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Kuzey YMM ve Bağımsız Denetim A.Ş.
Eski Büyükdere Cad.
Orjin Maslak No:27
Maslak, Sarıyer 34398
İstanbul - Turkey

Tel: +90 212 315 3000
Fax: +90 212 234 1067
ey.com
Ticaret Sicil No : 479919
Mersis No: 0-6010-2772-0400010

Transformation on international taxation: From competition to cooperation

It is observed that "legal corporate tax" rates varies between 9% and 30% when the "Key Tax Rate Indicators" (https://www.oecd.org/tax/tax-policy/tax-database/tax-database-update-note.pdf) which was updated by June 2020 of OECD, is examined. According to such data, corporate tax rates decreased between 2000 and 2020 in all countries except for one country and this situation has a reflection on average corporate tax rate as a 9% of decrease. Even though corporate tax in Turkey decreased to 20% from 30% in 2006 and increased to 22% in 2018-2020 years and to 25% in 2021 and 23% in 2022.

Why global minimum tax?

The most significant reasons behind the implementation of global minimum tax are listed below:

- Transformation (digitalization) in economies and difficulties in taxing digital companies,
- Tax rate competition of countries,
- Aggressive tax policies of multinational companies,
- The burden of Covid-19 on governments,
- With the approaching the end of the negative interest period, the interest payments to be created by the debt financing of public expenditures will further disrupt the budgets

In this environment, countries turned from "tax competition to tax cooperation" and governments discovered tax in financing public expenditures.

Tax plan of Biden

A significant reform requirement in terms of international taxation rules had commenced with BEPS actions ("Base erosion and profit shifting") and important improvements have been ensured during this process. However, during Trump period, US Ministry of Treasury had announced that "US has withdrawn from discussion on taxation of multinational companies and taxation problems of digital economy" with its public release on June 18, 2020 since "studies towards taxation of multinational technology companies are against US companies".

With Biden's election as US President, the US returned to the negotiating table. President Biden announced a new "Tax Plan" and the principles in this plan were "reducing incentives for countries to apply very low corporate tax rates by promoting the adoption of a healthy minimum tax globally". Subsequently, Biden announced his proposal before the G7 meeting to "apply a minimum tax of 15% on the earnings of companies with high profits, but with little or no tax base". With this plan, the USA aims to collect approximately 2.5 trillion USD in taxes in the next 15 years and to use this resource to finance critical infrastructure investments.

The US "global minimum corporate tax" exit represents more than 90% of global GDP on 1 July 2021, following the G-7's support of the OECD's bi-pronged international tax reform efforts (Pillar I and II). Support came from 130 countries (8.7.2021 with the participation of

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Peru 131). OECD announced that the reform framework, including the implementation plan, will be completed in October 2021 and will begin its implementation in 2023.

How much tax income is excepted?

According to the OECD statement, “digital economy taxation rules” transfer the taxation right on profits of more than 100 billion USD every year to the market countries where this income is obtained; With the “15% global minimum corporate tax rate”, additional global tax revenues are expected to increase by approximately $150 billion each year. The foreseen regulations are expected to stabilize the international taxation system and contribute to the predictability of taxation between taxpayers and tax administrations.

What sort of international tax reform?

In the first stage, new taxation rules were determined for digital companies; Taxation based on physical workplace, which has been the basis of the OECD and UN Tax Model applied to date, is coming to an end. Now, apart from the "physical workplace", "nexus" (link or connection) has fallen into taxation jargon.

What is Nexus? In fact, the “digital service tax” that came into force with the Law No. 7194 in Turkey is a typical example of this. In other words, a “nexus” will occur when “multinational companies” with annual global revenue of 20 billion Euros (the 20 billion Euro threshold will be reduced to 10 billion Euros in 7 years) and a profitability of more than 10%, generate a profit of 1 million Euros or more from a country market and the source country will be taxed on 20-30% of this profit. Compared to the 750 million Euro revenue threshold in digital services taxes, the profitability ratio of 20 billion Euros and over 10% seems high.

Unilaterally applied “digital service taxes and likewise” shall be annulled upon the entry into force of the regulation.

Second phase shall be utilized in fighting against “global base erosion” (GloBE”). GloBE aims to “avoid difficulties generated by digitalization and globalization in international taxation and establish a taxation environment through ensuring tax equity based on transparency and equal conditions”. With regulation, “re-taxation” right is ensured in the resident jurisdiction of the parent company for MNEs which have an annual consolidated revenue more than EUR 750 million in case initial jurisdiction does not use its taxation right or income is subject to lower rate of effective taxation in related jurisdiction.

Both of the regulations may increase tax incomes of developed and developing countries. However, such regulations are expected to impact choices of jurisdictions in which intangible assets from direct foreign capital movements.

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