



Q2 heads of tax forum: Pillar two, transfer pricing, and global mobility

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Our quarterly forums help heads of tax better understand their compliance obligations and options. Jill Hay shares the key talking points from our latest conversations on international tax.

Tax functions are facing increasingly demanding international compliance requirements, both in the UK and globally. Despite there being a plethora of guidance on the key technical aspects of these rules, including through our own [tax specialist programme](#), they're complex and there's no one-size-fits-all approach. Groups are having to manage nuances unique to their situations, made more challenging because advisers and auditors are also grappling with rafts of new legislation and guidance, and the approach to dealing with these new rules is evolving at pace. In our Q2 forums our experts led conversations on the fact patterns they're seeing – and invited contributors to share their own experiences and queries. We discussed the registration and reporting requirements for Pillar two, HMRC's focus on transfer pricing enquiries, and the increasingly complex challenges of monitoring global mobility in a world of hybrid and remote working.

Pillar two and country-by-country reporting

The Organisation for Economic Cooperation and Development (OECD)'s global anti-base erosion (GloBE) model rules (Pillar two) aim to ensure that income is taxed at an appropriate rate and have several complicated mechanisms to ensure this tax is paid. The rules are complex and will require substantial new forms of financial data that tax departments may not currently have access to within their organisation.

The Model Rules set forth the 'common approach' for a Global Minimum Tax at 15% for multinational enterprises with a turnover of more than EUR 750 million, including top-up taxes where the effective rate is below the 15% minimum.

There are 'safe harbour' provisions which are intended to simplify compliance in the initial years of Pillar 2 implementation. These safe harbours allow MNEs to avoid full GloBE calculations and potential top-up taxes in certain jurisdictions by meeting specific criteria; the de minimis test, the simplified effective tax rate test, and the routine profits test.

To date, The OECD reports that more than 135 jurisdictions have signed up to the rules, with some countries having legislation in place from 2024, and others implementing them by 2025. It should be noted that the US hasn't yet announced plans to adopt Pillar 2.

In all three forums, most of the attendees had to date been focused on determining whether they would meet safe harbour tests, with a few looking at full calculations for certain territories. The takeaway on Pillar two was that most groups aren't expecting to pay top-up taxes but the real challenge is managing practicalities around compliance: where to report and when, challenges with obtaining the required data, language barriers, resourcing, difficulties managing ownership of responsibilities between different teams, such as tax and supply chain, and, of course, the different registering and reporting deadlines for each jurisdiction.

One contributor in our first forum pointed out that they had 18 different companies to track in territories where the rules have certain deviations from the OECD model.

Another observation that our own experts shared is that even though Pillar 2 reporting to tax authorities isn't an immediate issue, disclosures on approach to Pillar 2 will need to be made in groups' financial statements and this is becoming an area of focus for the audit of tax. The audit experience differs significantly between audit firm or even audit partners. One US-headed group was given a list of questions by their auditor that ran to six sides of A4 and many contributors did feel that some auditors had been given a mandate to be really thorough on this issue.

Transfer pricing enquiries

You could argue that all international tax is about transfer pricing. It turns up everywhere; in documents and legislation. For a lot of tax functions, going through requirements across all countries takes too long. They don't have to be filed everywhere and, although countries are supposed to request the same documentation, they often don't. One Head of Tax described meeting transfer pricing requirements across the world as "Whack-A-Mole".

More and more reports are required in addition to the traditional transfer pricing report, for example, the international dealings schedules in Australia or the Form 2257 in France. It's easy to miss deadlines and the associated penalties can be severe. The consensus was that documentation preparation comes down to a cost-benefit analysis.

"What is the likelihood that I will receive penalties or mitigate an adjustment purely based upon my prepared documentation rather than needing to provide further in-depth support, and what is my resource availability?"

"Should I focus on having clear, transparent support that might not be in the formal version of a report, while maintaining a more slimline report for compliance purposes?"

Tax authorities, including HMRC, are ramping up the number of enquiries focused on transfer pricing. This leads to challenges on a number of fronts as not all tax authorities approach transfer pricing in the same way, with some being more assertive than others. This can feed through into Mutual Agreement Procedure discussions, with some attendees commenting that there's a perception that a drive by certain tax authorities to meet time-line targets can lead to unpredictable outcomes.

Global mobility

Post-COVID-19 ad hoc business travel and commuting arrangements are becoming increasingly common and formal assignments less so. These trends are increasing the complexity of employment and mobility related compliance. A question for heads of tax is “how comfortable are you with your filings”? A common issue is effectively tracking an employee's movements and some contributors did share that they had a degree of concern around the accuracy of their data. They're often reliant on corporate travel providers or expense data, which isn't foolproof. HMRC does appreciate this is a complex area and is therefore focused on businesses having adequate policies and processes to capture the majority of compliance risks. While there are various digital solutions in the market, there's an increasing desire to use data which already exists in the business. And before any digital solution can be effectively embedded its important to understand and map out the relevant risks, thresholds and processes to design a solution which works for your business.

The year ahead

International tax teams are going to have busy timetables in the next twelve months, especially if they're just heading into the EUR 750 million threshold that makes them fall within Pillar two. That figure doesn't rise with inflation, so it will gradually include more groups than previously envisaged. On global mobility, it looks like the Labour Government intends to proceed with changes to non-domiciled rules, which may impact your business, particularly if you have senior talent who are considering leaving the UK as a result. We're already hearing in some cases of individuals planning to leave the UK and keep their position, and consideration will need to be given to the tax implications of this.

These requirements aren't going to become less complex, but familiarity with them should make them less onerous. Working with advisers who listen to your specific needs can make the process smoother.

For more insight and guidance, get in touch with our team: [Jill Hay](#), [Katy Bond](#) and [Kirsty Rockall](#).