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Global Minimum Corporate Tax Rate Agreement Reached

On October 8, 2021, the Organization for Economic Cooperation and Development ("OECD")/G20 Inclusive Framework on Base Erosion and Profit Shifting ("BEPS") announced a two-pillar agreement by 136 of the 140 OECD member countries representing over 90% of global GDP to address tax challenges arising from the digitalization of the global economy, including a new minimum global corporate tax rate.

Pillar One of the Agreement reallocates taxing rights for multinational enterprises ("MNEs") with global revenues above EUR 20 million and gross (pre-tax) profits above 10%, with such MNEs required to pay taxes on 25% of profits in excess of 10% of revenue in the market in which the profits are earned. In other words, MNEs like Apple, Amazon, Facebook and Google will have to pay taxes in any country in which they earn income on sale of their goods and services, irrespective of whether they have a physical presence there. Extractive industries and regulated financial services are excluded from Pillar One. Double taxation will be avoided by use of either credit or exemption mechanisms. As part of the Agreement, all digital services taxes now in place must be eliminated by the member countries and not reintroduced. The OECD estimates that taxing rights to over U.S. $125 billion in corporate profits will be reallocated to local market jurisdictions under Pillar One.

Pillar Two of the Agreement establishes a minimum 15% corporate tax rate for companies with more than EUR 750 million in revenue. Government entities, Not-for-Profits, Non-Governmental Organizations, pension funds, holding companies and investment vehicle parents of MNEs are excluded from Pillar Two. The OECD estimates that new tax revenues of over U.S. $150 billion will be raised by Pillar Two.

The accord, following years of negotiations and coming on the heels of the Washington Post/International Consortium of Investigative Journalists' publication last week of the **"Pandora Papers"** on use of tax havens and shelters by many of the global elite, signals a new acceptance by the global community of willingness to crack down on tax havens, both business and personal and "inversions" to avoid business taxation in higher tax jurisdictions.

The OECD/G20 Statement, in English and French, can be found **here**.

The Agreement is scheduled to be finalized by G20 finance ministers on October 13 in Washington and signed by heads of state at a summit in Rome at the end of the month, with a goal of having the Agreement go effective in 2023, following necessary amendment of national tax laws and international treaties.

For additional information on use of onshore/offshore investment vehicles and avoiding legal pitfalls in doing so, see our **"Special Purpose Vehicles: Uses and Abuses,"** available at **Kurtin PLLC Whitepapers and Advisories** and contact us at **info@kurtinlaw.com**.

Kurtin PLLC, a New York City-based law firm, focuses on corporate, commercial and regulatory representation in the Biotechnology & Life Sciences, Communications & Media, Information Technologies & Internet, Satellites & Space and Venture Capital & Private Equity sectors. Since our founding in 2008, we have represented clients in over forty countries on six continents and across the United States on transactional and dispute resolution matters. Among our key values, none rank higher than creative and individualized solutions to business issues, absolute client discretion and unsurpassed responsiveness.

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