中 国 注 册 税 务 师 协 会

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BEPS 2.0 Development in China

The OECD's inclusive framework seeks a globally consensual solution to the tax challenges of digital economies, namely the two-pillar Base Erosion and Profit Shifting (BEPS) 2.0 Initiative. The BEPS 2.0 Initiative proposes two major revisions to the current international tax system: First, reassign power of taxation between tax jurisdictions on the global surplus profit of multinational enterprises (Pillar Ⅰ); Second, set a global minimum tax standard and take corresponding measures to multinational enterprises that fail to meet the minimum tax standard (Pillar Ⅱ). In October 2021, 136 jurisdictions that are members of the Inclusive Framework reached a comprehensive consensus and formed Statement on "Two-pillar" Solution to Address the Tax Challenges Arising from the Digitalization of the Economy. The statement was reviewed by the G20 Finance Ministers and Central Bank Governors meeting and approved by G20 leaders at their Summit in Rome.

The impact of Two-pillar reform on Chinese multinational enterprises

The OECD/G20's two-pillar solution to address the tax challenges arising from the digitalization of the economy is about to have a broad and profound impact on many multinational enterprises.

Pillar Ⅰ balances the tax interests of the largest multinational enterprises with their jurisdictions and market jurisdictions in the short term. Regarding the impact of Pillar Ⅰ, the impact is limited in the short term but more profound in the long-term. According to our calculations, there are about 8 Chinese enterprises (including those from Hong Kong, Macao and Taiwan regions) among about 100 enterprises in the world that are currently applying Pillar Ⅰ. In the future, the application scope will be expanded to about 1,000 global enterprises after the threshold is lowered by 2030, and the number of Chinese enterprises involved will greatly increase. The impact of Pillar Ⅰ on the rules mainly lies in the significant changes of the source of income rules to the traditional income tax principle based on the attributable profits of the organization.

At present, the 750 million euro threshold of Pillar Ⅱ is relatively low, and basically, all Chinese multinational enterprises that need to submit national reports currently need to apply the Pillar Ⅱ rules (including the newly issued domestic legislative template). Under the Pillar Ⅱ system, the taxable rules and anti-base erosion rules constitute a new tax system, which aims to plug the comprehensive tax avoidance loopholes of multinational enterprises and promote them to pay tax fairly around the world. The rules of Pillar Ⅱ will have a significant impact on the global investment structure, related party transactions, tax planning, preferential policies access, tax location and size, jurisdiction and global tax burden of multinational enterprises.

Suggestions for Chinese Multinational enterprises to cope with the Two-pillar reform

To maintain tax efficiency and improve global competitiveness under the new rules, multinational enterprises will need to respond aggressively. From now until 2023, when the world officially implements the Two-pillar rule, many multinational enterprises will carry out the assessment work of the impact of the Two-pillar rule, focusing on the calculation of the tax burden of each jurisdiction around the world based on historical data or estimated data, and take measures to address the impact of the Two-pillar rule. We will take appropriate measures to adjust and optimize investment and business operation adjustment plans in a timely manner to ensure compliance with the new rules when they are officially implemented in 2023. It is suggested that Chinese multinational enterprise groups can start from four aspects to cope with the situation:

1. Establish a working mechanism for responding to international tax reform

Led by the group's ultimate holding parent company, with the group's parent company and secondary companies as the mainstay, and focusing on professionals from relevant departments such as finance, taxation, investment, and operations, a special working group for international tax reform will be set up to formulate work plans and programs, and promote the response work. When necessary, we should actively seek the support of tax professional service organizations to assist in formulating a clear and feasible work plan.

2. Comprehensively sorting out financial data, organizational structure and transaction business

According to the Two-pillar plan, especially the Pillar Ⅱ plan, the applicability of financial data is sorted out to judge the applicability of this tax reform to the group company and each unit; Sort out the global organizational structure at the group level, judge the actual impact of the tax reform on the locations where the company pays supplementary tax globally, and provides decision-making basis for the optimization and adjustment of equity interests; Comprehensively sorting out low-tax related transactions provides an analytical basis for effective tax rate calculation.

3. Accurate calculation of tax reform indicators such as actual effective tax burden

It is suggested to analyze and calculate the key tax indicators and tax impacts, and calculate the actual effective tax rate according to the country's jurisdiction (within the same country or jurisdiction, the member entities under different sectors and investment structures of the group need to calculate the actual tax burden according to the same jurisdiction, so it is necessary for the parent company of the group to take the lead), calculate the location and scale of supplementary tax in the case of split ownership of investment equity at the ultimate holding parent company and below, and calculate the tax impact of the adjustment of the results of low-tax related transactions.

4. Formulate and implement effective response plans

On the basis of financial data, organizational structure and business sorting, and tax reform index calculation based on the official tax reform plan and legislative template, the relevant results are analyzed in a combination of qualitative and quantitative method, and put forward the equity structure adjustment plan, related party transactions and transfer pricing arrangement optimization solutions, to quantify the plan implementation effect evaluation, and implementation and promotion according to the program schedule after decision-making.