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GloBE Bulletin

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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 two-pillar policy represents a transformative and inclusive approach to global taxation, addressing challenges posed by the digital economy. It introduces rules for fair profit allocation, extends tax jurisdiction based on consumer presence, establishes a global minimum tax framework, and aims to foster a more equitable global tax landscape while curbing harmful tax competition among nations. Pillar One is a proposal to tax large multinational enterprises (MNEs) (global turnover \geq 20 billion euros and profitability $>$ 10%) in countries where they have a significant consumer presence, even if they lack a physical presence. Pillar Two introduces a global minimum tax on MNEs (global turnover \geq 750 million euros) to discourage profit shifting and ensure that they pay a minimum of 15% tax in every jurisdiction where they operate. The primary objective is to create a more level playing field and reduce harmful tax competition among countries.

This is the inaugural 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:

European Union: In December 2022, the Council of the EU unanimously adopted a Directive to ensure a minimum level of taxation for MNE groups and large domestic groups. The Directive will be transposed into national legislation of each member country by the end of 2023 and will apply the Income Inclusion Rule (IIR) and Qualified Domestic Minimum Top-up Tax (QDMTT) to fiscal years starting from 1 January 2024. However, the UTPR (erstwhile known as Undertaxed Payments Rule) will be applicable only for fiscal years starting on or after 31 December 2024. EU countries with no more than 12 UPEs have an option to defer the introduction of GloBE Rules to 31 December 2029. Such countries include Bulgaria, Croatia, Cyprus, Estonia, Hungary, Latvia, Lithuania, Malta, Romania, Slovenia, and Slovakia.

Sweden: Sweden proposed draft legislation on Pillar Two by releasing a white paper on 7 February 2023, which largely aligns with the EU Directive, and supplementing it with an additional report issued on 20 March 2023. The IIR will apply to fiscal years beginning after 31 December 2023, while the UTPR will be applicable for fiscal years beginning after 31 December 2024. The consultation was open until 15 May 2023. It is expected that final legislation will be notified soon.

Germany: The German Ministry of Finance released a discussion draft on the implementation of the EU Minimum Corporate Taxation Directive on 20 March 2023. On 10 July 2023, German Finance Ministry issued an updated draft law for Pillar Two. Germany's objective is to implement a top-up tax from 2024 based on international-level rules. The draft law incorporates an IIR and a QDMTT, both of which will be effective from 2024, as well as the UTPR, which will apply from 2025.

Netherlands: In May 2023, the Netherlands released a legislative proposal called the

Dutch Pillar Two Act, which aims to implement Pillar Two Rules in accordance with the EU Directive. The proposal incorporates an IIR and a QDMTT, both of which will be effective from 2024, as well as the UTPR, which will apply from 2025.

Czech Republic: The Czech Republic on 15 May 2023 introduced a draft legislation to adopt the EU Directive for GloBE Rules. The draft incorporates an IIR and a QDMTT, both of which will be effective from 2024, as well as the UTPR, which will apply from 2025.

Ireland: In March 2023, Ireland's Department of Finance released a feedback statement to gather input on the implementation of the Pillar Two GloBE Rules. This is the first phase of a two-phase consultation process. The finalized rules will be included in the Finance Bill, scheduled for publication in October 2023, which is expected to incorporate an IIR from 2024 and a UTPR from 2025.

Switzerland: The Swiss Parliament approved a draft constitutional amendment on 16 December 2022 to implement Pillar Two rules. In June 2023, the draft amendment was approved by a majority of the electorate and Cantons which enables Switzerland to legally implement the Pillar Two rules from 1 January 2024.

United Kingdom: The HM Treasury released draft legislation and an explanatory note concerning the UK's implementation of a global minimum tax in March 2023 which received the Royal Assent on 11 July 2023. While the UK's legislation is generally in line with the OECD's Pillar Two framework, it is structured differently and employs UK-specific legislative terms. The legislation includes the Multinational Top-Up Tax (MTUT) (i.e., IIR as per GloBE) and the Domestic Top-Up Tax (DTUT) (i.e., QDMTT as per GloBE), but not the UTPR at present. Both MTUT and DTUT would be effective for accounting periods starting on or after 31 December 2023. Furthermore, on 15 June 2023, a draft guidance for implementation of MTUT



was launched which is open for public consultation till September 2023.

Liechtenstein: Liechtenstein made an official announcement on 16 December 2022, stating that it intends to incorporate Pillar Two into its domestic legislation. A draft law was published for public consultation in March 2023 which indicates that the implementation will align with the OECD Model Rules or refer to them. The proposal includes the implementation of the IIR and QDMTT starting from 2024 with a UTPR starting from 2025.

Norway: The Norwegian Ministry of Finance published a proposal on June 6, 2023, outlining the Pillar Two legislation in Norway. The proposal includes the implementation of the IIR starting from 2024. However, the implementation of the UTPR is expected to be proposed at a later date.

South Africa: The South African Treasury released the 2023 Budget Review on 22 February 2023, which includes plans to implement Pillar Two GloBE Rules. South Africa is expected to soon release a draft position for public consultation on the same. The draft position will be published in 2023, and draft legislation will be prepared for the 2024 Taxation Laws Amendment Bill, indirectly implying a 2025 introduction of GloBE Rules.

South Korea: Korea has enacted new global minimum tax rules on 31 December 2022 to align with the OECD BEPS 2.0 Pillar Two, following its passage by Korea's National Assembly on 23 December 2022. However, Transitional Safe Harbors described in the OECD document released in December 2022 are not part of this legislation. Additional legislation is expected to be introduced in the coming months to provide further details and potentially add safe harbors. Both the IIR and UTPR rules will be effective from 1 January 2024.

Japan: The Japanese Ministry of Finance released draft legislation on Pillar Two on 3 February 2023, which included only the IIR. The draft legislation which was based on the OECD Model Rules was enacted in March 2023 by virtue of which IIR will be effective for fiscal years starting 1 April 2024 or later.

Singapore: Singapore's Budget 2023, announced on 14 February 2023, revealed that the country will introduce a QDMTT and implement GloBE rules for fiscal years starting on or after 1 January 2025. The QDMTT, which aims to increase the effective tax rate of MNE groups in Singapore to 15%, is expected to be on the lines of the GloBE Rules with certain customization for Singapore's tax regime specifications.

Thailand: The Thai Cabinet gave its initial approval on 7 March 2023 to implement the OECD BEPS 2.0 Pillar Two and collect a global minimum tax in Thailand. The Revenue Department will be responsible for drafting the legislation and guidelines for collecting top-up taxes, which should be ready for consideration by 2023 and effective in 2025. The Competitiveness Enhancement Fund of the Board of Investment of Thailand (BOI) will receive 50% to 70% of the top-up taxes collected, and the BOI will also be provided with details of the top-up taxpayers to consider giving cash grants to qualifying investors who promote Thailand's competitiveness and long-term investment.

Malaysia: In its 2023 Budget, the Malaysian government announced plans to implement the 15% global minimum tax under Pillar Two and also intends to introduce the QDMTT in 2024. However, detailed legislation is yet to be introduced.

Hong Kong: In February 2023, Financial Secretary of Hong Kong announced the official plan to introduce GloBE Rules from 2025. Furthermore, a public consultation will be



launched to enable in-scope MNEs to prepare for the Rules.

Indonesia: The Indonesian government on 20 December 2022 issued Government Regulation No. 55 of 2022, which confirms and explains income tax provisions under Law No. 7 of 2021 on Tax Regulation Harmonization. The regulation provides the legal basis for the implementation of OECD Pillar One and Pillar Two. Formal legislation is expected to follow in the coming months.

Qatar: On 2 February 2023, Qatar amended its Income Tax Law (ITL) to include a new provision on BEPS 2.0. The amendment establishes a minimum tax for entities based on their excess profits, not less than 15%, to address requirements arising from the digitization of the economy. Detailed regulations on how Qatar will implement the GloBE rules and/or a QDMTT are expected to follow.

Canada: Canada's 2023 Budget, released on 28 March 2023, includes a commitment to implement the BEPS 2.0 project. The budget outlines a plan to apply an IIR and a Domestic Minimum Top-up Tax (DMTT) for fiscal years starting on or after 31 December 2023, with the UTPR being effective for fiscal years starting on or after 31 December 2024.

Mexico: Mexican government has formed a Working Group to analyze the Pillar two recommendations. Detailed legislation is expected in the coming months with IIR and QDMTT expected to be applied from years beginning on or after 1 January 2024.

Australia: In the Federal 2023/24 Budget announcement on 9 May 2023, the Australian Government declared its intention to adopt the Pillar Two-GloBE rules. This legislation will take effect for income years commencing on or after 1 January 2024, and will include IIR, UTPR and QDMTT. The IIR and QDMTT will be effective starting on or after 1 January 2024, while the UTPR will be implemented for income years

commencing on or after 1 January 2025. The legislation for the implementation of these rules has not yet been released but is expected to follow the OECD Model Rules, Commentary, and recent Administrative Guidance.

New Zealand: The New Zealand Government has announced its intention to implement the OECD's Pillar Two GloBE Rules through legislation referred to as the 'Applied GloBE Rules'. The Rules incorporate a multinational IIR, UTPR and a domestic IIR. The Government will set the application date for all rules once it determines that a 'critical mass' of countries have adopted these rules. However, the multinational and domestic IIR will not be introduced before 2024 and the UTPR will not be introduced before 2025.

Miscellaneous: There are certain countries that have made a written declaration to implement the GloBE Rules (though timing is uncertain) and have, in certain cases, either formed a working committee or launched a public consultation to achieve this objective. These countries include **Belgium, France, Italy, Spain, Guernsey, Jersey, Isle of Man, Mauritius, and UAE.**



B. Knowledge Bytes:

1. The OECD IF has come up with the following documents on Pillar Two:

SI	Name	Status
1	Report on Pillar One and Pillar Two Blueprint – Oct'2020	Final
2	Model GloBE Rules – Dec'2021	Final
3	Commentary and Examples to GloBE Rules – Mar'2022	Final
4	Safe Harbour Rules – Dec'2022	Final
5	Tax Certainty – Dec'2022	Public consultation document
6	Administrative Guidance – Feb'2023	Final
7	Administrative Guidance – July'2023	Final
8	GloBE Information Return – July'2023	Final

2. The GloBE Rules are not mandatory but have been agreed as a 'common approach'. This means that jurisdictions are not required to adopt the GloBE Rules, but if they choose to do so, they agree to implement and administer them in a way that is consistent with the agreed outcomes set out under those rules. Even if they do not implement the rules, agreement on a 'common approach' means that one jurisdiction accepts the application of the GloBE Rules by another in respect of MNEs operating in its jurisdiction.
3. Para 4 of commentary to Article 8.1 of GloBE Rules states:

“Accordingly, while Article 8.1 places an obligation on each Constituent Entity to file a GloBE Information Return with the tax administration of the jurisdiction where it is located, a Constituent Entity is under Article 8.1.2 discharged from this obligation when the UPE or a Designated Filing Entity files the GloBE Information Return with the tax administration of the jurisdiction where it is

located and the Competent Authority of that jurisdiction has a bilateral or multilateral agreement or arrangement in effect to automatically exchange the GloBE Information Return with the Competent Authority of the jurisdiction of the Constituent Entity.... In this way the return filing obligations operate so that the UPE or a Designated Filing Entity of the MNE Group can file a single GloBE Information Return covering all Constituent Entities in the MNE Group, which can be provided to all tax administrations with a Constituent Entity(ies) located in their jurisdiction through appropriate international exchange mechanisms.”

In a nutshell, if the UPE of an MNE Group is located in a jurisdiction that has not formally adopted the GloBE Rules, but such MNE Group has CEs located in other jurisdictions that have formally introduced the GloBE Rules, then such Rules apply to the MNE Group as a whole and the GloBE Information Return (GIR) is required to be filed via a Designated Filing Entity (surrogate filing). Consequently, it can be concluded that even if a single jurisdiction in which the MNE Group has a presence, implements GloBE Rules, then the MNE Group has to follow them irrespective of whether the UPE jurisdiction has implemented these rules or not.

4. In May 2023, IASB issued International Tax Reform – Pillar Two Model Rules – Amendments to IAS 12.

The amendment introduces the following:

- A mandatory temporary exception to account for deferred taxes arising from implementation of Pillar Two model rules. The entity needs to disclose that it has applied the above exception.
- Targeted disclosure requirements.

Targeted disclosure requirements include:



- In periods when the Pillar Two legislation is effective, an entity is required to separately disclose its current income tax expense related to Pillar Two income taxes.
 - In periods where the legislation is substantively enacted but not effective, an entity is required to disclose qualitative and quantitative information about known or reasonably estimable information to enable understanding of entity's exposure arising from Pillar Two income taxes.
 - While the exception to account for deferred taxes can be applied by MNE groups immediately, the disclosure requirements apply to annual reporting periods beginning on or after 1 January 2023.
5. The OECD's Forum on Tax Administration (FTA) Pillar Knowledge Sharing Network held its first virtual meeting on 13 June 2023, connecting experts from early implementer jurisdictions to share practical advice on the administrative and implementation aspects of the Two-Pillar Solution. Over 250 delegates from 70 countries discussed Pillar Two implementation and its change management aspects. The network aims to support developing countries through knowledge sharing and will utilize an online platform provided by Canada Revenue Agency. This initiative, developed by UK's HM Revenue and Customs (HMRC) complements the OECD's broader strategy for assisting developing countries in implementing Pillar One and Pillar Two through training and guidance. The FTA's Capacity Building Network facilitates coordinated efforts and provides expertise to improve tax administration worldwide.
6. In June 2023, the US Joint Committee of Taxation released a report on possible tax revenue effect of GloBE Rules. Under certain assumptions, over the five year period of 2023-2028, a the tax revenue effect is estimated from (-)\$ 72.70 billion to \$ 90.70 billion.
7. With about 50 countries having formally indicated adopting GloBE Rules, it is high time that the affected Indian MNE Groups kickstart their campaigns for preparing themselves to comply with GloBE Rules. This would involve a set of preliminary steps, mainly as follows:
- MNE Groups need to check if they satisfy the scoping criteria of GloBE Rules (i.e., if the consolidated revenue in at least two out of the previous four years exceeds 750 million euros).
 - For in-scope MNEs, they need to identify the jurisdictions in which they are present and whether any of those jurisdictions have formally adopted the GloBE Rules.
 - MNE Groups need to deploy a project team comprising of employees possessing the necessary technical knowledge to understand the GloBE Rules and their implications.
 - MNE Groups need to understand the data requirements and address any data gaps in the existing system.



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
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Legend

	Formal adoption of GloBE Rules from 2024 (4 countries)
	Policy framework in place to introduce IIR, QDMTT in 2024 and UTPR in 2025 (27 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 (15 countries)

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