EnDepth Advisory

Client Alert
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Thailand's Pillar Two Plan is on the Way.

In Focus

The Thai government approved signing the Subject-to-Tax Rule (STTR) under Pillar Two of the BEPS framework to amend the respective double tax agreements. This amendment, which includes the implementation of an additional STTR tax at rate of 9%, is schedule to be signed on 19 September 2024.

In Detail

On August 27, 2024, the Thai Cabinet approved the signing of a Letter of Intent to join the Multilateral Convention to Facilitate the Implementation of the Pillar Two Subject to Tax Rule (STTR Multilateral Instrument - STTR MLI).

The Ministry of Finance, through the Revenue Department, is authorized to make any necessary non-substantial changes to the document without further Cabinet approval. The STTR MLI signing ceremony is scheduled for September 19, 2024.

The Subject to Tax Rule (STTR), part of Pillar Two of the global tax framework, is designed to address base erosion and profit shifting (BEPS) in the digital economy. It establishes a minimum nominal tax rate of 9% on gross income from transactions that are at high risk of eroding the tax base, such as royalties, interest, insurance premiums, and financial services.

The STTR is essential for helping developing economies protect their tax base by ensuring that multinational companies pay a fair share of taxes in the countries where they generate income.

This initiative aligns with global efforts to combat tax avoidance and ensure equitable taxation across borders. The STTR is a key component of broader measures to prevent tax base erosion, profit shifting, and the under-taxation of cross-border income.

The Subject to Tax Rule (STTR) within the Multilateral Instrument (MLI) is a crucial provision in the global effort to combat aggressive tax planning. Part of the broader Base Erosion and Profit Shifting (BEPS) project led by the OECD and G20, the STTR ensures that certain types of income, especially those susceptible to tax avoidance, are taxed at a minimum level in the source country where the income is generated.

The STTR addresses scenarios where income is transferred from one jurisdiction to another and is either untaxed or taxed at a very low rate in the recipient's jurisdiction. It empowers the source country to impose withholding taxes if the recipient's jurisdiction does not subject the income to a minimum level of taxation. The MLI is a multilateral treaty allowing participating jurisdictions to update their existing bilateral tax treaties to incorporate measures from the BEPS project, including the STTR. Countries that have signed and ratified the MLI have the option to adopt the STTR as part of their tax treaty network. However, the application of the STTR may vary depending on the specific choices made by the countries in their MLI positions. Let's see how this unfolds.

It is interesting to that Thailand signed and ratified its first Multilateral Instrument (MLI)—the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (BEPS)—in 2022. These developments will make the application of tax treaties more complex and will require greater caution in the future.

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