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AT A GLANCE: THE MULTILATERAL INSTRUMENT ON THE SUBJECT TO TAX RULE

A multilateral instrument adopted by the Inclusive Framework on BEPS on 15 September 2023 to facilitate the implementation of the Pillar Two subject to tax rule in existing bilateral tax treaties (the "STTR MLI")

Open for signature as of 2 October 2023

The STTR MLI will introduce the subject to tax rule (STTR) in all "Covered Tax Agreements" without the need for bilateral amendments.

The STTR MLI operates to directly amend Covered Tax Agreements and implements the STTR and other relevant accompanying provisions as annexes to those Covered Tax Agreements.

The STTR is included in Annex I (The subject to tax rule) to the STTR MLI. Where the STTR MLI applies with respect to a Covered Tax Agreement, Annex I (The subject to tax rule) is added as an annex to the Covered Tax Agreement, without further steps or a "matching exercise". A Covered Tax Agreement is any tax treaty in force between Parties to the STTR MLI which has been notified by both Contracting Jurisdictions as an agreement that they wish to be covered by the STTR MLI.

Additional choices that jurisdictions can make under the STTR MLI:

- Jurisdictions can decide to adopt the definition of the term "recognised pension fund" (Annex IV) for the purposes of applying the STTR (Article 1(8)(c) of Annex I (Exclusions)); or use their existing treaty definition.
- Jurisdictions can decide to adopt the circuit-breaker provision (Annex V).

Additional notifications jurisdictions are required to submit under the STTR MLI:

- Jurisdictions must notify the Depositary if they apply a tax calculated other than on a net income basis (Article 4) (e.g. imposing tax on gross income as a resident jurisdiction or by reference to equity (e.g. a capital tax), or the tax base for which is calculated by reference to multiple components (e.g. income and equity)); or
- Jurisdictions must notify the Depositary if they do not impose corporate income tax on items of covered income when that income is earned, but instead impose tax at the point of profit distribution (whether that is a deemed profit distribution or an actual distribution) (Article 5).

Jurisdictions' roadmap towards signature

STEP:

1. ☐ **IDENTIFY THE TAX TREATIES** in your treaty network that you wish to cover under the STTR MLI (Article 2)

2. ☐ **DETERMINE** whether your jurisdiction:
   - Applies a tax computed on an alternative basis (Article 4); or
   - Imposes tax only at the point of distribution (Article 5)

   When that is the case, prepare the relevant notifications under Articles 4 or 5

3. ☐ **DETERMINE WHETHER YOU WISH TO ADOPT THE OPTIONAL PROVISIONS** of the STTR MLI, i.e.:
   - The definition of the term "recognised pension fund" (Article 6) *(treaty-by-treaty decision)*
   - The Circuit-breaker provision (Article 7) *(optional provision would apply to all treaties covered)*

4. ☐ **COMPLETE TEMPLATE NOTIFICATIONS (the STTR MLI POSITION)** and prepare:
   - The notifications associated with the list of "Covered Tax Agreements" (Article 2); and, when applicable,
   - The other notifications (Articles 4, 5, 6, 7 and/or 12)

5. ☐ **SUBMIT A DRAFT STTR MLI POSITION** (completed template) to the Secretariat for a technical review

6. ☐ **TRANSMIT *DRAFT* UNSIGNED FULL POWERS TEXT** that will designate the person(s) that will sign the STTR MLI on behalf of your Government to the Secretariat for a technical review (template found below)

7. ☐ **SIGNATURE OF STTR MLI**
   Before signature, the original paper copy of the STTR MLI Position and signed Full Powers must be provided to the Secretariat.

Please contact the OECD Secretariat to address any issues or questions on the STTR MLI at OECD.STTR@oecd.org.

For more information, please visit: https://oe.cd/sttr-mli.