Draft tax law likely in Budget for minimum levy on MNEs

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India is preparing a draft legislation on the global minimum tax for multinational enterprises (MNEs) which could be proposed in the Union Budget, to be presented on July 23, and pave the way for changes to the country's tax laws, said two people with direct knowledge of the matter.

The global minimum tax, also known as the Pillar Two regime, aims to prevent MNEs from shifting their profits to low-tax nations by ensuring that they maintain an effective tax rate of 15 per cent across all jurisdictions where they operate.

This is in line with the multilateral convention framework agreed upon by the 140 member countries of the Organisation for Economic Co-operation and Development (OECD). India has been an OECD Key Partner since 2007, alongside Brazil, China, Indonesia and South Africa.

"The draft legislation could provide a roadmap on possible changes in the domestic tax laws and adjustments in the existing tax avoidance agreement for cross-border transactions," said one of the two officials mentioned above. About 27 countries have so far incorporated the changes in their domestic laws.

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An email sent to the finance ministry remained unanswered at the time of going to press.

By incorporating the Pillar Two regime in their domestic laws, developing countries, including India, can "tax back" when certain intra-group payments are subject to nominal corporate income tax rates below 9 per cent. So, it is up to the low-tax jurisdiction to collect the "top-up tax" of 6 per cent. Turn to Page 6

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"The draft in the works would also provide a comprehensive idea on reporting and compliance for MNEs and how that will be coordinated with the foreign counterparts," said one of the officials.

India may have to amend some of its tax laws, such as Qualified Domestic Minimum Top-up Tax (QDMTT), Income Inclusion Rule, and Undertaxed Profit Rule, in order to exercise its right to collect taxes in those jurisdictions who signed the framework. The country may also need to modify the Double Taxation Avoidance Agreements to suit Pillar Two, given the cross-border transactions.

"India needs to provide local legislation for implementation of Pillar Two. This is needed to fulfil the reporting of India-headquartered MNCs that will be covered by Pillar Two, as well as legislating a QDMTT to protect tax revenues in India," said Rohinton Sidhwa, Tax Partner, Deloitte India.

Officials are of the view that the global minimum tax is an anti-base erosion rule to prevent profit erosion so its impact on the overall revenue would depend on how it is being implemented by MNEs. This, they say, will not have any significant impact on revenue augmentation. Meanwhile, several firms are learnt to be assessing how this could impact their consolidated group financials.

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