SELÇUK UNIVERSITY | VERGİ MÜFETTİŞLERİ DERNEĞİ | IKSAD INSTITUTE

INTERNATIONAL CONGRESS OF FINANCE AND TAX

March 10-11, 2023
Konya, Türkiye

PROCEEDINGS BOOK

EDITORS
Assoc. Prof. Dr. Mustafa Göktuğ KAYA
Prof. Dr. Haldun SOYDAL

ISBN: 978-625-367-023-8
Issued: 25.03.2023

INTERNATIONAL CONGRESS OF FINANCE AND TAX

March 10-11, 2023 / Konya, Türkiye

SELÇUK UNIVERSITY

VERGİ MÜFETTİŞLERİ DERNEĞİ

IKSAD INSTITUTE

PROCEEDINGS BOOK

EDITORS

Assoc. Prof. Dr. Mustafa Göktuğ KAYA
Prof. Dr. Haldun SOYDAL

by
IKSAD PUBLISHING HOUSE®

Issued: 25.03.2023

ISBN: 978-625-367-023-8

CONGRESS ID

CONGRESS TITLE
INTERNATIONAL CONGRESS OF FINANCE AND TAX

DATE and PLACE
March 10-11, 2023 / Konya, Türkiye

ORGANIZATION
Selcuk University, Türkiye
Tax Inspectors Association, Türkiye
IKSAD-Institute of Economic Development and Social Research, Türkiye

CONGRESS HONORARY BOARD MEMBERS
Prof. Dr. Metin AKSOY
Rector of the Selcuk University

Ahmet Halis BAŞLİ
President of the Tax Inspectors Association

Dr. Mustafa Latif EMEK
President of the IKSAD Institute

CONGRESS CHAIRS
Assoc. Prof. Dr. Mustafa Göktuğ KAYA
Chief Tax Inspector of the Ministry of Treasury and Finance

Prof. Dr. Haldun SOYDAL
Head of Dep., Faculty of Economics and Administrative Sciences Selcuk University

CONGRESS COORDINATOR
Atabek MOVLYANOV
Erciyes University, Türkiye

NUMBER of ACCEPTED PAPERS-75 *(Türkiye- 28, Other Countries- 47)*
NUMBER of REJECTED PAPERS-26

PARTICIPANTS COUNTRY
Albania-3, Azerbaijan-3, Canada-1, China-2, Colombia-2, Denmark-1, Germany-1, Hungary-5, India-3, Iran-1, Iraq-1, Kazakhstan-3, Kyrgyzstan-1, México-3, Morocco-1, Nigeria-1, Oman-1, Pakistan-1, Poland-1, Portugal-1, Romania-1, Russia-1, Saudi Arabia-1, Serbia-2, Slovakia-1, Sudan-1, Tunisia-1, Türkiye-28, UK-1, Ukraine-1, Vietnam-2

PRESENTATION
Oral presentation

EVALUATION PROCESS
All applications have undergone a double-blind peer review process

***

ORGANIZING BOARD MEMBERS

Prof. Dr. Mehmet GÖKÜŞ - Selçuk University, Türkiye
Prof. Dr. Muammer ZERENLER - Selçuk University, Türkiye
Prof. Dr. Salih ÖZTÜRK - Tekirdag Namık Kemal University, Türkiye
Prof. Dr. Şaban Halis ÇALIŞ - Selçuk University, Türkiye
Prof. Dr. Jean ANDREI - Romanian Academy of Sciences, Romania
Assoc. Prof. Dr. Farhad MİKAYİLOV - UNEC Economic Scientific Research Institute, Azerbaijan
Mehmet DERİCİ - Tax Inspector, Türkiye
Mesud ALTUNDAĞ - Tax Inspector, Türkiye
Özge ÜNAL - Tax Inspector, Türkiye

***

SCIENTIFIC BOARD MEMBERS

Prof. Dr. Adnan GERÇEK - Bursa Uludag University, Türkiye
Prof. Dr. Burak DARICI - Bandırma Onyedi Eylül University, Türkiye
Prof. Dr. James A. TAN - Saint Cloud State University, United States of America
Prof. Dr. Jean Jinghan CHEN - University of Macau, China
Prof. Dr. Fatih MANGIR - Selçuk University, Türkiye
Prof. Dr. Hasan Murat ERTUĞRUL - Anadolu University, Türkiye
Prof. Dr. Haşim AKÇA - Cukurova University, Türkiye
Prof. Dr. Hatice YURTSEVER - Manisa Celal Bayar University, Türkiye
Prof. Dr. Hülya Eşki UĞUZ - Selçuk University, Türkiye
Prof. Dr. King BANAIAN - Saint Cloud State University, United States of America
Prof. Dr. Nader ALBER - Ain Shams University, Egypt
Prof. Dr. Natalia LATIGINA - Taras Shevchenko University, Ukraine
Prof. Dr. Mana KOMAI-MOLLE - Saint Cloud State University, United States of America
Prof. Dr. Mehmet YÜCE - Azerbaijan State Economic University (UNEC), Azerbaijan
Prof. Dr. Metin TOPRAK - Istanbul Sabahattin Zaim University, Türkiye
Prof. Dr. Rolando Castillo SANTIAGO - Universidad Juárez Autónoma de Tabasco, Mexico
Prof. Dr. Salvatore CAPASSO - Italian National Research Council (CNR), Italy
Prof. Dr. Savaş ÇEVİK - Selçuk University, Türkiye
Prof. Dr. Selda AYDIN - Ankara Hacı Bayram Veli University, Türkiye
Prof. Dr. Yunus CERAN - Selçuk University, Türkiye
Prof. Dr. Yüksel BAYRAKTAR - Istanbul University, Türkiye
Prof. Dr. Yusuf BAYRAKTUTAN - Kocaeli University, Türkiye
Assoc. Prof. Dr. Agnieszka WÓJCIK-CZERNIAWSKA - Warsaw School of Economics, Poland
Assoc. Prof. Dr. Aylin İDİKUT OZPENCE - Pamukkale University, Türkiye
Assoc. Prof. Dr. Gulbaxar Nishanovna TAVALDİEVA - Tashkent Chemical-Technological Institute, Uzbekistan
Assoc. Prof. Dr. Gilbert (Gerry) V. NARTEA - University of Canterbury, New Zealand
Assoc. Prof. Dr. Jehona SHKODRA - University of Prishtina, Kosovo
Assoc. Prof. Jelena JANJUSEVICH - Heriot-Watt University, United Arab Emirates
Assoc. Prof. Dr. Doğan BOZDOĞAN - Tokat Gaziosmanpaşa University, Türkiye
Assoc. Prof. Dr. Hakan ACET - Selçuk University, Türkiye
Assoc. Prof. Dr. Irena PANDZA BAJS - University of Zagreb, Croatia
Assoc. Prof. Dr. İrem DİDİNMEZ - Hacettepe University, Türkiye
Assoc. Prof. Dr. Issa JIMET - University of Doba, Chad
Assoc. Prof. Dr. Milena SERŽANTĖ - Vilnius Gediminas Technical University, Lithuania
Assoc. Prof. Dr. Ning HOU - Saint Cloud State University, United States of America
Assoc. Prof. Dr. Ousmane SIDIBE - University of San Pedro, Côte d'Ivoire
Assoc. Prof. Dr. Perihan Hazel KAYA - Selçuk University, Türkiye
Assist. Prof. Dr. Arif AYLUÇTARHAN - Istanbul University, Türkiye
Assist. Prof. Dr. Fahri KURŞUNEL - Selçuk University, Türkiye
Assist. Prof. Dr. Mustafa AVCIN - Rauf Denktaş University, TRNC
Assist. Prof. Dr. Viola MAKHZOUM - Islamic University of Lebanon, Lebanon
Dr. Fatih PEKŞEN - Chief Tax Inspector of the Ministry of Treasury and Finance, Türkiye
Dr. Germán Martínez PATS - Universidad Juárez Autónoma de Tabasco, México
Dr. Oğuzhan Akın,European Business University, Luxembourg
Dr. Šime VUČETİĆ - University of Zadar, Croatia

IMPACT OF THE INTRODUCTION OF A GLOBAL MINIMUM TAX

PhD Student Enikő MATTIASSICH

PhD Student, University of Sopron, Alexandre Lamfalussy Faculty of Economics, Institute of Economics and International Relations

Ass. Prof. Dr. Károly SZÓKA

associate professor, University of Sopron, Alexandre Lamfalussy Faculty of Economics, Institute of Economics and International Relations

Abstract

For many years, the OECD has battled worldwide tax evasion, income shifting, and tax base erosion. Numerous action plans have been created to accomplish these aims, and most of them have been included into national legislation in various nations. For states which are battling tax avoidance, the dynamic nature of the global commercial and economic environment has presented new difficulties. The detrimental tax competition between nations cannot entirely be eliminated by the OECD's action plans. The European Union Member States consistently agreed on a global minimum tax on December 12, 2022, leading in a new era for EU based multinational corporations. This new era is going to be starting in December 12th of 2022. This essay analyses how the global minimum tax regulations would affect the traditional methods of international tax preparation. The key components of OECD Pillar 2 are explained, and traditional tax planning strategies are examined in respect to how much the minimum tax will affect them. We provide a brief overview of how the global minimum tax operates, illustrate how the Hungarian tax system may alter, and discuss the difficulties faced by Hungarian businesses. In terms of international tax planning, it will result in an increase in the administrative burden and impose an additional tax liability on the group for undertaxed businesses. To determine whether an additional tax should be imposed, the group will have to compute the effective tax rates for all countries in accordance with OECD guidelines. In our opinion, a global minimum tax will radically affect international tax planning rather than eliminate it. The minimum tax laws have the potential to make existing structures useless, while opening the door for a whole new kind of tax design.

Keywords: global minimum tax, tax planning, tax structures, aggressive tax planning

Introduction - What is the global minimum tax?

The global minimum corporate tax, or GMCT for short, is a policy that levies sanctions against multinational companies whose consolidated turnover exceeds 750 million euros and pays a low effective tax rate in a specific country for their activities below a certain level. The OECD (Organisation for Economic Co-operation and Development) has been working on a package of proposals to deal with tax issues that arise from the increasing digitalization of economies since 2019. The policy was discussed during the OECD Inclusive Framework 2021 Meeting (Members of the OECD/G20 Inclusive Framework on BEPS) (https://www.oecd.org/tax/beps/inclusive-framework-on-beps-composition.pdf), which was attended by 136 countries including all EU member states and OECD member states (such as Hungary), on October 8, 2021. The minimum tax rate agreed upon by these countries is 15%. This means that if a member of an MNE group pays less than the minimum statutory tax in a given country, it will have to pay the difference in the form of an additional tax burden. The currently known framework regulations apply to the additional tax burden (https://ec.europa.eu/commission/presscorner/detail/hu/IP_16_1349) or according to the country of the parent company. This new system ensures that if there is under-taxation in a country, the missing tax up to the minimum amount has to be paid somewhere. As expected, this motivates companies not to establish themselves in a certain country and not to determine their organizational focus simply because of low tax obligations. To illustrate, a simplified example: If the tax burden of a Hungarian subsidiary of a multinational company is 9 per cent, as stipulated by the global minimum tax rules, then the tax difference up to the minimum tax rate of 15 per cent – in this example 6 per cent – must be deducted in the country of the multinationals parent company.

The OECD model rules and the regulations of the European Union also provide for the possibility that the state in which the undertaxed company has its registered office levies a so-called differential taxation itself by levying a qualified domestic minimum top-up tax. This is a way to avoid the missing tax increasing another country's budget. (Kahlenberg & Kopec, 2016. p. 37-38). The OECD has set a goal date of 2023 for the implementation of new regulations for the global minimum tax, but several governments, including Hungary, have said that this period is unrealistic (https://www.oecd.org/tax/beps/). The main objective of this study is to identify the potential impact of the minimum tax on the conventional tax planning approaches used so far. This is done by thoroughly examining how the minimum tax is implemented and how it could potentially affect these traditional structures.

International perspective

The European Union (EU) member states are currently leading the way in adopting the global minimum tax directive. By the end of 2023, the EU member states must ensure the transposition of the global minimum tax rules into national law. The implementation imposes a considerable task on the member states, as they have to revise an extremely complex and extensive set of rules, despite the fact that the rules affect only a relatively narrow group of taxpayers. In the context of the European Unions leading role in implementation, the main risk is that if the global minimum tax rules are not introduced by third countries such as China (considering that introduction is not mandatory but merely an option based on the OECD Model Rules) or if they are introduced later, the Union could suffer a competitive disadvantage for the companies concerned due to the increased tax burden. (Blessing, 2012). The former champion of the global minimum tax, the United States, will certainly not introduce it from 2023, and neither will China. The United Kingdom and Japan are also unlikely to join. This, in turn, means a significant decrease in competitiveness for the European economy (https://ado.hu/ado/niveus-magyarorszag-a-globalis-minimumadorol-szolo-csatat-hamarosan-elveszitheti/).

If we look outside the European Union, we see it on a global level as well (https://www.vg.hu/vilaggazdasag-magyar-gazdasag/2022/12/az-eu-ujra-nekifeszul-a-globalis-minimumado-bevezetese), that the commitment of the world's countries to the introduction of global minimum tax rules is high overall, but there is still a lot of uncertainty regarding the decision of the two largest economies. The introduction of a global minimum tax is surrounded by many domestic political disputes in the United States of America, and there is currently no precise public information on China's timing plans. Regarding third countries, relatively little information has been made public as a whole, but according to our current knowledge, Canada and Japan plan to introduce global minimum tax rules from 2023, and the United Kingdom, Switzerland, Malaysia and South Korea from 2024. Other countries have started domestic social consultation, and in some places they have already published draft rules transposing the rules into domestic law (for example, Switzerland, South Korea).

Action against aggressive tax planning

The Base Erosion and Profit Shifting (BEPS) project, which ended in Antalya, Turkey, on 15th and 16th November 2015, has already made the fight against aggressive tax planning an important task, and the G20 (Group of Twenty) heads of state have issued a series of recommendations to countries in the form of 15 action points on how to make their tax systems more resistant to tax structures (https://www.oecd.org/tax/beps/beps-actions/). The basic idea of this project was that profit should be taxed at the point of value creation and that solutions should be taken up against solutions that artificially erode the tax base and transfer profits to another country. The focus of this was therefore the protection of the tax base, and the measures responded to the most common tax avoidance techniques. Thus, in a separate action item, the limitation on interest deductions (https://www.oecd.org/tax/beps/beps-actions/action4/), anti-hybrid or common minimum standards for royalty relief (the so-called patent box) (OECD, 2015a, 2015b, Czoboly, 2018, 2021). What they had in common was that they did not address the tax rate at which income was taxed as long as it was taxed where the value was created. The basic philosophy of the BEPS project was therefore that artificial transactions should be identified and targeted in order to limit tax planning opportunities.

The BEPS action plan consists of the following 15 steps:

1. Taxation challenges resulting from the increasingly widespread spread of the digital economy
2. From hybrid (non-compliance) agreements
3. Further development of ACFC (controlled foreign company) rules
4. Limiting the erosion of the tax base in terms of interest deductions and other payments
5. More effective action against harmful tax practices, taking into account the rules on transparency and content
6. Prevention of abuse of agreements
7. Preventing the artificial avoidance of becoming a site
8. Ensuring the consistency of transfer prices and value creation
9. Development of BESP-related data collection and processing methods
10. Introduction of the obligation of taxpayers to disclose the aggressive tax planning techniques they use
11. Revision of transfer price registration rules
12. Development of dispute resolution procedures
13. Development of a multilateral instrument for quick and efficient amendment of bilateral agreements (https://www.rsm.hu/kisokos/beps-akcioterv)

Also referred to as "BEPS 2", the solution officially designated as the second pillar of the OECD's digital taxation package (Pillar 2) follows a different approach from the above. The basic philosophy of this is that, in truth, tax base erosion is only a phenomenon that does not require symptomatic treatment, but rather it is necessary to treat the difficulty at the root of tax planning, i.e. to eliminate the cause of tax planning. The basis of this solution is that businesses engage in tax planning solutions because they can achieve a tax advantage with them. If we take away the tax advantage as an incentive, in that case we also prevent the process itself. Precisely because of this, the debate shifted from the tax base to the tax rates paid by companies (Czoboly, 2021). Each state would still have the "right in principle" to levy a corporate tax lower than the minimum level, but in this case the other countries would collect the difference from the corporate group. In principle, the tax sovereignty of the affected countries would remain, as they still have the right to levy lower taxes, but the company operating there must still pay at least the minimum tax level. Consequently, a state's ability to apply a lower tax rate is severely curtailed, since who wants to pass on tax revenues to other states that they could collect themselves? If he does not levy it, in that case, someone else will, and the company is required to pay the minimum tax, only in another state. States that do not want to give up tax revenues are forced to operate a corporate tax at the minimum tax level (Czoboly, 2021). Speculations have already begun as to how the states will introduce the global minimum tax supported by the OECD Inclusive Framework into their own tax systems and, in particular, how the states involved in tax competition will modify their existing benefits. The present study examines the operation of the regulation from the side of the previously used, "classic" tax planning structures, identifying which of these may be directly affected by the introduction of the minimum tax.

The GMCT consists of two pillars, the objective of both of which is to equalize the profits of multinational service providers, as well as their profit tax. The first pillar usually receives less attention, even though it is typically an extra profit tax. Pursuant to this, if a company group's annual sales revenue exceeds 20 billion euros according to its extensive, or in other words, consolidated financial statements compiled by international accounting standards, and in addition, the profit ratio of sales revenue exceeds 10 percent, in that case, the portion above this amount is 20%. This extra profit tax could be collected primarily by the country of the parent company, and if it does not exercise this right, in that case the right of taxation would fall to the countries of the subsidiary companies. With this, they want to achieve the taxation of profits earned in other states according to the rules of the mother country, that is, to equalize the inequalities that the sales revenue achieved on the other side of the Earth, and profits can migrate to the parent company tax-free. Consequently, the objective is to pay the profit above the globally recognized 10% proportional profit, either in the country of the parent company or of the subsidiaries, but somewhere. The second pillar of the GMCT is a mechanism against global tax base erosion, which aims to achieve the introduction of a global minimum tax and equalization of incomes (OECD, 2021). The proposal states that if the global income of the multinational company's subsidiaries exceeds 750 million euros, but its tax burden does not reach the minimum tax rate of 15 percent in a given country, then the tax difference would primarily be collected from the parent company by the country of the parent company. This sanction is also true in reverse, if the parent company pays an effective tax of less than 15% in its own country, the countries of the subsidiaries would collect the tax difference (Janssens et al. 2015). There is an around compromise between the member states that taxes levied on income and possibly profits will be included as a reducing item in the tax base. However, there is still a debate about whether the local business tax, which according to the main rule is payable based on income but can be reduced by certain cost elements, will be included. Income-related taxes of specific activities will also be included, for example special taxes of energy companies. However, for example, the bank tax must be paid in proportion to the total balance sheet, so it will not – according to the current situation – be an item that reduces the tax base.

The other is the amount of tax paid, because the tax to be paid can be reduced by additional alternatives, which also differ from country to country, and there are even different legal titles in the legal system of the given state. For example, in Hungary, the development tax credit and growth tax credit can be used, but based on a support contract; it is also possible to dispose of the paid corporate tax for the benefit of, for example, spectacle team sports. According to the current draft, however, there will be no alternative to the correction due to such tax benefits (Szlifka, 2020). Corporate tax benefits are important because high taxes have a negative effect on the profitability of businesses and thus on their competitiveness (Baranyi, 2018).

Practical example

A multinational company is headquartered in X country, where the corporate tax rate is 20 percent. He outsources part of his activities to state Y, where the tax rate is only 10%. At its headquarters, it pays 20 units of tax on 100 units of profit, while its subsidiary in State Y pays 50 units of tax on 500 units of profit. Thus, on a broad level, he paid 70 units of tax for 600 units of profit, i.e. the effective tax rate is 11.67 percent Total profit 600, in X country 100 + in Y country 500. Total tax: 70 in X country 20 in Y country 50. Effective tax rate: (70/600)*100 = 11.67 percent. In order to be able to fulfill your extensive tax payment obligation, you need to pay another 20 units of tax, since taking into account the global minimum tax of 15%, after 600 units of profit, you will have to pay 90 units of tax, which is 20 less. The proposal is similar to that described in the first column: According to the main rule, the country of the parent company can tax, and if it does not want to use this option, the country of the subsidiary can in this case use the so-called with the option of taxation according to the domestic additional tax (domestic differential tax), i.e. the rule "Either in the country of the parent company or the subsidiary, but pay tax somewhere!" also applies here. Furthermore, this pillar also applies vice versa: if the profit tax rate in the country of the parent company is lower than in the countries of the subsidiary, the GMCT rules must also be applied in this case.

A relevant element of the second pillar would be the substance carve-out rule (https://hu.andersen.com/hu/hirek/digitalis-gazdasag-adoztatasa-uj-oecd-jelentestervezet/). Based on this, over a ten-year period, a limited percentage of the wage costs and the stock of tangible instruments could be deducted from the GMCT fund. According to the plans, this rate would start at 10 percent for wage costs, 8 percent for tangible instruments, and decrease to 5 percent. This obviously aims to avoid that the introduction of the new type of tax will hit multi-companies as a "financial windfall".

Safe Harbour Exemptions

The Global Minimum Tax Directive is strictly based on the OECD Model Regulations. However, to ensure compliance with fundamental freedoms, the OECD Model Regulation has two important differences. First, minimum taxation must apply not only to foreign subsidiaries but also to domestic companies in the member states concerned. The second is permanent establishment (https://ec.europa.eu/commission/presscorner/detail/en/ip_22_7674).

In December 2022, the OECD released its safe harbour and penalty mitigation guidance as a result of its work on the Enforcement Framework. The OECD considers that the fundamental interests of both implementing countries and taxpayers preparing for the rules lie in the early completion of the Enforcement Framework and, consequently, the full development of the detailed rules (https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32022L2523&from=EN).

Multinational companies and the tax administrations that must comply with the global minimum tax rules will incur significant administrative costs as a result of their application. The OECD Model Rules state that one goal of the enforcement framework is the creation of additional simplification rules and safe harbours in order to lessen the administrative burden. The regulations would not be required in regions where tax payments are anticipated to be higher than the anticipated minimum. A guide to tax exemptions and penalty exemptions was created in 2022 in accordance with this. Exemptions are divided into two groups in the guide. Some of the exemptions, such as the so-called CbCR (Country-by-Country Report) safe harbour, are transitional, meaning they only apply during the first phase of the rules' implementation. The second set of exemptions allows for ongoing exclusions. For the latter, the guidelines that have been made public only serve as a general outline at this time; the permanent exemptions' specific design is still being worked out and won't be revealed until later materials. Companies would be able to calculate their total minimum tax liability using a streamlined calculation pro-cess with fewer adjustment items thanks to the permanent exemptions. The guidance outlines the guidelines for temporary exemptions based on country-specific report-ing data under temporary exemptions. The temporary CbCR exemption's goal is to temporarily exempt low-risk (high-tax) businesses from the requirements of the global minimum tax rules, including the need to prepare calculations in accordance with those regulations and the need to pay the global minimum tax, provided that certain requirements are met. The companies must still figure out how to apply the substance-based income exclusion, though. The group's simplified effective tax rate reaches 15% for the tax years beginning 2023 and 2024, 16% for the tax year beginning 2025, and 17% for the tax year beginning 2026, or the group's pro-fit before tax does not exceed the amount of income that can be exempted based on its actual economic presence. The CbCR exemption is also applicable if the group's turnover is less than €10 million and its profit before tax is less than €1 million in a given country.

This exemption may be used for tax years that start on or before December 31, 2026. Years that end after June 30, 2028, would not be included. The imposition of a penalty should be suspended until this time period, even if the group has taken reasonable precautions to ensure the proper application of the minimum tax rules.

(https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32022L2523&from=EN)

Calculation of the amount of the global minimum tax

According to the rules of the minimum tax, the additional tax (jurisdictional top-up tax) for the given country is levied based on the effective tax rate (ETR) established for each state. If the effective tax rate of the companies in a jurisdiction that make up a multinational corporate group does not reach the minimum tax rate of 15%, then an additional tax must be imposed on each member company, which brings the tax paid to the minimum tax level in the relevant jurisdiction as a whole. When calculating the effective tax rate for the given period, the corporate tax and equivalent taxes on the adjusted income achieved by the member of the multinational corporate group in the relevant jurisdiction must be taken into account. The regulation explicitly outlines the taxes that can be taken into account as covered taxes when determining the effective tax rate for each member company (https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32022L2523&from=EN).

For example, in the context of Hungary, the local business tax can be a type of tax that can be taken into account as a "covered tax" when calculating the effective tax rate. Special rules apply when considering tax burdens between member companies and when dealing with time differences. The minimum tax rules provide for a certain degree of exemption for companies that carry out an actual economic activity in the area affected by the under-taxation (substance carve-out). According to the regulation, the profit share of 5% to 5% of the value of fixed assets and labour costs may be exempted from the minimum tax requirements, provided that the application of the 5% to 5% threshold is preceded by a 10-year transitional period. In the first year of implementation, profit sharing can be exempted at 8% of the value of fixed assets and 10% of labour costs, reducing to a lesser extent during the transition period in the first 5 years and to a greater extent from the 6th year onwards, reaching the permanent discount of 5-5% at the end of the 10th year. The purpose of the tax exemption is to reduce the impact of the minimum tax on multinational corporations in a jurisdiction where there is an actual physical presence and economic activity.

Situation in Hungary

Several proposals have been made on the rules related to the global minimum tax affecting companies operating in our country, but the technical negotiations have not yet been completed. The proposed solution would not examine the effective minimum tax rate at the national level, but at the level of the Hungarian member companies of each group of companies, which may vary considerably in individual cases. Further uncertainty arises from the fact that the proposed solution would determine the effective tax rate on the basis of the tax base derived from the accounting rules of the parent company', which may differ from the Hungarian corporate tax base for a number of reasons.

Thanks to the extremely intensive activities of the Hungarian advocacy group in the past period, it was already possible during the negotiations to significantly influence the original, incipient source in our favour on several points.

The most important changes achieved are:

- the local business tax will be included in the minimum tax, so that it will be taken into account when calculating the tax burden,
- there will be an exemption for real economic activity (its level did not reach the level we wanted in July),
- the rules will be introduced simultaneously in all countries where the introduction of the global minimum tax is accepted (so that we will not suffer any competitive disadvantage as a result),
- it is expected that it will be possible to collect the expected additional tax in the form of a differential tax also domestically from the target group, so that there will be no need to change the 9% tax rate (within the EU, however, this should also apply to large companies of similar size operating exclusively domestically) (https://ado.hu/ado/a-globalis-minimumado-szabalyozas-tortenete-es-varhato-hatasai/).

The highlight of the final compromise proposal submitted for decision at the Inclusive Framework meeting on 8 October 2022, from the Hungarian point of view, is the above-mentioned exemption rule for real economic activity, which has been set at 5%, but will be higher during a transitional period. Under the transitional rule, the higher derogation will be applied for 10 years, at the rate of 8% of asset value and 10% of employment costs, and with a phase-out mechanism whereby the derogation will be reduced largely from the 6th to the 10th year (https://wtsklient.hu/2022/04/19/minimumado/). This means that the more fixed assets and human resources a company has in Hungary; the less it is affected by the minimum tax.

Hungary's main objective during the negotiations was to ensure that the new rules would have as little impact as possible on the domestic tax environment and our competitiveness. It is already apparent from the emerging rules that the potential additional tax may be levied primarily by Hungary. Hungary plans to use a targeted solution to collect the global minimum tax exclusively from the large Hungarian companies affected. This will leave the corporate income tax for other companies at 9 per cent, so that Hungarian companies can continue to pay the lowest profit tax in the European Union. The 'intention of the legislator in drafting the rules on the Hungarian side will definitely be to maintain Hungary's competitive tax environment (https://cdn-60b7abf2c1ac185aa47cf636.closte.com/wp-content/uploads/sites/47/2022/01/2021-11-02-pm-kommunikacios-anyag-a-globalis-minimumadorol-vegleges.pdf)

Conclusion

Based on the declaration adopted by 136 countries under the OECD Inclusive Framework in October 2021, the global minimum tax rules would be applied in the European Union for the first time in 2023. The rules will apply to multinationals operating in the EU and large domestic groups whose combined financial income exceeds €750 million per year. If the minimum effective tax rate is not determined by the country where the head office of the subsidiary is located, the Member State of the parent company' will provide for the application of the additional tax. This Directive ensures effective taxation even in cases where the parent company is resident outside the EU in a low-tax country that does not apply equivalent rules. To this end, at the OECD level in 2021.

In order to apply the OECD model rules uniformly at the level of the European Union, a global minimum tax guideline is currently being drafted, the adoption of which is also expected in the course of 2023 and which, according to the timetable envisaged by the OECD, would be applied for the first time in 2023. In order to apply the global minimum tax rules, states must first adopt the international model rules into their internal tax law, which is a prerequisite for finalising the rules at the OECD and EU levels. With the 2023 implementation deadline looming, it is important for companies to keep an eye on the planned rules that are already in development, as all of this will require significant additional administrative and preparatory work on the part of the companies concerned. In addition, it may be necessary to rethink corporate structures, which will also require close cooperation within the corporate group.

This global corporate minimum tax will put pressure on nations whose tax rates are below the global minimum, i.e. 15%, to increase their domestic taxes, otherwise they will effectively export tax revenues. Due to the complexity of the issue at hand and the fact that several nations have their own perspectives and objectives, we can say that there is no "one size fits all" solution.

References

Baranyi, Aranka (2018) A magyarországi vállalati szektor pénzügyi típusjelenségeinek vizsgálata a 2006−2015 közötti időszakban Eger, Magyarország : EKE Líceum Kiadó, 133 p. EKE IPR ISBN: 9786155621895

Blessing. P. H. 2012. The Debt-Equity Conundrum—A Prequel. *Bulletin of International Taxation* (Volume 66), No. 4/5.

Czoboly, Gergely. 2018. Tőke- és hitelfinanszírozás adózási kezelése. In: A gazdasági jog és az adójog aktuális kérdései 2018-ban. Bodzási, Balázs (ed). https://mhk.hu/files/A%20gazdas%C3%A1gi%20jog%20%C3%A9s%20az%20adojog%20aktu%C3%A1lis%20k%C3%A9rd%C3%A9sei%202018-ban.pdf Retrieved at February 21, 2023.

Czoboly, Gergely. 2021. Globális minimumadó bevezetésének lehetséges hatásai a klasszikus adóstruktúrákra. *Miskolci Jogi Szemle* 2021/3. (volt 15) ISSN 1788-0386 DOI: https://doi.org/10.32980/MJSz.2021.5.1457 https://ojs.uni-miskolc.hu/index.php/jogiszemle/article/view/1457/1072 Retrieved at February 21, 2023.

https://ado.hu/ado/a-globalis-minimumado-szabalyozas-tortenete-es-varhato-hatasai/

https://ado.hu/ado/niveus-magyarorszag-a-globalis-minimumadorol-szolo-csatat-hamarosan-elveszitheti/

https://cdn-60b7abf2c1ac185aa47cf636.closte.com/wp-content/uploads/sites/47/2022/01/2021-11-02-pm-kommunikacios-anyag-a-globalis-minimumadorol-vegleges.pdf

https://ec.europa.eu/commission/presscorner/detail/en/ip_22_7674

https://ec.europa.eu/commission/presscorner/detail/hu/IP_16_1349

https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32022L2523&from=EN

https://hu.andersen.com/hu/hirek/digitalis-gazdasag-adoztatasa-uj-oecd-jelentestervezet

https://www.oecd.org/tax/beps/inclusive-framework-on-beps-composition.pdf

https://www.oecd.org/tax/beps/

https://www.oecd.org/tax/beps/beps-actions

https://www.oecd.org/tax/beps/beps-actions/action4/

https://www.rsm.hu/kisokos/beps-akcioterv https://www.vg.hu/vilaggazdasag-magyar-gazdasag/2022/12/az-eu-ujra-nekifeszul-a-globalis-minimumado-bevezetesenez

https://www.vg.hu/vilaggazdasag-magyar-gazdasag/2022/12/az-eu-ujra-nekifeszul-a-globalis-minimumado-bevezetese

https://wtsklient.hu/2022/04/19/minimumado/

Janssens, P., Ledure, D., Vandepitte, B., & Loos, J. 2015. The end of intra-group financing... or not just yet?: part 1. *European taxation*, 55, 279-292.

Kahlenberg, Christian & Kopec, Agnieszka. 2016. Hybrid Mismatch Arrangements – A Myth or a Problem That Still Exists? In: *World tax journal*. - Amsterdam. - Vol. 8 (2016), no. 1 ; p. 37-78. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4224677 Retrieved at February 25, 2023.

OECD. 2015a. Neutralising the Effects of Hybrid Mismatch Arrangements, Action 2 - 2015 Final Report https://www.oecd.org/ctp/neutralising-the-effects-of-hybrid-mismatch-arrangements-action-2-2015-final-report-9789264241138-en.htm Retrieved at February 25, 2023.

OECD. 2015b. Countering Harmful Tax Practices More Effectively, Taking into Account Transparency and Substance, Action 5 - 2015 Final Report https://www.oecd.org/tax/countering-harmful-tax-practices-more-effectively-taking-into-account-transparency-and-substance-action-5-2015-final-report-9789264241190-en.htm Retrieved at February 25, 2023.

OECD. 2021: Tax Challenges Arising from Digitalisation of the Economy – Global Anti-Base Erosion Model Rules (Pillar Two). https://doi.org/10.1787/782bac33-en Retrieved at February 25, 2023.

Szlifka, Gábor. 2020. A hozzáadottérték-adó jelene és jövője Európában. http://real-phd.mtak.hu/915/1/Szlifka_Gabor_dolgozatv.pdf Retrieved at February 20, 2023.