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International Tax Refresher - Spring

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Contents

Introduction

In the many years I've spent lecturing, consulting, and writing about international taxation, I have never experienced such a period of instability. It has become increasingly challenging to predict what will happen from day to day, let alone from year to year. Providing advice in this environment is highly complex, especially with tariffs being imposed, withdrawn, replaced by free trade agreements, and then re-imposed. This has become a significant issue for international trade.

At the centre of the economic system is the United States, which now seems to view everything as negotiable, with no apparent limits on what it is willing to consider, whether regarding its opponents or its allies, adding to the system's instability.

Governments, particularly in the West, face additional pressures, including the demand to increase defence spending to meet the new NATO target of five percent of GDP, which has already led some countries to raise taxes, as noted. Combined with demographic challenges, welfare, and healthcare costs, most governments are perpetually short of funds and running public finance deficits that may not be sustainable. An article on France highlights one of the most extreme examples of a widespread phenomenon in the Western world.

This financial demand has also caused tensions between the OECD's more globalist approach and the anti-base erosion and profit shifting (BEPS) process, which requires cooperation among tax jurisdictions. The latest initiative under BEPS 2.0, involving Pillar One and Pillar Two, has faced significant challenges due to shifting perspectives within the U.S. administration. Currently, Pillar One seems stalled, and uncertainty remains about the future of digital services taxes, which were initially planned to be integrated into Pillar One.

With Pillar One fading, questions arise about Pillar Two. In June 2025, the G7 agreed on a dual system, commonly called the side-by-side system, designed to address American objections to Pillar Two and potential retaliation threats. I discussed this in my last seminar, and the notes and presentation cover the new system. Opinions vary on whether the bill will be implemented in June 2025 and whether it will aid or obstruct Pillar Two's progress.

Other developments are also taking place, including significant budget changes and countries adapting their systems to the evolving international tax environment. The European Union continues efforts to centralize certain tax responsibilities and facilitate cross-border information sharing. Poland's restrictions might indicate future trends.

The OECD’s new guidance on Permanent Establishments in November 2025 and HMRC changes to the rules in the UK mean that Permanent Establishment issues retain their prominence.

Lastly, wealth taxes resurface whenever public finances face serious strain. Generally, most experts believe wealth taxes do not currently benefit the countries that impose them. Only Spain, Norway, and Switzerland have comprehensive wealth taxes, while other countries are considering similar measures. Whether these plans materialize will depend on how political representatives balance electoral pressures against economic realities. An article at the end discusses the Dutch experience with this issue.

I hope you find this overview informative and not too discouraging!

Why International Tax is relevant to the small practitioner

A few months ago, I spoke with practitioners attending a conference where I also gave a lecture. I asked for their opinion on my presentation, and they responded positively (maybe just being polite!) but they questioned why the conference focused on international tax, given that most participants were small practitioners.

Reflecting on this, I felt that one key goal of training is to recognise the "known unknowns," a phrase famously used by the late Donald Rumsfeld. Essentially, it means being aware that a problem might exist rather than ignoring potential issues simply because they are unknown.

International tax fits into this category. I prefer to be like Tom Hanks in Apollo 13, who alerts Houston to a problem, rather than Sigourney Weaver in Aliens, who is lost in space. Spotting issues early is crucial for any tax professional, as it can prevent costly corrections and protect both reputation and fees.

Tax return preparation

Do I need to file a tax return?

One of the questions which often occurs is whether an individual needs to file a self assessment tax return, whilst residing overseas.

The answer to that question is not simple. It primarily depends on whether HMRC has issued an official notice requiring a tax return. Secondly, it depends on whether there are any tax liabilities that must be declared and paid. Thirdly, it depends on whether the taxpayer wants to claim any allowances or tax refunds. Regarding tax status, an individual may be a part-year resident in the UK, or if they are non-residents, they might have UK income sources that need to be declared, such as income from the UK to HMRC.

This situation can impact the individual's overall tax obligations, as proof of UK taxes paid may be necessary to claim foreign tax credits in the country where the individual resides. If someone is resident in both the UK and another country at the same time, they need to claim foreign tax credits in the country of residence. In such cases, it is important to consult the relevant double tax treaty between the UK and the other country. The treaty determines the individual's residence for treaty purposes. This does not eliminate the tax obligations in the country where the individual is not considered resident for treaty purposes. However, it generally assigns primary taxing rights to the country where the individual is treaty resident for most income types, excluding UK source income or rental income. Therefore, a UK tax return must be completed, relevant tax reliefs claimed against UK tax liabilities, and the UK tax quantified to offset foreign tax liabilities.

In summary, it is crucial to understand where an individual is considered resident for domestic tax purposes, which may involve multiple jurisdictions, and where they are resident for tax treaty purposes, which is usually one jurisdiction determined by the treaty's tiebreaker clause.

The treaty tiebreaker clause, typically found in clause 4 of the relevant double tax treaty, assesses where an individual has their primary residence. If this is inconclusive, it considers social connections, habitual abode, and finally nationality. If none of these tests conclusively determine treaty residence, the tax authorities of the involved countries will agree on the individual's primary residence.

To identify problems, one must at least have some background knowledge of international tax, since even practitioners serving medium-sized or smaller clients may encounter foreign matters—like in Aliens! For example, someone completing a tax return might encounter dividends from an investment in a successful company, such as a defence firm like Rheinmetall. Foreign stocks are now easy to buy on most online brokerage platforms.

Understanding the tax treatment of such dividends is vital; otherwise, the UK tax return might be inaccurate, and many practitioners have been caught out by such scenarios.

Dividends

Foreign countries often impose withholding taxes on dividends, which may not be fully reclaimable or credited, and your reporting may be wrong unless you consult the relevant double tax treaty. If excess withholding occurs, reclaiming it from the foreign tax authority is necessary. Many countries, unlike the UK, withhold tax on dividends, and this issue has become more significant since the UK left the European Union and no longer is subject to the parent-subsidiary directive which forbad witholding on most intra EU dividends.

After determining the correct withholding rate under the treaty, it is essential to ensure the individual has applied for the treaty benefit of any reduced withholding tax, as HMRC will not credit withholding taxes if the amount claimed is above the treaty rate. The default witholding rate which can be as high as 30% may be imposed if the appropriate forms are not submitted.

For instance, in the United States, filing a W-8BEN form is required to claim treaty benefits for UK residents, and this must be renewed every three years. Even if one did not intend to acquire these additional fixed withholding treaty benefits, this remains an important obligation. Foreign shares might also arise from corporate divestments, such as Vodafone shareholders receiving Verizon shares, which are US shares.

Interest

A similar situation occurred when Abbey National was acquired by Santander, a Spanish company, though HMRC allowed simplified procedures for smaller dividend and interest amounts. Larger holdings, however, fall outside this scope, making it necessary to understand how to handle foreign income sources; each governed by domestic laws and subject to the provisions in the relevant double tax treaty.

For example, the US-UK treaty specifies a zero withholding tax rate on dividends received by tax-exempt organisations, such as pension funds or self-invested pension plans. If a dividend is received from a US entity into a self-invested pension plan and withholding tax is applied, a W-8BEN form should be completed.

A dividend of $1,000 should have no withholding if the W-8BEN is submitted. If it is not completed, a 30% withholding tax of $300 may be imposed. This $300 withholding would not be recognised as a valid tax for double tax credit purposes because it was only applied due to the failure to submit the required form. Consequently, HMRC would consider it improperly withheld. If the W-8BEN is not submitted and the $300 is not reclaimed from the US withholding agent, the $300 would effectively be double taxed, as no credit would be available, and the entire $1,000 could be subject to UK tax if the recipient in the UK is a non-UK tax-paying entity such as a pension plan. This means the $300 would not be creditable against other taxes and would represent an additional tax burden.

Permanent Establishment

Small and medium-sized businesses now face challenges previously limited to large companies, such as permanent establishment issues. Changes in work patterns due to COVID-19, which have not reverted, may inadvertently create permanent establishments abroad—for example, if a director or head of sales works remotely from another jurisdiction to boost sales there.

Examining relevant cases and changes to the dependent agent exemption shows that even if someone does most of the work on a contract without completing it, this could still establish a permanent establishment or place of business rules; triggering corporation tax and other obligations like pay-as-you-earn and VAT place of supply rules.

Value Added Tax

VAT, a complex topic, is also affected by Brexit, potentially requiring registration in multiple European countries for significant sales if the place of supply is deemed to be in those countries. It is important to verify whether place of supply rules necessitate registration abroad when sales volumes are substantial.

Business Visitors

Another consideration is business visitors: most countries do not impose income tax or national insurance obligations for a single day of work. However, for businesspeople, spending significant time—commonly around 30 days—in another country may trigger income tax and social security liabilities. Where social security agreements exist, obtaining a certificate of coverage or similar documentation to remain within the UK system can reduce complications during workplace inspections. Sportspeople and artists are however generally taxed from day one.

Directors

Tracking how many days an individual spends in a jurisdiction is crucial, especially for directors attending regular board meetings abroad. Directors do not benefit from typical exemptions for short-term visitors, as Article 16 of tax treaties based on the OECD model often excludes them, meaning they may be liable for tax in the countries they visit. Understanding these rules and being aware of clients' international activities is vital.

Foreign tax liabilities

Another important topic is foreign tax liabilities. Unfortunately, the number of countries where one can avoid foreign tax has decreased significantly. With global coordination and the introduction of a minimum corporation tax rate of 15% under Pillar 2 of the OECD agreement, the possibility of completely avoiding tax has diminished. Therefore, having some knowledge of non-UK tax obligations remains important. This is especially important as there are time limits for claiming foreign tax credits.

Non residents

My article in Taxation on 18 September discusses ongoing responsibilities for non-UK residents. Advising clients about potential reporting and tax liabilities abroad is essential, especially since information exchange between HMRC and other tax authorities has expanded in recent years, making undisclosed foreign activities unlikely to go unnoticed. For all these reasons, understanding at least some international tax is crucial.

Transfer Pricing

Additionally, HMRC has proposed removing the transfer pricing exemption for medium-sized companies, while retaining it for smaller companies with turnover below £10 million. This signals an increased focus on transfer pricing issues among medium-sized firms, which were previously less scrutinised.

Although HMRC already has powers under profit fragmentation, controlled foreign company, and transfer of assets abroad rules, the move to remove this exemption suggests significant tax revenue potential from international transactions. There is also a desire to counter the perception that the UK is a softer target than other jurisdictions.

Toughening up

Someone recently mentioned to me that when choosing between HMRC and Chinese tax authorities, they know which is less likely to enforce draconian measures. But tax authorities, including HMRC, are becoming more robust and searching in these areas. For these reasons, practitioners working with medium-sized companies should understand that even if

their clients are not interested in international tax, international tax may still be interested in them!

Exploring the tax systems of new countries

When investing in new countries, it is crucial to comprehend their tax systems. Very few individuals, if any, have in-depth knowledge of multiple tax systems. Understanding one tax system thoroughly is already difficult, let alone several. Nevertheless, there are common elements to consider when studying tax systems, such as their structure, modifications, and key points to examine.

A significant question is how tax laws are created. In most representative democracies, the procedure is similar: the executive branch proposes tax legislation, which the parliament or national assembly reviews, may amend, then approves or rejects, and finally enacts into law. This process embodies the well-established principle of financial oversight and government accountability to citizens, often expressed as "no taxation without representation," a doctrine widely embraced in Western democracies and beyond. However, each country has its own history, traditions, and distinctive characteristics.

To begin reviewing legislation, one would examine what is passed in parliament. Most countries have an annual budget outlining proposals for the coming year. Many follow the calendar year, but some, like the UK, have different tax years—for example, the UK tax year starts on April 6th.

Governments present budget proposals, which are debated in parliament, followed by legislation to implement changes. Some countries, such as the UK, publish tax strategies—since 2010, the UK has issued a corporation tax roadmap at the start of each parliament, outlining government principles. For instance, the UK Coalition government from 2010 to 2015 aimed to reduce the corporation tax rate from 28% to 20%, a goal achieved by 2015. Later tax corporate tax roadmaps have provided stability and certainty for companies planning their finances. Most countries do not publish such detailed roadmaps but do state some guiding principles for their tax systems, which are helpful when forecasting government tax policies.

Another point is that most countries permit the executive branch to issue tax regulations. For example, US presidents often use executive orders to enact measures, though these are usually limited in scope and duration and require congressional approval or renegotiation. In the UK, regulations can be passed quickly as secondary legislation, which differs from primary legislation that undergoes a longer review process. Secondary legislation is limited in scope and must be authorised by primary legislation. Once both primary and secondary legislation are passed, they carry equal weight in implementation and interpretation.

Courts interpret legislation. In countries with written constitutions, such as the United States, France, or Poland, legislation may be challenged on constitutional grounds, either regarding government powers or implementation methods. Challenges can arise from tax assessments or broader judicial reviews questioning government authority or issues like information exchange between countries. For example, the French digital services tax was challenged in the French Constitutional Court, showing how constitutional grounds can be used in disputes.

Implementation

After legislation is enacted, the focus shifts to implementation by revenue authorities. It is important to distinguish between the law itself and the revenue authorities' interpretation, which does not have the force of law and can be contested by taxpayers. Taxpayers may succeed if authorities exceed their powers. The effectiveness of the court system is crucial here; some countries have faster, more efficient courts, while others may take decades to

resolve cases, affecting investment decisions and tax security since restitution can be delayed if authorities overstep their powers.

The practical challenges of implementing tax policy do not end with the letter of the law. After legislation is enacted and interpreted by the courts, the onus shifts to tax authorities, who must translate complex statutes into clear administrative practice. This involves issuing guidance, clarifying ambiguous provisions, and, in some cases, exercising discretion in enforcement. Administrative practices can diverge widely, even among countries with similar statutory frameworks, influencing everything from taxpayer experience to dispute resolution procedures.

Tax authorities may employ advance rulings, practice statements, or binding opinions to provide certainty for taxpayers, particularly in areas where legislation is evolving or complex. The extent to which such instruments are available, and the degree to which they are binding, differ markedly between jurisdictions. In some countries, tax administrations are highly responsive and transparent, allowing for efficient resolution of uncertainties; in others, guidance may be sparse or open to interpretation, creating risk and unpredictability for taxpayers.

Furthermore, the architecture of tax administration—including the use of digital platforms, real-time reporting systems, and automated audits—can significantly affect the ease and accuracy with which laws are put into operation. As technology transforms the interface between tax authorities and taxpayers, the capacity for proactive compliance monitoring increases, but so too do the expectations placed upon individuals and businesses to keep pace with regulatory developments.

Supranational Bodies

Another factor to consider is the influence of international or supranational organisations like the OECD or the European Union. The OECD has been a leading authority since the 1960s, providing guidance to the UK and others, but it cannot compel member states to act; it relies on persuasion rather than legislative power.

The European Union, however, holds powers surrendered by member states to set principles on VAT, some direct taxes, and enforce compliance with rules such as anti-avoidance directives (DAC 1 to DAC 9). These powers allow taxpayers to challenge member states in court if appropriate reliefs, especially for non-residents in other EU states, are not granted. Examples exist where discriminatory practices against residents of other member states have been overturned under European law.

International agreements like the OECD’s Base Erosion and Profit Shifting (BEPS) project, including Pillar 1 and Pillar 2, have been in development for over ten years. These agreements have led member states to amend rules on hybrids, interest deductions, and double tax treaties to ensure proper taxation, prevent treaty abuse, and support poorer countries through withholding taxes.

Given the complexity and interdependence of national and international tax rules, businesses and individuals alike must navigate a landscape shaped by frequent legislative amendment, judicial interpretation, and shifting international norms. Effective tax planning, therefore, requires not only an understanding of the statutory text but also an awareness of regulatory guidance, case law, and cross-border implications.

Moreover, evolving global standards—such as the increased emphasis on transparency, information exchange, and anti-avoidance—demand that taxpayers remain vigilant. The proliferation of reporting obligations, like the Common Reporting Standard or country-by-country reporting, means compliance strategies must be continually reassessed. As new tax challenges arise from digitalisation and global mobility, authorities are increasingly focused on substance, economic activity, and the prevention of profit shifting.

All these layers highlight the importance of holistic analysis, where both domestic procedures and international obligations contribute to the overall predictability and fairness of a tax system.

Witholding Taxes

Some countries are dependent on the revenues from witholding taxes. Others are confident that they can collect revenues from tax filings. It is not only important to consider what witholding taxes are levied but also the efficacy of mechanisms to reclaim them.

Withholding taxes are a particularly significant element in this context. These are taxes deducted at source, often on payments of dividends, interest, or royalties to non-residents, and serve as a primary mechanism for countries to secure tax revenue from cross-border transactions. The rates and application of withholding taxes are not uniform; they vary widely depending on domestic laws and the existence of double tax agreements, which can reduce or eliminate the tax to avoid double taxation of the same income.

The negotiation and interpretation of these treaties are crucial. While treaties aim to foster cross-border investment and prevent tax evasion, their real-world application can be complicated by differing interpretations, domestic anti-abuse rules, and the growing body of international guidance. For instance, anti-treaty shopping provisions and the principal purpose test are increasingly used to counteract arrangements lacking genuine economic substance.

Disputes over withholding tax are common, particularly when authorities question whether a recipient is the 'beneficial owner' of income or is simply acting as a conduit. In such cases, courts often play a decisive role in clarifying definitions and interpreting treaty provisions in light of both domestic and international norms.

In practice, the compliance burden associated with withholding taxes can be significant for taxpayers and intermediaries. Documentation requirements, refund procedures, and reporting obligations add layers of complexity, making professional advice indispensable for navigating these rules.

Conclusion

In conclusion, when analysing a country’s tax system, it is essential to consider not only tax rates but also withholding taxes, double tax agreements, the tax base, allowable deductions, and taxable income to gain a full understanding of the tax costs involved in operating there. Additionally, one should assess how efficiently the tax system is administered, its consistency, and the availability of qualified professionals who can advise on both theory and practice within the country.

International tax concepts — overview

International tax is relevant to a number of different situations, from a UK company making its first trades overseas through to large multinationals needing to consider the Pillar Two multinational and domestic top up tax rules.

In addition to a company knowing where it is tax resident, UK companies will need to consider international tax issues when expanding abroad, potentially including the controlled foreign company rules, and foreign companies will need to consider the UK international tax rules when setting up in the UK. These issues are outlined below at 'UK resident company establishing outside the UK' and 'Foreign resident company establishing in the UK'.

It may also be sensible to consider whether a company should change its tax residence (whether by inbound migration or by outbound migration) or where a holding company should be located.

Companies undertaking digital services activities will also need to consider the Digital Services Tax (DST).

In addition, international groups may wish to consider their overall structure to ensure efficiencies in their overall tax rate, cross-border financing arrangements, intellectual property holdings and cross-border acquisitions.

Transfer pricing will also need to be considered, especially by entities that are not small or medium sized enterprises (SMEs), guidance note. Advisors and other intermediaries involved in structuring offshore structures will also need to consider the mandatory disclosure rules (MDR).

In addition, large multinational enterprises (MNEs) will need to consider the Pillar Two rules,

Determining entity classification and company residence

Whilst the status of many entities is clear, there are a number of types of foreign entity which do not have a UK equivalent. For these, it will be necessary to determine whether they are transparent or opaque for UK tax purposes before moving on to consider whether or not any opaque entity is UK tax resident. The factors that need to be considered in order to determine the status of foreign entities is set out in case law.

The concept of residence is important because it typically determines where a company (or other opaque entity) is subject to tax. The UK company residence test is simple for a company incorporated in the UK, but is based on the more complex concept of central management and control for companies incorporated outside the UK. In addition, any tie breaker provisions in a relevant tax treaty will also need to be considered, which may include the effective management test.

CTA 2009, s 5

In the UK, corporation tax is chargeable on the worldwide profits of any company that is resident in the UK. A non-UK resident company is within the charge to corporation tax only if it carries on a trade here through a permanent establishment (PE).

An overseas company which becomes UK tax resident (because it is managed and controlled in the UK) will also be subject to UK corporation tax.

UK resident company establishing outside the UK

A UK company establishing outside the UK (ie one trading or having a presence overseas) will need to determine if it has a PE in the relevant territory, and whether it should establish a

branch or a subsidiary. Most dividends from overseas subsidiaries are now exempt from UK tax, subject to certain conditions being met.

Even without a branch or a subsidiary, the UK company may be subject to overseas tax or overseas withholding tax.

If an overseas subsidiary is formed, it may be subject to the controlled foreign company (CFC) rules. Broadly, a CFC is any company which is resident outside the UK but 'controlled' by a UK resident person or persons. The profits of the CFC can be attributed to the UK resident companies in accordance with their holding of ordinary shares in the CFC (whether direct or indirect). These profits are then subject to an amount of tax equivalent to corporation tax, with a credit for a proportion of any tax paid by the subsidiary

Foreign resident company establishing in the UK

An overseas company establishing in the UK will need to determine if it has a PE here and whether it should establish a branch or a subsidiary, as this will determine the way in which the profits will be taxed.

Even without a branch or a subsidiary, there may be withholding tax or UK filing requirements to consider.

Structuring international groups

A shareholder (or group of shareholders, eg on a new stock exchange listing) may need to establish a holding company in order to acquire or establish subsidiaries in a number of different countries.

Alternatively, an existing group may wish to establish a new holding company in another country for tax or commercial reasons.

In either case, it will be necessary to determine a tax-efficient jurisdiction in which to establish the holding company.

It may also be necessary to consider the tax position of the shareholders themselves.

If existing companies are being acquired by the new holding company, it will also be necessary to consider a tax-efficient structure for doing so.

Finally, the tax residence of all group companies should be considered whenever an international group is restructured. Companies may wish to become UK tax resident via inbound migration, or stop being UK tax resident via outbound migration.

Permanent establishment

In international taxation, few concepts are as central as the Permanent Establishment (PE). Assuming no UK real estate-related trade or income (as the rest of this article assumes), the existence of a PE is the key threshold for determining whether, and to what extent, the UK may tax the business profits of a non-resident company.

Finance Bill 2026 introduces a substantial overhaul of the UK's domestic PE definition. The reforms are intended to modernise and simplify the rules, increase certainty, and improve alignment between domestic legislation and the OECD Model Tax Convention, while also reducing friction with the UK's double tax treaty network. These changes have particular significance for multinational groups with UK-based sales activity and for investment funds with UK managers.

The journey to these reforms began with an April 2023 consultation on updating the UK's domestic PE definition. Two options were proposed: aligning domestic law with the OECD Model, or instead cross-referring to the applicable double tax treaty provision (with a fall-back to the OECD Model where no treaty applied). By January 2024, the Government had decided to pursue the former approach. In response to consultation feedback, it also acknowledged concerns about potential disruption for UK investment managers and indicated that the reforms were not intended to have an adverse impact on the asset management sector.

A further technical consultation was launched in April 2025 with draft legislation. At the November 2025 Budget, HMRC published the outcome to the technical consultation together with a revised draft of Statement of Practice 1/2001 (SP 1/2001), which was followed in December by the proposed final legislation in Finance Bill 2026.

What is a PE under current law and what are the tax consequences?

Under the UK's domestic rules, a non-UK resident company will not generally be subject to UK corporation tax unless it has a PE in the UK through which it carries on a trade in the UK (CTA 2009 s 5). Where such a UK PE exists, the non-resident company will be subject to UK corporation tax on all of its profits that are attributable to that UK PE, with attribution determined by applying the 'separate enterprise' principle in CTA 2009 ss 19–32. The UK's ability to tax the profits of the UK PE of the non-resident company remains, however, subject to the application of DTTs. Where the PE definition in an applicable DTT is narrower than that under UK domestic law, the DTT may effectively re-allocate taxing rights back to the state of residence rather than the UK.

The current UK domestic law PE definition in CTA 2010 s 1141 generally provides that a non-resident company has a UK PE only if:

(a) it has a fixed place of business in the UK through which its business is wholly or partly carried on, such as a branch, office, or factory (a Business PE); or

(b) an agent acting on behalf of the company has and habitually exercises authority to do business on behalf of the company (an Agency PE).

These are subject in each case to certain exceptions, including an exception for an 'agent of independent status' acting in the ordinary course of the agent's business (CTA 2010 s 1142). The IME then applies, for IMs meeting the qualifying conditions, to treat them as an agent of independent status (CTA 2010 ss 1146–1150).

The Agency PE definition requires an agent to have and habitually exercise 'authority to do business' in order to create a UK PE. This differs from the language found in most UK DTTs, which requires an agent to have 'authority to conclude contracts', which raises the question of whether there is intended to be a difference in the threshold under the domestic and treaty definitions.

Notwithstanding the differences in phrasing, these definitions have tended to be interpreted in much the same way by HMRC (with HMRC's *International Manual* at INTM264050 confirming that 'the guidance on interpretation of treaty PE … is understandably substantially applicable to domestic law PE as well'). This leaves scope for it to be argued that a UK agent which negotiates material terms of contracts on behalf of a non-UK principal without finalising or executing the contract (or otherwise binding the principal) does not result in a domestic law UK PE. For example, if a US company engages a remote sales executive in the UK who negotiates many of the main contractual terms with UK customers and then sends the details back to the US company for finalisation and execution, it may be open for the US company to argue that no UK PE has been created under domestic (or DTT) rules.

What are the changes?

Agency PE definition changes

The changes made to the PE definition in the Finance Bill focus on the Agency PE limb, broadly aligning it with the latest OECD Model (which contains relevant Articles that post-date those in most of the UK's DTTs).

The new test substitutes the current Agency PE test in CTA 2010 s 1141(1)(b) with a new test that applies where 'a person acting on behalf of the company habitually concludes contracts, or habitually plays the principal role leading to the conclusion of contracts, that are routinely concluded without material modification by the company, and the contracts are (i) for the transfer of the ownership of, or for the granting of the right to use, property owned by the company or that the company has the right to use, or (ii) for the provision of services by the company.'

The 'new' definition would therefore seem to include a broader class of agents, including cases where contracts are not finalised or executed by the agent itself, or where the agent has no authority to otherwise bind the principal. Interestingly, however, HMRC have stated that in their view 'a person who meets this definition would also fall within the previous wording'. Insofar as this indicates that HMRC do not intend the changes to result in a proliferation of new UK PEs, that would seem helpful. That view is, however, perhaps difficult to square with the statutory changes in the revised legislation when compared against the previous form of wording.

The new rules also align with the latest OECD Model in narrowing the scope of the exemption for agents of independent status. In particular, a carve-out to the exemption is introduced where the agent acts exclusively or almost exclusively for a company to which they are 'closely related' (i.e. where the company controls the agent, the agent controls the company, or the company and agent are under common control by another person). This further expands the range of circumstances in which the activities of a UK agent may create a UK PE.

Crucially, the amendments do not seek to change the fact that where an applicable DTT includes a narrower PE definition than UK domestic law, the DTT definition has priority. That is likely in most cases to limit the immediate impact of the latest changes, as most UK DTTs include the (seemingly) narrower 'authority to conclude contracts' formulation. However, the

UK domestic law changes seem likely to provide an indication of the language that the UK will seek to include when negotiating and re-negotiating DTTs. Indeed, the latest DTT enacted by the UK (the UK-Peru DTT, which entered into force on 21 January 2026) includes both the expanded Agency PE definition for agents playing the 'principal role leading to the conclusion of contracts' and the narrower agent of independent status exemption carving-out agents acting exclusively or almost exclusively for a principal to which they are 'closely related'. From a risk management perspective, it would therefore be prudent to reassess existing structures now on the assumption that any applicable DTT definition is likely to converge with the new domestic law definition over time.

Other changes

As would be expected, a range of consequential amendments have also been made, including to tidy up a quirk in the UK's income tax charging provisions. It is not necessary for a non-UK resident company to have a UK PE to fall within the charge to income tax if it carries on a trade in the UK (ITTOIA 2005 s 6).

The income tax charge is generally disapplied by CTA 2009 s 3 where the non-UK resident company's profits are chargeable to corporation tax or would be but for an exemption. That leaves the possibility of a non-UK company facing a residual income tax charge (subject to relief under a DTT) where its profits fall outside the scope of corporation tax because it does not have a UK PE, rather than because an exemption applies. While it was acknowledged that it might be preferable to remove this inconsistency, HMRC indicated that no examples were cited of businesses actively being taxed in this way in practice, and as this forms part of the basic income tax charging provision it was considered out of the scope of the consultation to include a broad amendment to deal with this point.

While CTA 2009 s 3 is to be amended in a more targeted manner so that the income tax charge is disapplied where the agent of independent status carve-out (or one of a number of other specific carve-outs) applies, this does not go so far as to remove the income tax charge where there is simply no UK PE at all on normal principles. While these changes are welcome, this is perhaps a missed opportunity to clarify the delineation between income tax and corporation tax more coherently across the board.

Conclusion

The changes in the Finance Bill represent an important shift in the UK definition of a PE, aligning domestic law more closely with the OECD Model. In particular, the amendments to the Agency PE test and the narrowing of the agent of independent status exemption expand the circumstances in which a

Developments in 2026?

Pillar One: Despite the EU continuing to state its commitment to implementing Pillar One, the reality is the project has burned out and the international landscape will remain a patchwork of unilateral Digital Services Taxes (DSTs) for the foreseeable future.

The Trump Administration will continue to push for the removal of overseas DSTs in 2026, maintaining they discriminate against US technology companies. Although the threat of US tariffs was enough to make Canada rescind its DST last summer, other countries (notably France) show less willingness to concede and are still enacting and proposing DSTs and similar measures.

US

The November midterm elections could inhibit the President's ability to pass domestic tax legislation. The Republicans have slim majorities in Congress already, and history shows that the party in power almost always loses seats in either the House or Senate (and often both) at the midterms. Such loses could make for a quiet domestic tax landscape for the next few years. It would likely rule out any further s 899-style 'revenge tax' proposals on overseas territories – although the President still has a range of tariff measures at his disposal which he could use instead. Presidential use of tariffs could of course be litigated in the courts but the likelihood of a successful challenge will depend upon the lever deployed and the circumstances in question.

EU

The focus of EU tax policy will remain on the tax decluttering and simplification agenda to help boost EU competitiveness. Changes in EU tax law require that elusive requirement of unanimous approval by Member States, therefore expect mainly administrative changes in 2026. Cyprus assumes the Presidency of the Council of the EU for the first half of this year and its recently published work programme includes initiating work on the recast of the Directive on Administrative Cooperation (DAC recast proposal), a project to improve the functioning of the Directive, including by consolidating the various DAC amendments (DAC 1 to DAC 9) into a single cohesive text to improve clarity.

The Presidency also has to keep one eye tax developments outside of the EU. As well as responding to US tax and trade policy, it has also said it will advance tax discussions at the level of the United Nations (UN), to support a balanced and inclusive outcome that reflects both EU values and global consensus.

UN

Work on the UN Framework Convention on International Tax Cooperation will continue in 2026, albeit without the US who formally withdrew from the process in early 2025 stating the goals of the project were inconsistent with US priorities and represented an 'unwelcome overreach'. While negotiations are expected to continue into 2027, we are still some way off a final proposal – and even further removed from ratification and implementation by Member States – and MNEs should be closely monitoring developments. Some in the business community have expressed concern at proposals for expanding taxing rights without sufficient safeguards and relief from double taxation. The UN will be looking closely at the latest proposal for Workstream II, covering taxation of cross-border services which is expected ahead of the Fourth Session of the Committee that kicks off in New York in February.

In 2026, countries and institutions will continue to adjust to the new global dynamic in all key policy areas; tax is no exception. In his recent speech at the Davos World Economic Forum, Canadian Prime Minister Mark Carney spoke of the new reality for the 'middle powers' – countries who have historically relied on multinational institutions for collective problem solving. Japan's tax incentive push and France's Budget ructions illustrate the tax levers to try to address this new reality – how to handle the fiscal and growth challenges of ageing demographics in the face of less favourable international trade environments – at a domestic level.

OECD publishes details of the new Side by Side regime for Pillar 2

Following the G7's June 2025 statement to effectively exclude US parented groups from the Pillar Two Under Taxed Profits Rule (UTPR) and Income Inclusion Rule (IIR), on 5 January 2026 the OECD released the much-anticipated 'Side-by-Side' (SbS) package modifying key aspects of the Pillar Two framework. Key points to note include:

Introduction of a new SbS Safe Harbour

This deems the IIR and the UTPR to be zero if the Ultimate Parent Entity (UPE) of an MNE is located in a jurisdiction that imposes minimum taxation requirements with respect to domestic and foreign income, and provides a foreign tax credit for Qualified Domestic Minimum Top-up Taxes (QDMTTs), (a 'Qualified SbS Regime'). The only jurisdiction currently eligible for the SbS Safe Harbour is the US.

Importantly, the SbS Safe Harbour does not apply to a non-US parented MNE Group that has a subgroup with a US intermediate parent entity: IIRs and UTPRs will still apply to the US entity and its subsidiaries in all years.

Introduction of a new UPE Safe Harbour

This new Safe Harbour applies for financial years beginning on or after 1 January 2026 and effectively replaces the Transitional UTPR Safe Harbour, although it is harder to qualify for. When the UPE Safe Harbour is elected, the top-up tax for profits for constituent entities within the qualifying UPE jurisdiction is deemed to be zero for the purposes of the UTPR.

Simplification and tax incentive measures

The release also includes measures to simplify the Pillar Two rules, including temporary extension by an additional year of the Transitional Country-by-Country Reporting Safe Harbour (TCSH) and the introduction of a new permanent Simplified Effective Tax Rate (ETR) Safe Harbour (SESH) with a 15% threshold rate. However, many MNE Groups have already raised concerns that the SESH is not a meaningful simplification of the GloBE rules. A new Substance-based Tax Incentive (SBTI) Safe Harbour has also been introduced.

What next?

Negotiations to reach an agreement on the SbS system were intensive and now countries need to consider the future direction of their domestic Pillar Two regimes. Some jurisdictions may find their current suite of incentives well-placed to attract investment and only require some refinements. Others, particularly those primarily offering income-based incentives, may now decide the time has come for a more thorough overhaul. Some countries, previously hesitant on Pillar Two adoption, may now forge ahead, while others reconsider their earlier plans to adopt the rules. Monitoring these jurisdictional responses will be key in the next 12 months

United States

On Friday, 20 February, the US Supreme Court held that the International Emergency Economic Powers Act (IEEPA) does not provide authority to the US President to impose tariffs. The decision strikes down tariffs imposed under IEEPA on goods from Canada, Mexico and China, as well as global 10% and country-specific tariffs. However, tariffs imposed by the administration under Section 232 of the Trade Expansion Act of 1962 or Section 301 of the Trade Act of 1974 remain in place.

The Trump administration responded quickly to the decision, issuing a Proclamation which imposes a temporary 10% global tariff under section 122 of the Trade Act of 1974 on goods

imported into the United States, subject to certain exceptions. Despite comments by President Trump on social media at the weekend that the rate would be increased to 15%, it was confirmed on Monday that the new global tariff would be imposed at 10%, from Tuesday 24 February. The tariffs apply for 150 days, after which Congress can vote to extend them.

While last week's Supreme Court decision strikes down the tariffs imposed under IEEPA, the refund mechanism for reciprocal tariffs already paid is not yet clear.

Limits to information Poland

The Polish Ministry of Digital Affairs has opened public consultations on a proposed Digital Services Tax (DST), aimed at large multinational groups with global revenues exceeding €1b and Polish taxable revenues exceeding PLN25m annually. The proposed DST would apply to revenue generated from digital advertising, multisided digital interfaces and the sale or sharing of user data, with a tax rate not exceeding 3%, reduced by any corporate income tax already paid.

Nigeria: Effective from 1 January 2026, the Nigeria Tax Administration Act has introduced mandatory tax registration for non-resident companies (NRCs) that do not have a permanent establishment or significant economic presence in Nigeria, expanding the definition of a taxable person. As a result, NRCs earning income from Nigeria, particularly from royalties and rental agreements, may now be required to register for tax purposes, despite being subject to final withholding tax.

BEPS

The global tax policy environment is increasingly complicated. Multilateralism remains a feature of the landscape, but domestic policy is advancing on distinct timelines and, in some cases, in different directions. That divergence is where businesses are focusing now, not debating the rules in the abstract but stress testing when they take effect, where they take effect first and what that means for forecasting, controls and compliance capacity.

The fourth negotiating session in New York on the United Nations (UN) Framework Convention on International Tax Cooperation underscores the divergence. Many developing countries are increasingly viewing the UN process as an alternative venue for shaping the international tax agenda, reflecting a perception that Organisation for Economic Co-operation and Development (OECD)-led outcomes have not consistently aligned with their priorities, particularly on the allocation of taxing rights and on rules that are workable for lower-capacity administrations.

Over the past two weeks, the UN negotiating session moved further into the drafting stage, with a sharper focus on the Convention's architecture and the early protocols, including Protocol I on cross-border services. Discussions also continued on core concepts such as Article 5 on the allocation of taxing rights, framed around where value is created, markets are located, revenues are generated, or economic activity takes place. T

The immediate takeaway is not that a new global standard is imminent, but that the centre of gravity is widening and that new channels are emerging through which policy ideas may be translated into domestic rules. For businesses, this matters because it can influence the substantive direction of future measures, including renewed interest in withholding-style approaches to cross-border services. It may also contribute to greater divergence as jurisdictions adopt different tools to pursue similar policy objectives.

On the global minimum tax, Pillar Two is firmly in its operational phase. The side-by-side package is intended to improve alignment and operability, but the timing of implementation is unlikely to be uniform. Some jurisdictions will move quickly through mechanisms that enable faster adoption, while others will require domestic legislative changes that take time. The OECD has acknowledged that certain jurisdictions may not be able to implement the package with retroactive effect to the start of 2026.

For United States (US)-headquartered groups relying on the Side-by-Side Safe Harbor, that timing mismatch matters. In some scenarios, the absence of domestic implementation of this safe harbour could mean continued exposure under the Income Inclusion Rule (IIR) or Undertaxed Profits Rule (UTPR). At the same time, the package points to additional technical workstreams still underway, reinforcing that the Pillar Two rules will continue to evolve while many companies are still building operating models to comply.

Tax transparency is also becoming more immediate. Public Country-by-Country Reporting (CbCR) is moving from planning to execution as deadlines approach. We are seeing jurisdictions refine domestic rules in response to taxpayer concerns, which can be helpful and which also requires continued monitoring. Spain is a near-term example, with reporting due by June 2026 for calendar-year groups. For many organizations, the most pressing issue is not any single deadline, but the potential for multiple reporting obligations and the interaction between the European Union (EU) and Australian Public CbCR regimes.

Certain jurisdictions may not exempt local subsidiaries or branches even though a report has been published elsewhere in the EU. That can increase the risk of duplicative publication and inconsistent execution where data, language or filing mechanics differ. This matters because the governance and reputational stakes around public disclosures are often higher than the incremental compliance burden, and small inconsistencies can attract

disproportionate attention. In this environment, it is essential to be prepared as rules take shape unevenly across markets.

BEPS 2.0 OECD

OECD updates list of MCAA GIR new signatories On 2 February 2026, the OECD released an updated list of jurisdictions that have signed the Multilateral Competent Authority Agreement on the Exchange of Global anti-Base Erosion (GloBE) Information Returns (GIR MCAA). The GIR MCAA provides the legal framework for the automatic exchange of GloBE Information Returns. According to the update, Australia, Gibraltar and Slovenia recently signed the agreement, bringing the total number of signatories to 26.

OECD releases activated exchange relationships database for the automatic exchange of GIRs

On 29 January 2026, the OECD published a database of activated bilateral exchange relationships for the automatic exchange of GIRs under the GIR MCAA. The GIR MCAA is the legal framework for the automatic exchange of GIRs to support Pillar Two reporting. When a Competent Authority signs the GIR MCAA it must notify the Coordinating Body Secretariat regarding whether it intends to send and/or receive GIRs and list the jurisdictions with which it wishes to exchange.

A bilateral exchange relationship is considered activated when the two counterpart Competent Authorities have submitted matching notifications indicating reciprocal willingness to exchange under the GIR MCAA. Activated relationships therefore reflect bilateral consent to exchange GIRs. Within the EU, Member States are required to use the Directive on Administrative Cooperation (DAC) 9 framework for intra EU exchange of GIRs. Consequently, GIR exchanges between EU members will be implemented under DAC9 rather than via bilateral activation under the GIR MCAA.

Based on the OECD database updated 23 January 2026, activated exchange relationships are currently in place for Austria, Denmark, Hungary, Ireland, Japan, Liechtenstein, Norway, Spain and the United Kingdom. This initial set indicates early operationalization, but coverage remains limited and will expand as more jurisdictions complete notifications

European Union

European Commission launches infringement procedures over Member States' failure to implement DAC9 On 30 January 2025, the European Commission announced it has taken legal action against Member States that have failed to implement Directive (EU) 2025/872 amending the DAC to introduce the GIR into EU law (DAC9). According to Article 2 of DAC9, EU Member States were required to transpose the rules by 31 December 2025.

However, several Member States failed to meet this deadline. Consequently, the European Commission has issued letters of formal notice to Belgium, Bulgaria, Czechia, Greece, Cyprus, Malta, the Netherlands, Portugal, Romania and Sweden. The Member States concerned have two months to submit a response, complete the transposition and formally notify the European Commission. Absent a satisfactory response within this timeframe, the European Commission may proceed to issue a reasoned opinion.

Canada

Canada releases second package of hybrid mismatch arrangement rules The Canadian Department of Finance released draft legislative proposals on 29 January 2026, implementing certain measures from the 2025 federal budget, and other previously announced measures, including the second package of hybrid mismatch arrangement rules, effective for payments arising on or after 1 July 2026.

The second package makes certain consequential and technical amendments to the existing hybrid mismatch arrangement rules and extends the hybrid mismatch arrangement rules to payments arising under three new hybrid mismatch arrangements: (1) a reverse hybrid arrangement; (2) a disregarded payment arrangement; and (3) a hybrid payer arrangement. For purposes of the rules, the definition of “structured arrangement” is amended to include a transaction (or series of transactions) that includes a payment that gives rise to a double-deduction mismatch.

Further, references to double deduction mismatches are added to several other provisions. Various new rules and conditions related to the expanded rules (e.g., the addition of the concepts of offshore mismatches, imported hybrid arrangements and foreign structured arrangements) are also included. The draft legislative proposals generally apply to payments arising on or after 1 July 2026. Interested parties are invited to provide comments on the proposed amendments contained in the packages of draft legislation by 27 February 2026.

Canada 2025 Federal Budget

On 4 November 2025 the Finance Minister delivered Canada's 2025 federal Budget, the first for recently elected Prime Minister Mark Carney's government. On 17 November 2025, the Canadian Parliament narrowly voted through a motion (170-168 votes) allowing the House of Commons to start studying the Budget. Although the proposals face other votes in the coming months, surviving this first vote suggests the Budget should eventually be approved.

The Budget did not change the federal individual (personal) or corporate tax rates. However, it included several notable tax enhancements, including:

- **Immediate expensing for manufacturing and processing buildings:** The Budget provides temporary immediate expensing (100% capital cost allowance (CCA) deduction rate) for the cost of eligible manufacturing or processing buildings, including the cost of eligible additions or alterations made to such buildings. This measure is available in the first tax year that eligible property is used for manufacturing or processing provided the minimum 90% floor space requirement is met. This change is effective for eligible property acquired on or after 4 November 2025 and used for manufacturing and processing before 2030. The CCA deduction rate is gradually reduced for the years after 2030 and is eliminated after 2033.
- This measure is part of a broader package of Budget policies intended to stimulate the Canadian economy and strengthen its competitiveness, particularly given the impact of US tariffs and the measures implemented in the US One Big Beautiful Bill Act.
- **Scientific Research and Experimental Development (SR&ED) tax incentive programme:** In line with its election manifesto, the Government will increase the expenditure limit on which the SR&ED programme's enhanced 35% tax credit can be earned to $6m (from the previously announced $4.5m). This measure applies to taxation years that begin on or after 16 December 2024.
- **Modernising transfer pricing rules:** The Budget modernises Canada's transfer pricing rules by aligning them with the international arm's length principle in the OECD Model Tax Convention, Canada's bilateral tax treaties and the OECD transfer pricing guidelines. The measures provide more detail on how to analyse cross-border transactions between non-arm's length persons based not only on the contractual terms of the transaction or series, but also on economically relevant characteristics.

The measures also add a new transfer pricing adjustment application rule to provide more detail on how cross-border transactions between non-arm's length persons must be analysed. This new rule proposes to adjust the quantum or nature of amounts to align with

arm's length principles and new definitions of 'arm's length conditions' and 'economically relevant characteristics'. The economically relevant characteristics of a transaction or series will be defined to include specific comparability factors.

The Budget also modifies the following measures:

- **Penalty relief:** The Budget increases the threshold for application of the transfer pricing penalty to a $10m adjustment from a $5m adjustment

- **Documentation:** The Budget clarifies documentation requirements to more closely align with the new definitions and requirements, and introduces new simplified documentation requirements

- **Time period to provide documentation:** The Budget reduces the period from 3 months to 30 days

India releases Union Budget for 2026 including amendments to transfer pricing

On 1 February 2026, the Finance Minister of India presented the Union Budget for 2026. Key highlights include an enhanced scope for safe harbour provisions under Indian Transfer Pricing Regulations and a new fast track for unilateral Advance Pricing Agreements. Transfer pricing safe harbour rules The proposal introduces a unified category of information technology (IT) services combining: (1) software development services; (2) IT-enabled services; (3) knowledge process outsourcing; and (4) contract research and development (R&D) services relating to software development with a common safe harbor margin of 15.5% applicable.

The eligibility threshold for making an application under the safe harbor would be significantly enhanced from 300 million Indian rupees (INR3000m) to INR 20b. A safe harbor of 15% on cost is proposed for Indian captive data centre service providers. A safe harbour margin of 2% of invoice value is proposed for non-residents engaged in component warehousing inside bonded warehouses. Transfer pricing Advance Pricing Agreement (APA) Unilateral APAs relating to IT services are proposed to be fast tracked with a clear target timeline of two years for conclusion (six-month extension to be granted upon a taxpayer’s request). Further, new provisions would permitting a non-resident associated enterprise to file a modified tax return to reflect the APA outcome.

UK and India reach agreement on Double Contributions Convention

Following the conclusion last year of a free trade agreement between the UK and India (the UK-India Comprehensive Economic and Trade Agreement or CETA), agreement has been reached on social security contributions for employees moving between the UK and India. The agreement, in the form of a Double Contributions Convention (DCC), includes the general rule that an employee will normally only pay contributions in the country that they work in. However, the DCC also includes an exception to this general rule in the form of a “detached worker” provision. This provision ensures that where a worker from one country is sent from their home country to work temporarily in the other country for up to 36 months, they will continue to pay contributions in their home country only.

The DCC will be given legal effect in Great Britain through an Order in Council made under section 179 Social Security Administration Act 1992 and in Northern Ireland through an Order made by the Secretary of State under section 155 Social Security Administration (Northern Ireland) Act 1992. These will need to be made before the DCC can enter into

force. It will enter into force at the same time as the UK-India Comprehensive Economic and Trade Agreement (CETA). The UK and India currently intend to bring the DCC and the CETA into force by Summer 2026.

Updates to the EU list of non-cooperative tax jurisdictions

At the ECOFIN meeting of 17 February 2026, EU Finance Ministers updated the EU list of non-cooperative tax jurisdictions. Several changes have been made to Annex I, which identifies jurisdictions considered non-cooperative in tax matters. Fiji, Samoa and Trinidad and Tobago have been removed from Annex I while Vietnam and the Turks and Caicos Islands have been added.

Annex I is now made up of 10 jurisdictions: American Samoa, Anguilla, Guam, Palau, Panama, the Russian Federation, Turks and Caicos, US Virgin Islands, Vanuatu and Vietnam. Annex II currently includes nine jurisdictions: Belize, British Virgin Islands, Brunei Darussalam, Eswatini, Greenland, Jordan, Montenegro, Morocco and Türkiye.

Council of EU approves new customs duty rules for low-value parcels

On 11 February, the Council of the EU formally approved new customs duty rules for items contained in small parcels entering the EU. The agreement abolishes the threshold-based customs duty relief for parcels valued at under €150 entering the EU. Customs tariffs will start applying to all goods entering the EU once the EU customs data hub is operational. This is currently expected in 2028. In the interim, as of 1 July 2026, a flat-rate customs duty of €3 will apply on items entering the EU in small parcels valued at less than €150 sent directly to consumers in the EU.

Netherlands One of many to announce tax rises to meet defence pledge

To help the country meet its pledge to increase defence spending from 2.5% of GDP to 5% of GDP by 2035, a 'freedom tax' will be introduced for businesses. No further details were provided, but the agreement states the tax should generate €1.5bn in revenue in 2027 and €1.7bn per annum by 2028. Businesses will be consulted on the design of the tax in due course. Individuals will also be subject to a freedom tax, expected to raise €1.5bn in revenue in 2027 and €3.4bn per annum by 2028

OECD: updates to Model Tax Convention

On 19 November 2025, the OECD published long-awaited updates to the Commentary on the Model Tax Convention (the 'Commentary 2025'), mainly focused on providing new and detailed guidance on short-term cross-border remote work.

With remote work requests on the rise since the pandemic – whether from an employee's home or another location – businesses have faced significant uncertainty regarding the potential tax risks and how to set effective policies.

The Commentary 2025 delivers long-awaited clarity: in short, in most cases temporary remote work from another country will not trigger unwanted tax consequences for the company. Two key factors now stand out. First, if an employee works from home or another non-company location for less than 50% of their total working time in a 12-month period, this generally will not create a fixed place of business for the company. Second, even if the 50% threshold is exceeded, a permanent establishment (PE) is not automatically triggered; it must also be shown that the employee's activities at that location are of a commercial nature.

Only in specific cases, depending on the facts and circumstances, could a PE arise – and such instances are considered rare. In these cases, it is important to assess whether the activities conducted are commercial in nature, as well as their extent and impact. The Commentary 2025 sets out a detailed list of factors which may provide indicators of the existence of a commercial reason for the employee's work in the other Contracting State, including meetings and other direct interactions with customers, suppliers, or prospective clients in that location.

Brazil: 10% dividend withholding tax

In a significant change to Brazil's corporate tax system, on 5 November 2025 the Federal Senate passed Bill 1,087/2025 introducing a 10% withholding tax on dividends paid to foreign parties. The Bill now awaits 'presidential sanction' and is expected to be enacted soon.

The new tax would apply to fiscal years starting after 1 January 2026, so that profits calculated until 2025 remain excluded from scope, along with dividends paid to certain foreign governments, sovereign funds and foreign entities managing retirement and pension benefits.

Under certain conditions, taxpayers may apply for a tax credit if the combined effective tax rates of the corporate tax and the withholding tax exceed the nominal corporate tax rate (generally 34%). Applications must be submitted within 360 days after the relevant fiscal year.

As well as considering additional costs arising as a result of the new tax – bearing in mind that the current limited Brazilian tax treaty network may be unable to solve any double tax issues that arise – MNEs should review their transfer pricing to confirm that the profitability of relevant entities remains aligned with the arm's length principle recently introduced in Brazil in 2023.

Wealth Taxes

Norway

The future of Norway's century old wealth tax prompted fierce debate in the country's recent parliamentary elections, with right of centre parties calling for it to be abolished. However, the Labour party won a second term in the September 2025 vote on a mandate to maintain the wealth tax, albeit some changes have been proposed in the 2026 State Budget.

Norway is only one of three countries in Europe (alongside Spain and Switzerland) that still impose a wealth tax, and the measure raises small sums of revenue. But with the international debate on wealth taxes intensifying, these territories provide interesting case studies on the practical operation and impact of such policies. The Norwegian Budget changes include:

- Proposal for payment deferral scheme: With effect from 2026, private taxpayers, in particular owners of business assets, will have the opportunity to apply for a deferral of wealth tax for up to three years, provided that the wealth tax payable exceeds NOK 30,000. A tax deductible market rate of interest will be charged on sums deferred. However, with the interest rate set at Norges Bank's key rate plus five percentage points, in practice business owners may find it cheaper to take out a private loan to pay the tax rather than opt for the deferral.

- Timing of wealth tax liability when moving out of Norway: Historically there have been disagreements regarding when wealth tax liability ceases when someone moves out of Norway, with the Tax Appeals Board recently interpreting the law in the taxpayer's favour, i.e. that one should not pay wealth tax the year before one is tax-exiled. A legislative amendment

has been proposed, that will apply from 2026, making it clear that the wealth tax must be paid when moving out of Norway in the last year before emigrating for tax purposes.

- Change in method for valuing homes: The model used for calculating the asset value of housing will be revised and with the government saying the new model will provide 'significantly' more accurate estimates of market value, albeit the additional tax revenue arising from the change is modest.

Other Budget measures include a pilot scheme of targeted tax incentives to encourage young adults into the workforce; a phasing out of the VAT exemption for electric cars and changes to VAT on international trade of remotely delivered services.

France

Wealth taxes have also been proposed in France's 2026 Budget as part of a proposed package of over €30bn of spending cuts and new taxes, in an attempt to reduce the deficit in French public finances.

The proposal is for a 2% levy on assets in holding companies not used for business purposes expected to raise €1bn, although politicians on the left are calling for a broader 2% tax on all wealth over €100m.

Other tax proposals in the Budget include:

- a surtax on large companies with over €1bn in revenue will be extended, but halved, generating €4bn;
- extension of a temporary tax on income of higher earners raising over €1bn;
- reform of a variety of tax exemptions, including for example school fee deductions, yielding a combined €5bn; and
- a €1bn exceptional tax on health insurers.

However, in what is proving to be a turbulent period for French politics, it is unlikely that the proposals will survive intact as they progress through parliamentary review, a process required as the new Prime Minister Sebastien Lecornu has forgone a constitutional option that would allow the government to force through Budget legislation without a parliamentary vote.

Wealth Taxes--- Dutch disease?

Dutch parliamentary votes seldom make international headlines, let alone spark an international firestorm on social media. Especially if the vote is about tax law.

But last week, Dutch politicians voted to reform the part of their tax system known as “Box 3”. It sounded dull, but it unleashed a furious pile-on.

As a result of this vote, from 2028, the Dutch will pay an annual 36pc capital gains tax (CGT) on any increase in the value of their stock, bond or crypto investments, even if they have not sold the asset and realised the gain.

Even if investors only make money on paper and are sitting tight, they will have to stump up hard cash for the tax collector.

“Taxing unrealised gains is insane,” Andrew Lokenauth, a former Wall Street finance exec turned influencer, told his 445,000 followers on X.

Tobias Lütke, Canada-based founder of ecommerce platform Shopify, told his 450,000 followers on X that the proposal was “the dumbest thing any government on planet earth is pursuing right now. And that’s saying something”.

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