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GloBE Bulletin

August 2023 - Edition 2

Dhruva publications are designed to assist readers to keep abreast with latest news, developments and tax issues that concern businesses. It is our endeavour put forward painstaking research which equips you with the knowledge necessary to navigate the complex world of taxation effectively. At Dhruva, our international tax team is a frontrunner in analysing all latest developments with respect to the OECD IF's proposed two-pillar solution. We hope that you will find this publication to be a valuable resource and we look forward to hearing your comments and suggestions.

The OECD / G20 Inclusive Framework (OECD IF)'s latest releases of the Administrative Guidance and final template of the GloBE Information Report (GIR) have been the key highlights in the recent past. These releases have generously furnished us with a wealth of information to decipher. As more countries inch closer towards introduction of the GloBE Rules from 2024, finalisation of the GIR template gives much needed clarity to stakeholders, both in terms of the level of compliance expected as well as in terms of the confidentiality of reported data. Additionally, the Administrative Guidance offers insightful and practical clarifications that will assist taxpayers in efficiently navigating the ever-evolving landscape of the GloBE Rules. This edition of GloBE Bulletin focuses on analysing the GIR data points and the administrative simplifications offered by the GloBE Rules.

This is the second edition of our monthly alert series on the GloBE Rules. This essential resource aims to serve as a compass in navigating the evolving landscape of GloBE Rules, enabling one to anticipate and effectively respond to the challenges and opportunities presented by the imminent implementation of these rules.

A. Country Updates

Canada: On 4 August 2023, the Canadian Government launched public consultation on the draft Global Minimum Tax Act which is majorly in lines with the OECD IF approved Model GloBE Rules. The government also intends to issue updates as and when necessary to factor clarifications introduced in the recent Administrative Guidance issued by the OECD. Additionally, the Canadian Government has also published a “Table of Concordance” which serves as a cross-reference between the draft Global Minimum Tax Act of Canada and the OECD IF’s model GloBE Rules (comprising of the Rules, Commentary, Administrative Guidance, Safe Harbours, and GIR). Canada’s draft law includes the Qualified Domestic Minimum Top-up Tax (QDMTT), the Income Inclusion Rule (IIR) as well as the Undertaxed Profits Rule (UTPR). The QDMTT and IIR are expected to come into force from 2024 while the UTPR is expected from 2025. The public consultation for the draft Global Minimum Tax Act runs until 29 September 2023.

Bermuda: On 8 August 2023, the Government of Bermuda launched a public consultation to get feedback on current considerations for appropriate action by the Government of Bermuda in response to the OECD Pillar Two initiative. The consultation deals with the potential introduction of a corporate income tax for in-scope Multinational Enterprise (MNE) Groups operating within its jurisdiction. Specifically, this tax regime would apply to MNE Groups with annual revenue of €750 million [$821 million] or more. The public consultation phase is open till 8 September 2023.

Ireland: Ireland’s Minister for Finance on 27 July 2023 published a second Feedback Statement on the Irish implementation of the EU Minimum Tax Directive. This Feedback Statement, which was open till 21 August 2023, invited constructive inputs from the business and advisory communities. Alongside the Feedback Statement, the Irish Government also issued a Progress Report on the GloBE Rules implementation highlighting six main areas of the draft legislation and summarizing the first Feedback Statement. The draft law aims to introduce the Transitional CbCR Safe Harbour as well as the Transitional UTPR Safe Harbour. Ireland is expected to introduce the QDMTT and IIR from 2024 while the UTPR is expected to be introduced from 2025.

Luxembourg: The Luxembourg Government approved the draft legislative proposal on the OECD IF’s Pillar Two GloBE Rules and presented it before the Parliament for consideration on 4 August 2023. Luxembourg’s draft law includes the QDMTT, the IIR as well as the UTPR and is broadly in line with the EU Directive. The QDMTT and IIR are expected to come into force from 2024 while the UTPR is expected from 2025.

Slovakia: The Ministry of Finance of the Slovak Republic has published a draft legislation that intends to incorporate the EU Directive's provisions for implementing Pillar Two GloBE Rules into its national legal framework. The proposed bill encompasses the introduction of the IIR and the UTPR, as mandated by the EU Directive. Additionally, the bill outlines the incorporation of a QDMTT. Notably, the EU member states achieved unanimous consensus on the implementation of Pillar Two in December 2022 and Slovak Republic is required to fully adopt the EU Directive's provisions into its legislation by December 31, 2023. As per the Directive, it is expected that QDMTT and IIR will be introduced from 2024 while UTPR will be introduced from 2025. The draft legislation was open for feedback till 23 August 2023.

Finland: Finland's MOF revealed on August 15 that it is seeking input through consultations on a draft bill aimed at adopting the EU's Pillar Two Directive. This directive outlines a supplementary taxation framework aligned with the OECD's GloBE Rules. In addition to incorporating the GloBE rules, Finland intends to introduce a QDMTT, referred to as a 'domestic supplemental tax' in the consultation document. Another consultation process will specifically address the draft legislation concerning the domestic supplemental tax. If approved, this legislation would come into effect on January 1, 2024. The IIR and domestic supplemental tax would be applicable from 2024, while the UTPR would apply from 2025. Finland's consultation period concludes on September 8. Following the consultation phase, the government is set to present its proposal to Parliament in October.

Czech Republic: The Ministry of Finance of the Czech Republic published a draft legislation on 16 August 2023 that intends to incorporate the EU Directive's provisions for implementing Pillar Two GloBE Rules into its national legal framework. The proposed bill encompasses the introduction of the IIR and the UTPR, as mandated by the EU Directive. Additionally, the bill outlines the incorporation of a 'compensatory tax' which is in the nature of QDMTT. As per the Directive, it is expected that QDMTT and IIR will be introduced from 2024 while UTPR will be introduced from 2025.

South Korea: On 27 July 2023, the South Korean Ministry of Strategy and Finance introduced a Tax Law Amendment to inter alia, defer the application of UTPR to fiscal years beginning on or after 1 January 2025. Consequently, South Korean law for GloBE Rules will apply QDMTT and IIR from 2024 and UTPR from 2025.

Vietnam: Building on March 2023's consultation for revising Vietnam's corporate tax regime, the Government of Vietnam on 26 July 2023 formally introduced draft legislation to implement the GloBE Rules in Vietnam from 2024. According to the draft legislation, Vietnam intends to apply the QDMTT and IIR from 2024 while the UTPR may apply from 2025. The draft legislation is expected to be submitted to Vietnam's National Assembly in October 2023 for final approval.

Australia: On 11 August 2023, the Australian Taxation Office (ATO) revealed its plan to consult with potential taxpayers falling within the scope of the GloBE Rules and their advisors. The consultation process will be carried out in three distinct phases. The initial phase, spanning through August 2023, will target industry groups. The second phase, taking place from August 2023 to October 2023, will be focused on mid-tier companies. Lastly, the third phase, scheduled from September 2023 to November 2023, will focus on large advisory firms. The IIR and QDMTT will be effective starting on or after 1 January 2024, while the UTPR will be implemented for income years starting on or after 1 January 2025.

ASEAN: Association of Southeast Asian Nations (ASEAN) investment ministers urge a review of global minimum tax rules, expressing concerns that these rules could favor developed nations and harm incentives for developing countries. Ministers emphasized the need for fairness between developed and developing nations and the importance of considering unique circumstances to ensure equal growth opportunities. The ministers' concerns arise from the potential disruption of investment flows which could compel the export of raw materials to developed countries due to early implementation of global minimum tax rules. While most ASEAN members are part of the OECD's BEPS framework and have agreed to implement Pillar Two, they stress for a more balanced approach to these rules that considers the diverse economic contexts of ASEAN member nations.

B. Knowledge Bytes:

1. The OECD IF on 17 July 2023 released the final template of the GloBE Information Return (GIR) and the second tranche of the Agreed Administrative Guidance. In this edition, we focus on breaking down the data requirements for the GIR and the simplifications that GloBE Rules offer to reduce the administrative burdens.

2. The final GIR template issued by the OECD IF is a 27-page template consisting of about 450 data cells to be filled and broken into the following categories:
   a. **MNE Group Information** –

      This section contains about 55 data cells requiring:

      - General information about the MNE group and the Filing CE.
      - Information about the corporate structure of the MNE group →
        - each CE's ownership structure,
        - whether it is required to apply the IIR and whether the UTPR could apply with respect to such CE,
        - information about changes to the ownership structure during the fiscal year.

   b. **Jurisdictional Safe Harbours and Exclusions** – This section consists of about 40 data cells wherein the Filing CE needs to give relevant information on a jurisdictional basis, for each jurisdiction where exceptions to the GloBE computations apply.

   c. **GloBE Computations** - The Filing CE shall complete this section, consisting of about 355 data cells, on a jurisdictional basis, for each jurisdiction (or subgroup, where relevant) where exceptions to the GloBE computation do not apply. It comprises of →

      - Detailed computation of GloBE income/loss for each jurisdiction
      - Detailed computation of adjusted covered taxes for each jurisdiction
      - Computation of jurisdictional ETR
      - Calculation of SBIE
      - Calculation of TUT liability
      - TUT allocation and attribution.

3. The third section of the GIR i.e., GloBE Computations, is the most intricate and data-intensive part of the return. This section demands the inclusion of a substantial number of data points both at entity level as well at jurisdictional levels. To facilitate the transition for MNEs, the GloBE Rules offer administrative simplifications. These simplifications result in an exemption from the exhaustive data requirements of the GloBE Computations section, requiring only a minimal set of data points to be provided in the Safe Harbours section for certain jurisdictions that qualify pre-determined criteria.

4. **Exemptions and reliefs**

   While around 450 data cells are required to be filled in the GIR, a breakdown of the nature of data shows that about 140 data cells require information that is already readily available within an MNE's existing systems and another 150 data cells are computed from the data input in the GIR. Thus, in effect, data cells requiring adjustments and / or elections are reduced to 160 out of 450. To reduce the administrative burden, the Model GloBE Rules provide various simplifications for in-scope MNE Groups:

   a. **Transitional CbCR Safe Harbour:**

      Validity: Valid only during the transitional period, i.e., for fiscal years beginning before 31 December 2026 and not ending after 30 June 2028.

Exemption: For jurisdictions that meet the criteria, MNE Group does not need to pay any top-up taxes under the GloBE Rules and does not need to fill Section 3 (GloBE Computations) of the GIR.

Criteria: A jurisdiction qualifies for transitional safe harbour when any one of the following tests is met:

- **De minimis test –**
  - Revenue as per Qualified CbCR < 10 million euros, and
  - Profit before tax (PBT) as per Qualified CbCR < 1 million euros

- **Simplified ETR test –** ETR for fiscal years beginning in following years should be equal to or more than respective amounts as follows –
  - 2024→15%
  - 2025→16%
  - 2026→17%

  Here, ETR is calculated by dividing covered taxes (as per Qualified FS) with the PBT (as per Qualified CbCR).

- **Routine profits test –** This test is satisfied when PBT (as per Qualified CbCR) is equal to or less than SBIE (as per GloBE Rules).

Transitional safe harbour operates on a 'once out, always out' approach, i.e., if a jurisdiction does not qualify for it in a year, then it cannot qualify for it in subsequent years.
[Qualified CbCR refers to CbCR prepared using Qualified financial statements.]

b. Permanent Safe Harbour:

Validity: Permanent Safe Harbour is enshrined in Article 8 of the model GloBE Rules and is permanently available to a jurisdiction as an annual election, i.e., an MNE group may choose to opt for permanent safe harbour in a year even if it had not opted for the same in any previous year.

Exemption: For jurisdictions that meet the criteria, MNE Group does not need to pay any top-up taxes under the GloBE Rules and does not need to fill Section 3 (GloBE Computations) of the GIR.

Criteria: Permanent Safe Harbour is based on the Simplified Calculation framework which is not yet notified but will be based on meeting any of the following three tests:

- **De minimis test –**
  - Average Revenue as per 'Simplified Calculation framework' < 10 million euros, and
  - Average GloBE Income as per 'Simplified Calculation framework' < 1 million euros

- **Simplified ETR test –** ETR for a jurisdiction is atleast 15%. Here, ETR is calculated by dividing covered taxes with the PBT (both taken as per 'Simplified Calculation framework').

- **Routine profits test –** This test is satisfied when PBT (as per 'Simplified Calculation framework') is equal to or less than SBIE (as per GloBE Rules).

Furthermore, the GloBE Rules also provide a Simplified Calculation for Non-Material Constituent Entities (NMCEs) (i.e., mainly entities not consolidated in CFS on size or materiality grounds) whereby MNE Groups do not need to

consolidate them but need to aggregate their revenue, income, and tax figures as per the Relevant CbC Regulations.
[The Simplified Framework is yet to be provided by the OECD IF].

c. De minimis exclusion:

Validity: Available unless specifically revoked.

Exemption: For jurisdictions that meet the criteria, MNE Group does not need to pay any top-up taxes under the GloBE Rules and does not need to fill Section 3 (GloBE Computations) of the GIR.

Criteria: A de minimis exclusion excludes those jurisdictions from compliance where the MNE group has average revenue < 10 million euros and average GloBE Income < 1 million euros in the current and preceding two years.

d. MNE Groups in the initial phase of international activity:

Validity: Five years from the year of meeting the conditions.

Exemption: An MNE group in the initial phase of an international activity will be excluded from the application of UTPR.

Criteria: The MNE Group has CEs in no more than six jurisdictions and total net book value of all tangible assets of the MNE group in all jurisdictions other than reference jurisdiction is ≤ 50 million euros.

e. QDMTT Safe Harbour:

Validity: Available unless specifically revoked.

Exemption: Where an MNE Group qualifies for a QDMTT Safe Harbour, the Top-up Tax payable under the GloBE Rules is deemed to be nil, rather than the QDMTT payable being a credit.

Criteria: A QDMTT that qualifies for a safe harbour must meet all the following standards:

- **The QDMTT Accounting Standard - **It requires a QDMTT to be computed based on the UPE's financial accounting standard or a local financial accounting standard subject to certain conditions.

- **The Consistency Standard** - It requires the QDMTT computations to be the same as the computations required under the GloBE Rules except where the Commentary explicitly requires a QDMTT to depart from the GloBE Rules or where the Inclusive Framework decides that an optional variation that departs from the GloBE Rules still meets the standard.

- **The Administration Standard** - It requires the QDMTT jurisdiction to meet the requirements of an on-going monitoring process similar to the one applicable to jurisdictions implementing the GloBE Rules.

Whether a QDMTT meets these standards would be determined by the Inclusive Framework as part of the peer review process of the QDMTT.

f. Transitional UTPR Safe Harbour:

Validity: The Transitional UTPR Safe Harbour is designed to provide transitional relief in the UPE jurisdiction during the first years in which the GloBE Rules come into effect. The Transitional UTPR Safe Harbour applies for fiscal years that run no longer than 12 months and that begin on or before 31 December 2025 and end before 31 December 2026.

Exemption: Under the Transitional UTPR Safe Harbour, the UTPR Top-up Tax Amount calculated for the UPE jurisdiction shall be deemed to be zero.

Criteria: The UPE jurisdiction has a corporate income tax with a rate of at least 20%.

g. Transitional Simplified Jurisdictional Reporting Framework:

Validity: Transitional Simplified Jurisdictional Reporting Framework applies to all FYs beginning on or before 31 December 2028 but not including a FY that ends after 30 June 2030.

Exemption: For jurisdictions that meet criteria, detailed adjustments on a CE-by-CE basis are not required to be shown for GloBE computations rather net adjustments can be declared.

Criteria: This simplified reporting is available if any of the following conditions are met –

- No top-up tax liability arises in the jurisdiction; or
- Even where a top-up tax liability arises, it does not need to be allocated on a CE-by-CE basis.

5. GIR Filing Obligation:

Article 8.1 of the model GloBE Rules requires each CE to file a GIR with the tax administration of the jurisdiction where it is located.

However, a CE shall not have the obligation to file such GIR if:

- A GIR has been filed by the UPE in the UPE jurisdiction and there exists a Qualifying Competent Authority Agreement between the UPE's jurisdiction and the jurisdiction of the CE, or
- A GIR has been filed by a Designated Filing Entity located in a jurisdiction that has a Qualifying Competent Authority Agreement with the jurisdiction of the CE.

6. GIR Dissemination Framework:

The final GIR sets out a dissemination framework whereby all sections of the GIR do not need to be shared with all implementing jurisdictions. This move addresses the concerns of MNEs regarding ease of administrative burden as well as data confidentiality. The dissemination framework as set out by the OECD IF is as follows -

GIR Section	Jurisdictions with whom shared
MNE Group Information	All implementing jurisdictions
Jurisdictional Safe Harbours and Exclusions	Jurisdictions with taxing rights will obtain information with respect to safe harbours opted for their respective jurisdictions.
GloBE Computations	Jurisdictions with taxing rights will obtain information with respect to ETR and TUT computation including allocation and attribution to their respective jurisdictions.

C. Around the globe:

European Union (27 countries)	
Austria	Italy
Belgium	Latvia
Bulgaria	Lithuania
Croatia	Luxembourg
Cyprus	Malta
Czech Republic	Netherlands
Denmark	Poland
Estonia	Portugal
Finland	Romania
France	Slovakia
Germany	Slovenia
Greece	Spain
Hungary	Sweden
Ireland	

Rest of Europe (22 countries)	
Albania	Liechtenstein
Andorra	Monaco
Belarus	Montenegro
Bosnia Herzegovina	North Macedonia
Faroe Islands	Norway
Georgia	San Marino
Gibraltar	Serbia
Guernsey	Switzerland
Iceland	Turkey
Isle of Man	Ukraine
Jersey	United Kingdom

Africa (25 countries)	
Angola	Mauritania
Benin	Mauritius
Botswana	Morocco
Burkina Faso	Namibia
Cabo Verde	Republic of Congo
Cameroon	Senegal
Congo	Seychelles
Côte d'Ivoire	Sierra Leone
Djibouti	South Africa
Egypt	Togo
Eswatini	Tunisia
Gabon	Zambia
Liberia	

Asia (28 countries)	
Armenia	Malaysia
Azerbaijan	Maldives
Bahrain	Mongolia
Brunei	Oman
China	Papua New Guinea
Cook Islands	Qatar
Hong Kong	Russia
India	Samoa
Indonesia	Saudi Arabia
Israel	Singapore
Japan	South Korea
Jordan	Thailand
Kazakhstan	UAE
Macau	Vietnam

North America (24 countries)	
Anguilla	Grenada
Antigua	Haiti
Bahamas	Honduras
Barbados	Jamaica
Bermuda	Mexico
British Virgin Islands	Montserrat
Canada	Panama
Cayman Islands	Saint Lucia
Costa Rica	St. Vincent and the Grenadines
Dominica	St. Kitts and Nevis
Dominican Republic	Turks and Caicos Islands
Greenland	USA

South America (11 countries)	
Argentina	Curacao
Aruba	Paraguay
Belize	Peru
Brazil	Trinidad and Tobago
Chile	Uruguay
Colombia	

Australasia (2 countries)	
Australia	New Zealand

Legend	
	Formal adoption of GloBE Rules from 2024 **(4 countries)**
	Policy framework in place to introduce IIR, QDMTT in 2024 and UTPR in 2025 **(32 countries)**
	Policy framework in place to introduce IIR, QDMTT and UTPR in 2025 **(3 countries)**
	Written declaration to implement GloBE Rules though timelines are uncertain **(12 countries)**

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