

June 10, 2022

Tax Treaties, Transfer Pricing and Financial Transactions Division
Centre for Tax Policy and Administration
Organisation for Economic Co-operation and Development
By email to tfde@oecd.org

Re: Business Roundtable comments on OECD public consultation on “Pillar One—Tax certainty for issues related to Amount A”

Dear Sir/Madam,

Business Roundtable welcomes the OECD’s commitment to working multilaterally and with the private sector to ensure sound tax policies and straightforward tax administration, which are essential to protecting investment and economic growth.

On behalf of more than 200 chief executive officers of America's leading companies, Business Roundtable is pleased to submit comments in response to the OECD’s public consultation document of May 27, 2022 on tax certainty for issues related to Amount A.

High-level Comments

Need for Further Consultation

While we appreciate the opportunity to comment on the public consultation document, we believe that further consultation with the public will be needed after all the Pillar One building blocks have been revealed and the Inclusive Framework has made progress toward resolving the various unresolved issues noted in the footnotes of the public consultation document. Currently it is impossible for stakeholders to provide fully informed comments on the proposals in the document.

Specific Comments

Scope of Issues Related to Amount A

We believe that the scope of the issues related to Amount A is potentially broader than only transfer pricing and the attribution of business profits to a permanent establishment, and therefore the rules for tax certainty regarding issues related to Amount A should not be unduly restrictive as to scope.

Process in the Absence of Tax Treaty

In our view, the dispute resolution process for issues related to Amount A should be available regardless of the existence of tax treaty between the relevant competent authorities. The Pillar

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One, Amount A rules are global in nature; therefore, to achieve tax certainty with respect to issues related to Amount A, access to the dispute resolution process is essential in all cases, whether or not a bilateral tax treaty is already in place.

Effect of a Local Decision

In our view, a Contracting Party should be required to implement a mutual agreement reflecting a dispute resolution panel's decision, unless a contrary decision of a local court or administrative tribunal is legally binding on the Contracting Party in question. Anything less than a "legally binding" standard would risk undermining the purpose of the tax certainty process for issues related to Amount A.

Composition of Panels

In our view, it is preferable that all dispute resolution panels be composed of government officials only, in order to minimize the risk of confidentiality breaches and to ensure oversight and accountability.

Role of the Covered Group

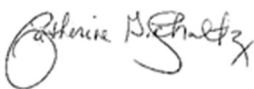
It is our view that all dispute resolution panels should have the opportunity to consider the disputed issues in light of a presentation by the Covered Group of the approach taken by the Covered Group to the issue under consideration. We recommend that the Covered Group should have an opportunity to submit a paper setting forth its analysis and views. The taxpayer has the best knowledge of the relevant facts and circumstances, so its explanation of why it adopted a particular approach to an issue could be of great value to the Determination Panel.

Roll-forward of Decisions

In our view it would be appropriate for the outcome of a dispute resolution process regarding an issue related to Amount A to apply not only to the taxable year for which the determination was made but also for all subsequent taxable years up to the time of the determination, assuming no material change in the facts.

Business Roundtable urges the Inclusive Framework to take the above comments into account in its work on the tax certainty framework for Amount A. We appreciate your consideration of these comments. Please do not hesitate to contact us if you have any questions.

Sincerely,



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