Hong Kong Tax Alert

16 August 2022
2022 Issue No. 9

Hong Kong delays implementation of OECD Pillar Two rules including the IIR to 2024 at the earliest

The Global Anti-Base Erosion rules (GloBE rules) under Pillar Two of the OECD BEPS 2.0 project seek to introduce a global minimum effective tax of 15% through the Income Inclusion Rule (IIR) and the Undertaxed Payment Rule (UTPR)[1].

The Secretary for Financial Services and the Treasury (the SFST) has confirmed in a recent letter to stakeholders including business chambers and multinational enterprises (MNEs) that, in line with the delay of the implementation of the GloBE rules in other jurisdictions such as the European Union and the United Kingdom, Hong Kong will also delay the implementation of the IIR from the original OECD timeline of 2023 to 2024 at the earliest.

As for the implementation of the UTPR and by extension the domestic minimum top-up tax (DMT), no specific timeline has been provided. The SFST only indicated that he will continue to monitor the implementation targets of other jurisdictions as regards those measures.

Previously, the Financial Secretary announced in the 2022-23 Budget that, in addition to adhering to the OECD original timeline for the implementation of the GloBE rules, the Government was also considering the introduction of a domestic minimum top-up tax (DMT) starting from the year of assessment 2024-25. The envisaged DMT would bring the effective tax rate of in-scope MNEs up to the global minimum effective tax rate of 15% in order to safeguard Hong Kong's taxing rights over economic activities conducted by entities in Hong Kong.

The SFST indicated that he had already conducted a series of consultation sessions with the stakeholders on the implementation of the GloBE rules in Hong Kong. One of the points raised most consistently and overwhelmingly by the stakeholders was the need for a sufficient lead-in time before the GloBE rules were implemented in Hong Kong. The stakeholders pointed out that early implementation of the GloBE rules in Hong Kong ahead of other jurisdictions would put Hong Kong's MNEs at a disadvantaged position.

The SFST also indicated that the Government intends to launch a consultation exercise towards the end of 2022 such that the consultation exercise can benefit from the Implementation Framework for the GloBE rules, which is scheduled to be released by the OECD later this year. The consultation exercise will then gauge the views of stakeholders on how best to translate the GloBE rules into the domestic legislation and relevant requirements for the purposes of implementing the GloBE rules in Hong Kong.

We welcome the Government's decision to defer the implementation of the GloBE rules in Hong Kong. In the absence of a critical mass of jurisdictions implementing the GloBE rules, early implementation of these rules would put Hong Kong's businesses at a competitive and administrative disadvantage and risk causing a relocation of economic activities away from Hong Kong.

Furthermore, the deferral would also give more time to in-scope MNEs to get prepared in terms of process and system upgrade for the collation of relevant data for the complex tax reporting and compliance requirements under the GloBE rules.

Clients who need assistance in this regard should contact their tax executives.

1. In October 2021, the Organisation for Economic Cooperation and Development (OECD) and G20 Inclusive Framework on Base Erosion and Profit Shifting (BEPS) agreed a two-pillar approach to address the challenges arising in relation to the taxation of the digital economy. Pillar One focuses on the allocation of taxing rights and seeks to undertake a coherent and concurrent review of the profit allocation and nexus rules; Pillar Two seeks to establish a co-ordinated system of taxation intended to ensure in-scope MNEs (with a consolidated turnover of at least €750 million) pay the minimum level of tax on income arising in each of the jurisdictions in which they operate. The rules create a "top-up tax" to be applied on profits in any jurisdiction whenever the effective tax rate, determined on a jurisdictional basis, is below the minimum 15% rate.

Hong Kong office
Jasmine Lee
Managing Partner, Hong Kong & Macau
27/F One Taikoo Place, 979 King's Road, Quarry Bay, Hong Kong
Tel: +852 2846 9888 Fax: +852 2868 4432

Non-financial Services

Wilson Cheng
Tax Leader for Hong Kong and Macau
+852 2846 9066
wilson.cheng@hk.ey.com

Business Tax Services / Global Compliance and Reporting

Hong Kong Tax Services

Wilson Cheng
+852 2846 9066
wilson.cheng@hk.ey.com

Tracy Ho
+852 2846 9065
tracy.ho@hk.ey.com

Jennifer Kam
+852 2846 9755
jennifer.kam@hk.ey.com

May Leung
+852 2629 3089
may.leung@hk.ey.com

Ada Ma
+852 2849 9391
ada.ma@hk.ey.com

Ricky Tam
+852 2629 3752
ricky.tam@hk.ey.com

Grace Tang
+852 2846 9889
grace.tang@hk.ey.com

Karina Wong
+852 2849 9175
karina.wong@hk.ey.com

Leo Wong
+852 2849 9165
leo.wong@hk.ey.com

Joy Chen (Family Office)
+852 2846 9688
joy.chen@hk.ey.com

China Tax Services

Ivan Chan
+852 2629 3828
ivan.chan@hk.ey.com

Lorraine Cheung
+852 2849 9356
lorraine.cheung@hk.ey.com

Sam Fan
+852 2849 9278
sam.fan@hk.ey.com

Becky Lai
+852 2629 3188
becky.lai@hk.ey.com

Carol Liu
+852 2629 3788
carol.liu@hk.ey.com

Payroll Operate

Vincent Hu
+852 3752 4885
vincent-wh.hu@hk.ey.com

Accounting Compliance and Reporting

Ernest Wong
+86 21 2228 5808
Ernest.wong@cn.ey.com

Cecilia Feng
+852 2846 9735
cecilia.feng@hk.ey.com

International Tax and Transaction Services

International Tax Services

Jo An Yee
+852 2846 9710
jo-an.yee@hk.ey.com

Transfer Pricing Services

Sangeeth Aiyappa
+852 26293989
sangeeth.aiyappa@hk.ey.com

Martin Richter
+852 2629 3938
martin.richter@hk.ey.com

Kenny Wei
+852 2629 3941
kenny.wei@hk.ey.com

Transaction Tax Services

David Chan
+852 2629 3228
david.chan@hk.ey.com

Jane Hui
+852 2629 3836
jane.hui@hk.ey.com

Eric Lam
+852 2846 9946
eric-yh.lam@hk.ey.com

Qiannan Lu
+852 2675 2922
qiannan.lu@hk.ey.com

Financial Services

Paul Ho
Tax Leader for Hong Kong
+852 2849 9564
paul.ho@hk.ey.com

Business Tax Services / Global Compliance and Reporting

Hong Kong Tax Services

Paul Ho
+852 2849 9564
paul.ho@hk.ey.com

Ming Lam
+852 2849 9265
ming.lam@hk.ey.com

Sunny Liu
+852 2846 9883
sunny.liu@hk.ey.com

Helen Mok
+852 2849 9279
helen.mok@hk.ey.com

Customer Tax Operations and Reporting Services

Anish Benara
+852 2629 3293
anish.benara@hk.ey.com

US Tax Services

Camelia Ho
+852 2849 9150
camelia.ho@hk.ey.com

Michael Stenske
+852 2629 3058
michael.stenske@hk.ey.com

International Tax and Transaction Services

China Tax Services

Cindy Li
+852 2629 3608
cindy.jy.li@hk.ey.com

International Tax Services

Sophie Lindsay
+852 3189 4589
sophie.lindsay@hk.ey.com

Rohit Narula
+852 2629 3549
rohit.narula@hk.ey.com

Adam Williams
+852 2849 9589
adam-b.williams@hk.ey.com

Transfer Pricing Services

Ka Lok Chu
+852 2629 3044
kalok.chu@hk.ey.com

Justin Kyte
+852 2629 3880
justin.kyte@hk.ey.com

Transaction Tax Services

Rohit Narula
+852 2629 3549
rohit.narula@hk.ey.com

People Advisory Services

Robin Choi
+852 2629 3813
robin.choi@hk.ey.com

Mary Chua
+852 2849 9448
mary.chua@hk.ey.com

Christina Li
+852 2629 3664
christina.li@hk.ey.com

Jeff Tang
+852 2515 4168
jeff.tk.tang@hk.ey.com

Winnie Walker
+852 2629 3693
winnie.walker@hk.ey.com

Paul Wen
+852 2629 3876
paul.wen@hk.ey.com

Asia-Pacific Tax Centre

Tax Technology and Transformation Services

Agnes Fok
+852 2629 3709
agnes.fok@hk.ey.com

Robert Hardesty
+852 2629 3291
robert.hardesty@hk.ey.com

Albert Lee
+852 2629 3318
albert.lee@hk.ey.com

International Tax and Transaction Services

US Tax Desk

Jeremy Litton
+852 3471 2783
jeremy.litton@hk.ey.com

Peggy Lok
+852 2629 3866
peggy.lok@hk.ey.com

Winona Zhao
+852 2515 4148
winona.zhao1@hk.ey.com

Operating Model Effectiveness

Alice Chung
+852 3758 5902
alice.chung@hk.ey.com

Edvard Rinck
+852 2675 2834
edvard.rinck@hk.ey.com

Indirect tax

Shubhendu Misra
+852 2232 6578
shubhendu.misra@hk.ey.com

Andy Winthrop
+852 2629 3556
andy.p.winthrop@hk.ey.com

Tax and Finance Operate

Tracey Kuuskoski
+852 2675 2842
tracey.kuuskoski@hk.ey.com

EY | Building a better working world

EY exists to build a better working world, helping to create long-term value for clients, people and society and build trust in the capital markets.

Enabled by data and technology, diverse EY teams in over 150 countries provide trust through assurance and help clients grow, transform and operate.

Working across assurance, consulting, law, strategy, tax and transactions, EY teams ask better questions to find new answers for the complex issues facing our world today.

About EY's Tax services

Your business will only succeed if you build it on a strong foundation and grow it in a sustainable way. At EY, we believe that managing your tax obligations responsibly and proactively can make a critical difference. Our 50,000 talented tax professionals, in more than 150 countries, give you technical knowledge, business experience, consistency and an unwavering commitment to quality service — wherever you are and whatever tax services you need.

ey.com/china

Follow us on WeChat
Scan the QR code and stay up-to-date with the latest EY news.