

Pillar Two: Latvia delays its application for six years 2/4/24



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We have informed our MindLink subscribers about the Pillar Two directive's guidelines, looked at how implementing it could affect companies, and suggested how companies could get ready for the tax changes in good time. This article explores what's new when it comes to passing the Pillar Two directive into Latvian law.

What is Pillar Two?

Council Directive (EU) 2022/2523 on ensuring a global minimum level of taxation for multinational enterprise (MNE) groups and large-scale domestic groups in the Union aims to minimise tax base erosion and profit shifting and to ensure that any income MNE groups derive in countries they operate in is taxed at a minimum rate of 15% by charging top-up tax. The directive applies to MNE groups and domestic groups with an annual consolidated revenue of over EUR 750 million. If the tax paid in a particular jurisdiction is lower than that, the group must ensure the difference (top-up tax) is paid at the minimum effective rate of 15%.

You can learn more about Pillar Two by reading our MindLink article 'What you need to know about Pillar Two taxation' and by listening to our podcasts: Episode 27, 'Changes to the Pillar Two directive and a draft directive on shell companies, or ATAD 3', and Episode 32, 'The Pillar Two directive: how companies can get ready for the tax changes early'.

Application of Pillar Two in Latvia

The member states were required to pass the directive into their national law by 31 December 2023. However, article 50 of the directive permits a member state to delay the application of some of the Pillar Two provisions for six years on the following conditions:

1. There are up to 12 ultimate MNE parent companies in that member state.
2. The member state passes provisions into its national law to lay down the procedure for disclosing necessary information to an MNE entity located in another member state so it can prepare and file the top-up tax information return.

Because a small number of ultimate MNE parent companies are registered and operate in Latvia and full adoption of the directive is a heavy administrative burden, Latvia has elected to delay its full application up to 31 December 2029. However, a designated non-Latvian filing entity will be liable to pay top-up tax for its Latvian parent or subsidiary only if the Latvian company has failed to pay the minimum tax within four years after the date of assessment.

To ensure the directive is partially passed into its national law, Latvia has drafted the Global Minimum MNE Taxation Bill. It requires Latvian-registered MNE companies to disclose their financial information to a designated MNE filing entity, which is required to prepare and file the top-up tax information return in its

country of residence. Financial information must be disclosed within 12 months after the last day of the fiscal year. The bill is silent on the content and form of this information because it will have to be disclosed at the designated filing entity's request, which must be granted in line with the regulatory requirements of the country in which that entity is located.

If the ultimate MNE parent company is registered in Latvia, it's required to designate an MNE company registered in another jurisdiction that will be responsible for preparing and filing the top-up tax information return in its country of residence.

In summary, the Pillar Two provisions have not been passed into Latvian law as yet, and this is largely due to Latvia having chosen to delay application of the directive up to 31 December 2029.