



OECD TAX TALKS

CENTRE FOR TAX POLICY
AND ADMINISTRATION

16 October 2023
10:30-11:30 (CEST)



Welcome to the OECD Tax Talks

Housekeeping

- The event will start at **10:30 CEST**
- Chat function disabled for security purposes
- Submit questions via Q&A function
- Webinar is being recorded. Both webinar and presentation slides will be available within 24 hours
- Join the conversation on social media by using **#OECDtaxtalks**

Speakers



Manal Corwin

Director, OECD Centre for Tax Policy and Administration



Jesse Eggert

Senior Advisor



Heike Buss

Advisor, BEPS Co-ordination Unit



David Bradbury

Deputy Director, OECD Centre for Tax Policy and Administration



Jessica Di Maria

Advisor, Tax Treaty Unit



Olivia Long

Advisor, Tax Treaty Unit



Achim Pross

Deputy Director, OECD Centre for Tax Policy and Administration



Jasna Voje

Advisor, Aggressive Tax Planning Unit



Agenda

- Overview of recent developments
- The Multilateral Convention
- MLI implementing Subject to Tax Rule
- Pillar Two Handbook and update
- Economic Impact Assessment
- Support for developing countries
- Looking ahead



OVERVIEW OF RECENT DEVELOPMENTS

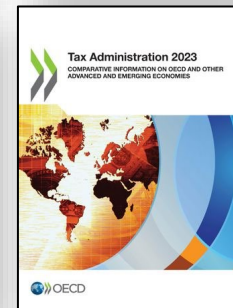
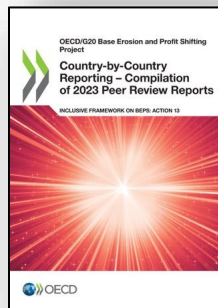
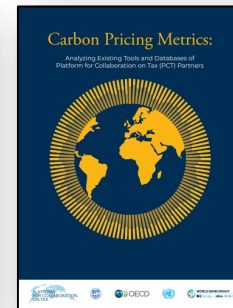
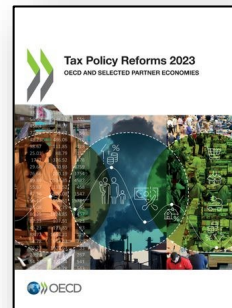
Recent developments & events

- Two-Pillar Solution
 - Pillar One: Publication of a text of a **Multilateral Convention (MLC) on Amount A**; and comments from **Amount B** consultation released
 - Pillar Two: **STTR**: On 15 September the Inclusive Framework adopted the text of the MLI. Open for signature as of 2 October 2023; **Global Minimum Tax (GloBE Rules)**: New Implementation Handbook
- G20 meetings
 - Leaders' Summit, 9-10 September, New Delhi, India
 - 4th G20 Finance Ministers and Central Bank Governors Meeting, 12-13 October, Marrakech, Morocco
 - SG Tax Reports to G20 Leaders and Finance Ministers and Central Bank Governors
- OECD-hosted Stakeholder Day on Global Mobility, 27 September
- 16th Plenary meeting of Forum on Tax Administration meeting, 11-13 October, Singapore



Recent publications

- Tax Policy Reforms 2023
- International Tax and Africa
- Platform for Collaboration on Tax report: Carbon Pricing Metrics
- BEPS Annual Report
- Country-by-Country Reporting – Compilation of 2023 Peer Review Reports
- Tax Administration 2023
- Working paper on the taxation of labour vs. capital income - A focus on high earners



THE MULTILATERAL CONVENTION

Amount A – MLC release

2018

Interim Report on BEPS Action 1 – Tax Challenges Arising from Digitalisation

October 2021

139 Inclusive Framework members agreed on the **Statement on a Two-Pillar Solution to Address the Tax Challenges Arising from the digitalisation of the Economy**

October 2022

Public consultation: **Progress Report** on the Administration and Tax Certainty Aspects of Amount A

July 2023

Outcome Statement – Inclusive Framework delivered a **text of a Multilateral Convention (MLC)**

January 2019

Policy note proposing a two-pillar approach for a consensus-based solution

July 2022

Public consultation: **Progress Report** on Amount A substantive rules

December 2022

Public consultation: MLC provisions on **Digital Services Taxes** and Relevant Similar Measures

October 2023

Publication of the MLC, the Explanatory Statement, and the Understanding on the Application of Certainty of Amount A



MLC – Amount A



NB: A technical webinar on the MLC content will follow later.



Developing countries and the MLC

- **Key design features of Amount A benefit developing countries while their administrative costs are expected to be limited.**
 - Examples: Extractives exclusion, ‘tail-end’ revenue, lower nexus thresholds for smaller economies, de-minimis thresholds, elective dispute resolution.
 - Lead tax administration (in the headquarters’ jurisdiction) to bear most of the compliance burden.



MLC – Tax certainty and DSTs

Tax Certainty

- “Amount A” – A **binding multilateral certainty process** over whether MNEs are in scope, and their application of MLC.
- “Related Issues” – Improved certainty process (**incl. mandatory and binding dispute resolution**) for disputes on existing tax rules, to the extent that they relate to Amount A (e.g. transfer pricing and PE).

DSTs and relevant similar measures

- A **list of existing measures** to be removed in Annex A.
- **Commitment not to impose digital service taxes (DSTs) and relevant similar measures on any company.**
- **Conference of the Parties will conduct reviews** to determine whether a measure is contrary to this commitment (in which case Amount A allocations will be denied).

NB: A technical webinar on the MLC content will follow later.



MLC – Operation

Entry into force

- Requires ratification by 30 States accounting for at least 60% of the ultimate parent entities of MNEs initially expected to be in-scope for Amount A, and a decision by ratifying countries.

Interaction with existing tax treaties

- Existing bilateral tax treaties between Parties to the MLC will continue to apply, but will be superseded by the MLC to the extent needed to permit the application of Amount A.
- Tax treaties with Jurisdictions which are not Parties to the MLC will not be affected.

The Conference of the Parties

- MLC establishes a 'Conference of the Parties' (CoP) to make decisions or exercise functions required for the interpretation and implementation of the MLC.

7-year review

- Revenue threshold will be reduced from €20 billion to €10 billion seven years after entry into force, unless implementation is deemed not successful by the Parties following a review by the CoP (based on pre-determined criteria).
- In latter scenario, Parties will be required to address any identified implementation issues within two years to enable the lowering of the revenue threshold.



MLC – Layout

PART I – General

Article 1 – *Application and Personal Scope*

PART II – Definitions

Annex B, Annex C

Article 2 – *General Definitions*

Article 3 – *Covered Group*

PART III – Allocation and Taxation of Profits

Annex D

Article 4 – *Taxation of Profits of a Covered Group*

Article 5 – *Allocation of Profit Associated with Revenues in the Market*

Article 6 – *Sources of Adjusted Revenues*

Article 7 – *Sourcing Principles for Categories of Adjusted Revenues*

Article 8 – *Nexus*

PART IV – Elimination of Double Taxation

Article 9 – *Relief for Amount A Taxation*

Article 10 – *Identification of the Specified Jurisdiction for a Covered Group*

Article 11 – *Allocation of the Obligation to Eliminate Double Taxation with Respect to the Amount A Relief Amount*

Article 12 – *Provision of Relief for Amount A Taxation to Relief Entities*

Article 13 – *Identification of Relief Entities Entitled to Elimination of Double Taxation*

PART V – Administration and Certainty

Annex E, Annex F, Annex G

Section 1 – *Administration (Article 14 - 21)*

Section 2 – *Tax Certainty Framework for Parts II to IV (Amount A) (Articles 22 - 32)*

Section 3 – *Tax Certainty for Issues Related to Amount A (Articles 33 - 36)*

Section 4 – *Exchange of Information and International Cooperation (Article 37)*

PART VI – Treatment of Specific Measures Enacted by Parties

Annex A, Annex H

Article 38 – *Removal and Standstill of Digital Services Taxes and Relevant Similar Measures*

Article 39 – *Elimination of Amount A Allocations for Parties Imposing Digital Services Taxes and Relevant Similar Measures*

Article 40 – *Treatment of Specific Measures in Scope of Tax Treaties*

PART VII – Final Provision

Annex I

Article 41 – *Signature and Ratification, Acceptance or Approval*

Article 42 – *Territorial Application*

Article 43 – *Review Process to Lower the Adjusted Revenues Threshold*

Article 44 – *Amendment*

Article 45 – *Reservations*

Article 46 – *Relationship between this*

Convention and Existing Tax Agreements
Article 47 – *Conference of the Parties*

Article 48 – *Entry into Force*

Article 49 – *Entry into Effect*

Article 50 – *Withdrawal*

Article 51 – *Termination*

Article 52 – *Relation with Protocols*

Article 53 – *Depositary*



MLC – Accompanying materials

- Explanatory Statement (ES) to the MLC
 - clarifies how each MLC provision is intended to apply; and
 - reflects the agreed understanding of the negotiators (i.e. forms part of the context of the MLC for interpretation purposes under customary international law).
- Understanding on the Application of Certainty for Amount A of Pillar One (UAC)
 - clarifies how the different elements of the Amount A multilateral tax certainty process will apply in practice.



**MLI IMPLEMENTING
SUBJECT TO TAX RULE**

Pillar Two: STTR implementation

Adoption of multilateral instrument and explanatory statement

- Inclusive Framework formally adopted text on 15 September 2023
- Open for signature as of 2 October 2023
- Offers an efficient way to amend existing tax treaties and implement STTR
- Secretariat working closely with interested jurisdictions towards signature

Process to assist with implementation - *ongoing*

- IF developing countries to receive information to inform requests they could make to implement the STTR, including:
 - List of existing treaties that could be object of request; and
 - Information on how the STTR would apply in each given treaty



Pillar Two: STTR multilateral instrument

Overview

- Purpose: introduce STTR in existing tax treaties.
- Operates to directly amend covered treaties.
- Does not require bilateral discussions or amendments.
- Unlike BEPS MLI, no reservations permitted:
 - STTR always implemented in full in all existing treaties that will be identified as treaties covered under the STTR MLI.
- Does not change text of existing treaties that it amends:
 - instead, when it applies to a treaty, a new annex is added to the treaty and includes the STTR in full



PILLAR TWO HANDBOOK AND UPDATE

Pillar Two: Global Minimum Tax

The Implementation Handbook

What?

- A tool that provides a high-level entry point into the overall design of global minimum tax and considerations to be taken in assessing implementation options

For whom?

- Tax policy officials, administration officials and other stakeholders

<https://oe.cd/p2-handbook>



Pillar Two: Global Minimum Tax

Structure of the Implementation Handbook

Chapter 1 - Overview

Core provisions



6-step analysis:

1. **Scope**
2. **Jurisdictional allocation of income** to CEs
3. Calculation of **GloBE Income**
4. Determination of **Adjusted Covered Taxes**
5. Computation of the **ETR** and the **Top-up tax**
6. Charge of the Top-up tax under **QDMTT, IIR, or UTPR**

Chapter 2 – Implementation considerations

Decide



1. **Impact assessment**
(Domestic/foreign operations)
2. **Reform options**

Consult with stakeholders

Implement



1. **Legislative technique**
(Direct/by reference;
primary and secondary
legislation)
2. **Ensure consistency**



Pillar Two: Global Minimum Tax

Update on the implementation

Different stages of implementation by jurisdictions

- Enacted legislation
- Draft legislation publicly available
- Stated intention to implement
- Considering implementation

Ongoing work to support implementation and application

- Administrative guidance
- Peer review process
- Administrative framework



ECONOMIC IMPACT ASSESSMENT

Economic Impact Assessment

Pillar One: Recent release

- Working paper* updating impact assessment of Pillar One
 - Mainly reallocates taxing rights from investment hubs to market jurisdictions, with 70% of all surrendered taxing rights from investment hubs
 - Reallocation of taxing rights raises revenue globally (USD 17-32 billion per year, based on 2021 data)
 - Revenue gains accrue to all jurisdictions except for investment hubs, with higher gains for smaller & lower-income countries (as a % of CIT)
 - Analysis based on the most up to date and granular data available, but still subject to a range of caveats

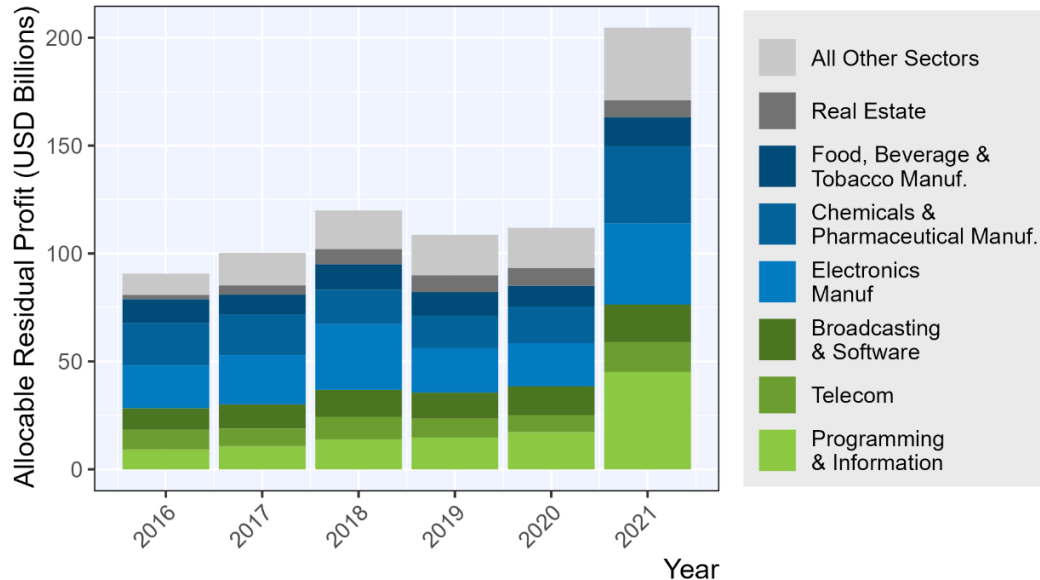
* Update to the Economic Impact Assessment of Pillar One: <https://oe.cd/5eN>



Economic Impact Assessment

Pillar One: In-scope residual profit

Composition of allocable residual profit in-scope of Amount A



- Around **USD 200 billion** profit in scope for 2021: rising over time
- Digital businesses account for around 53% of total residual profit in 2021



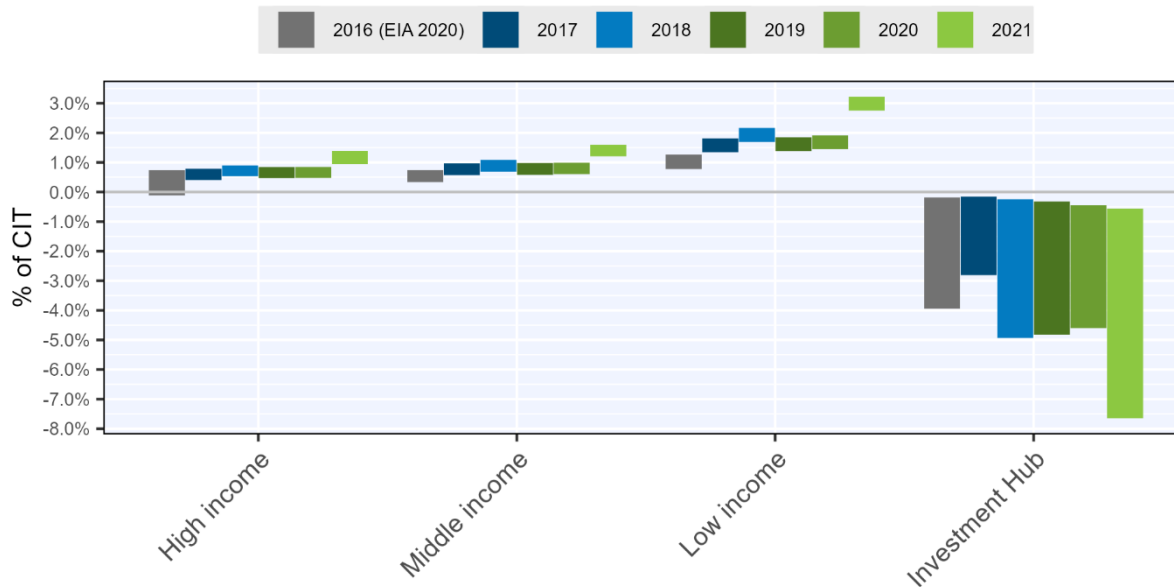
Note: Here 'digital' is defined to include programming & information, telecommunications, broadcasting & software and electronics manufacturing.

Economic Impact Assessment

Pillar One: Estimated revenue gains

Estimated Amount A revenue gain

By jurisdiction group and year, % of CIT



- Low, middle and high-income jurisdictions all gain modestly
- Investment hubs tend to lose tax base and, to a lesser extent, tax revenue

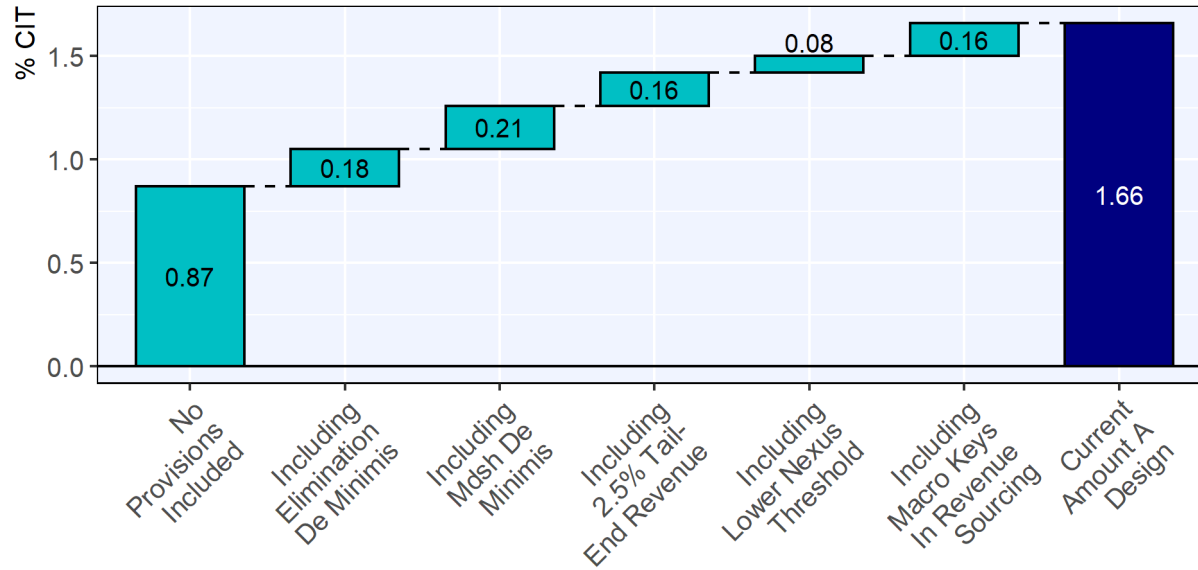


Note: 2016 (2020 EIA) assumes modelling as in the 2020 EIA. The other estimates are modelled as in the MLC with range of MDSH scenarios from 25% to 100% offset within the range of the error bars. The results for 2019, 2020 and 2021 assume the same global distribution of profit, revenue, payroll and assets as in 2018. Withholding taxes are not modelled. Only revenue gains in Inclusive Framework jurisdictions are included. Jurisdiction group revenue estimates reflect the arithmetic mean of the group.

Economic Impact Assessment

Pillar One: Lower- and middle-income jurisdictions

Impact of selected provisions on revenue gains
% of CIT, low and middle-income countries



- Certain design features increase revenue gains to low and lower-middle income IF members
- They represent approximately a doubling of the tax base increase compared to the gains without these provisions



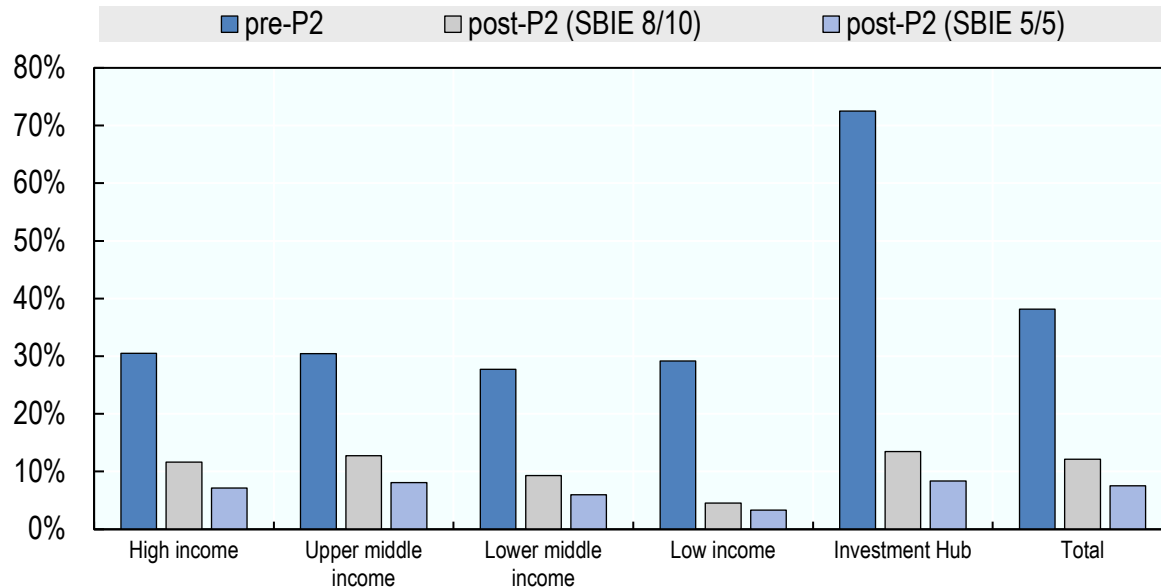
Note: These results are presented based on 2021 data and without error bars and are illustrative only of the impact of key provisions.

Economic Impact Assessment

Pillar Two: Impact on global low-tax profit

% of global profits subject to ETR less than 15%

By jurisdiction group



- Pillar Two will reduce global low-taxed profit by about 70%
- Substantial levels of low-taxed profit across all jurisdiction groups
 - Around 30% of profit in low-income, middle-income and high-income jurisdictions is subject to an ETR below 15%
 - This figure is 70% in investment hubs
- Highlights the importance of QDMTT implementation



Note: Average shares of low-taxed profit (ETR < 15%) pre and post-Pillar Two under a 8%/10% SBIE (i.e. as in the first year of implementation). Data shown are averages across six scenarios with different assumptions regarding profit shifting reductions following the implementation of Pillar Two. Pre-Pillar Two profit assumes a profit distribution already impacted by Pillar One. Totals only consider subgroups with positive profits. Data includes non-IF member jurisdictions.

SUPPORT FOR DEVELOPING COUNTRIES

Developing countries and the Two-Pillar Solution

- **Key design features of Amount A benefit developing countries while their administrative costs are expected to be limited.**
 - Examples: Extractives exclusion, ‘tail-end’ revenue, lower nexus thresholds for smaller economies, de-minimis thresholds, elective dispute resolution.
 - Lead tax administration (in the headquarters’ jurisdiction) to bear most of the compliance burden.
- **Global minimum tax rules ensure that developing countries can collect additional revenue and still attract real foreign direct investment.**
 - Domestic top-up tax and substance-based carveout.
- **Amount B and STTR developed at the request of developing countries.**
- **G20 and G7 support developing country agenda.**



Capacity building to implement the Two-Pillar Solution

- **Ongoing support**
 - (1) Outreach activities, (2) training material and courses, and (3) targeted bilateral support.
 - Whole-of-government approach and co-ordination with development partners essential.
 - Successful drafting workshops with jurisdictions that are at similar stages of the implementation process.
- **Comprehensive implementation plan is currently being developed**
 - Help countries to 1) analyse the impact of the rules, 2) implement the rules in law and 3) apply them in practice.
 - Coordinate with relevant regional and international organisations.
 - Dialogue through an Inclusive Framework Implementation Stakeholders' Forum.



LOOKING AHEAD

Global Mobility

- Discussed at Stakeholder Input Day during the July 2023 meeting of the Inclusive Framework
- OECD-hosted Stakeholder Day on Global Mobility – 27 September 2023
- Delegates to Working Party 1 (tax treaty specialists)
- Business representatives, TUAC, academia
- Opportunity to develop those themes in more detail with specialists from government
- Exchange of ideas – including beyond tax treaty issues



What's next...

- Publications

- Revenue Statistics in Africa 2023
- Corporate Tax Statistics 2023
- Revenue Statistics in OECD Countries 2023
- Effective Carbon Rates 2023
- Analysis on social protection and health taxes
- Tax Co-operation for Development Progress Report – 10 year (early 2024)

- Events

- Technical webinar on the MLC, 26/27 October (date tbc)
- Tax Certainty Day, November
- 16th Plenary Meeting of the Global Forum on Transparency and Exchange of Information for Tax Purposes, Lisbon, Portugal, 29 November-1 December
- LAC Fiscal Policy Forum, 4-5 December
- Forum on Tax and Crime, 5-7 December



THANK YOU