be taxed (“profit allocation” rules). The Inclusive Framework also agreed that more work was required on the technical design of Pillar 2, which is focused on international businesses paying a minimum level of tax.

There has been considerable work done at the OECD since the January meeting. Draft “Blueprints” detailing the mechanics of Pillars 1 and 2 were widely leaked in early August and GFIA understands that discussions continued at OECD level during August on refinements to these plans. The leaked Blueprints detailed the proposed exclusion of financial services, including insurance, from Amount A of Pillar 1, for which GFIA has lobbied.

GFIA has continued to focus on Pillar 2 and sent a detailed comment paper to the OECD at the end of July. This paper highlighted industry concerns over the proposals that could cause tangible harm to insurers, including the complicated carry-forward mechanism, the interaction and ordering of the three rules in Pillar 2 and substance carve-outs.

In its engagement with the OECD and individual country members of the Inclusive Framework, GFIA has pressed for some time for further public consultation and, on 12 October, the OECD released its official reports on blueprints for Pillars 1 and 2, alongside an economic impact assessment and a consultation document. The consultation runs until December and GFIA will respond. G20 Finance Ministers met on 14 October and noted in their communiqué: “We welcome the Reports on the Blueprints for Pillar 1 and Pillar 2 … . Building on this solid basis, we remain committed to further progress on both pillars and urge the G20/OECD Inclusive Framework on BEPS to address the remaining issues with a view to reaching a global and consensus-based solution by mid-2021.”

Meanwhile, looking for a solution at international level has not stopped a number of additional countries from introducing or proposing legislation for a “temporary” digital services tax, and GFIA continues to also monitor these pieces of legislation as they are developed.

Movement on BEAT

In addition to discussions on digital taxes, GFIA has continued to engage on the comprehensive US tax changes that were originally introduced in late 2017 but have continued to require extensive regulation. In December 2019, the US Treasury Department released final regulations on the base erosion anti-abuse tax (BEAT). The final regulations are generally consistent with the proposed regulations published in December 2018 but make certain modifications.

In September 2020, the US Treasury also issued final regulations on rules proposed in 2019, including waiving deductions for BEAT purposes. Taxpayers may rely on the final regulations for tax years beginning after 31 December 2017.

The main items for insurance are an exception for amounts paid by a US taxpayer to a non-US-related party for losses incurred and an exception for payments for certain low-margin services ("SCM exception"). However, the regulations also confirm that insurance premiums subject to BEAT are determined on a "gross" basis, ie there is no "netting" against claims and other related payments. GFIA continues to advocate that any taxes like BEAT (including any provisions in Pillar 2) should take into account all flows in an insurance contract.

IFRS and EU plans

At the same time, GFIA continues to monitor the International Accounting Standards Board's development of International Financial Reporting Standard (IFRS) 17, which applies to insurance liabilities. After significant lobbying, the IASB has deferred implementation of IFRS 17 until 2023. However, insurers continue to have major concerns about the tax implications of the transition to IFRS 17 and the impact on ongoing taxable income.

GFIA is also following taxation-related developments in the EU, where new proposals were discussed as part of the EU Budget 2021–27 and the plan for the recovery from COVID-19. The four-phased approach discusses a digital levy and it is generally accepted that the EU will move ahead with these proposals if the OECD work is unsuccessful.

The EU also discusses work on introducing new, own sources of income such as a financial transaction tax (FTT). GFIA continues to be critical of the FTT, particularly its potentially detrimental impact on retirement savings if pension services providers are not exempted from its scope.

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