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GloBE Bulletin

October 2023 - Edition 4

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 month of October has brought a whirlwind of activity in the realm of international taxation with the OECD IF unveiling several significant documents. These include the text of the Multilateral Convention (MLC) to implement Amount A of Pillar One which aims to create a coordinated agreement to reallocate taxing rights to market jurisdictions. The MLC was accompanied by an extensive Explanatory Statement to clarify the application of each provision. Additionally, the IF also released an Understanding on the Application of Certainty for Amount A of Pillar One, which explains how aspects of the Amount A tax certainty framework is expected to operate in practice. On the Pillar Two front, the OECD IF on 11 October 2023 released the Minimum Tax Implementation Handbook, which provides a high-level summary of the GloBE Rules and guidance to administrations on implementation options. Furthermore, the OECD IF also released the MLI to facilitate the implementation of STTR, which provides the final STTR framework. Building on the previous edition's endeavour to shed light on the GloBE framework in the case of corporate restructurings, this edition focuses on the application of the GloBE Rules in the case of Joint Ventures.

This is the fourth 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:

Malaysia: During a budget speech on 13 October 2023, the Finance Minister of Malaysia announced the Malaysian Government's intention to enforce global minimum tax rules in 2025. Additionally, the government intends to remain vigilant in monitoring the progress of minimum tax standards on the international tax stage.

Japan: On 29 September 2023, Japan's National Tax Agency published its notice of Notice of Interpretation of Laws and Regulations along with an explanatory statement related to the implementation of the Pillar Two GloBE rules as part of Japan's 2023 tax reform established earlier this year.

Argentina: The government of Argentina in September presented a draft of its 2024 Budget Law to the National Congress. In the budget proposal, the government indicated its intention to consider the introduction of a 15% corporate minimum tax in line with the Pillar Two GloBE Rules.

Bermuda: On 5 October 2023, the Bermuda government released its second public consultation document concerning the potential introduction of a corporate income tax (CIT) aimed at Bermuda-based multinational enterprises (MNEs) generating an annual revenue of €750 million or higher. The period for this consultation spans from October 5, 2023, through October 30, 2023.

Austria: The Ministry of Finance of Austria sought public comments on draft legislation issued on 3 October 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 national supplementary tax (that meets the requirements of QDMTT). Notably, the EU member states achieved unanimous consensus on the

implementation of Pillar Two in December 2022 and Austria 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 public comments till 20 October.

Bulgaria: The Ministry of Finance of Bulgaria sought public comments on 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. Bulgaria 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 public comments till 26 October.

Cyprus: The Ministry of Finance of Cyprus sought public comments on 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. Cyprus 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 is open for public comments till 31 October.

Denmark: Denmark's draft legislation for transposing EU Minimum Tax Directive, presented by Minister of Taxation Jeppe Bruus to the Danish parliament on October 4, underwent its initial reading on October 11, as per an announcement from the Denmark's MoF.



There were no significant changes to the bill since it was released for consultation in June 2023. Denmark will need to adopt the EU Directive into domestic law 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.

Finland: The Ministry of Finance of Finland on 19 October 2023 proposed draft legislation 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 Finland 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.

France: The Ministry of Finance of France on 27 September 2023 proposed draft legislation 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 France 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.

Hungary: The Ministry of Finance of Hungary on 17 October 2023 proposed draft legislation 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 Hungary 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.

Ireland: The Ministry of Finance of Ireland on 19 October 2023 presented legislation to incorporate the EU Directive's provisions for implementing Pillar Two GloBE Rules into its national legal framework. Ireland had held two separate phases of public consultation on the draft legislation – one in March and the other in July. 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. The bill also includes language that incorporates rules related to Safe Harbors provided by OECD Administrative Guidance. The bill needs to be approved by parliament before it becomes effective. Notably, the EU member states achieved unanimous consensus on the implementation of Pillar Two in December 2022 and Ireland 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.

Malta: In its pre-budget Consultation Document released on 10 October 2023, the Government of Malta detailed key developments, including the government's work around Pillar Two. The document notes that the government has engaged in "analysis and discussions" with stakeholders "with the view to implement the EU



Directive.” Malta will need to adopt the EU Directive by December 31, 2023.

Romania: The Ministry of Finance of Romania on 4 October 2023 proposed draft legislation 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 Romania 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.

United Kingdom: The UK Government on 27 September 2023, revised its Pillar Two legislation to include QDMTT Safe Harbour and a transitional UTPR Safe Harbour. It is to be noted that UK has already adopted the GloBE Rules.



B. Knowledge Bytes:

Corporate restructurings encompass a broad spectrum of strategies that have been dealt with in detail in the Model GloBE Rules. The previous edition of the bulletin focused on revenue threshold criteria in case of mergers and demergers, application of the Rules in case of entities joining or leaving an MNE Group, GloBE Reorganisation, and transfer / deemed transfer of assets and liabilities. This edition aims to shed light on the application of GloBE Rules to JVs as well as on the ‘Minimum Tax Implementation Handbook’ released by OECD IF on 11 October 2023.

1. JOINT VENTURE (JV)

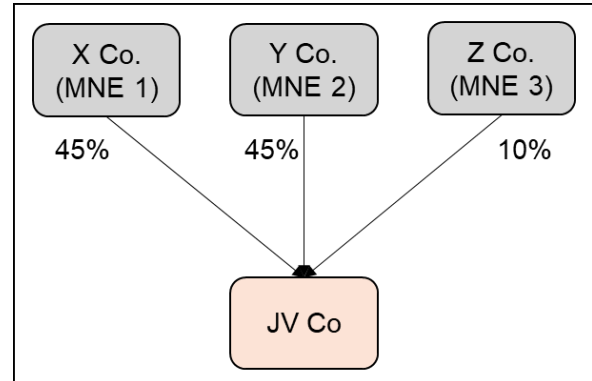
Art. 10.1.1 defines JV as an Entity whose financial results are reported under the equity method in the consolidated financial statements (CFS) of the Ultimate Parent Entity (UPE) provided that the UPE holds (directly or indirectly) at least 50% of ownership interests in the Entity.

Art. 1.3 requires an Entity to be consolidated on a line-by-line basis to qualify as a Constituent Entity (CE). Given that JVs are not consolidated on a line-by-line basis but are rather accounted for under the equity method of accounting, they would have been excluded from the scope of GloBE Rules if not for the operation of Art. 6.4.

Art. 6.4 brings a JV and its subsidiaries into scope of the GloBE Rules but only with respect to the UPE’s share of the JV and its subsidiaries. Under the GloBE Rules, both the effective tax rate (ETR) and the top-up tax (TUT) for the JV must be calculated as if the JV and its subsidiaries were CEs of a separate MNE Group, with the JV-entity acting as the UPE. The TUT applicable to the JV is then allocated to the entity that holds a qualifying interest (i.e., at least 50%) in the JV and is typically levied in accordance with the regular IIR and UTPR mechanisms.

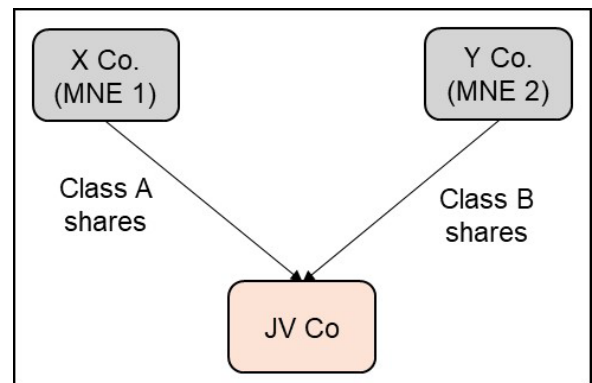
Art. 10.1.1 requires the UPE to hold (directly or indirectly) at least 50% ownership interests in the Entity for it to qualify as a JV. It needs to be noted that ‘ownership interest’ refers to the profits, capital, or reserves of an Entity and not to voting power.

Example 1 – X Co, Y Co and Z Co hold 45%, 45% and 10% respectively in JV Co.



JV Co does not qualify as JV for GloBE Rules despite that it will be considered as JV under accounting rules. This is because none of the UPEs hold at least 50% ownership interest in JV Co.

Example 2 – X Co and Y Co hold 100% of Class A shares and Class B shares respectively in JV Co. as follows:



Shares	Voting Power	Dividend
Class A	40%	60%
Class B	60%	40%

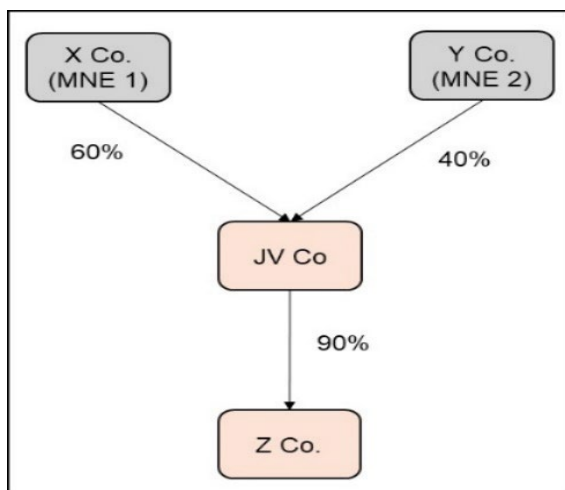
Here, JV Co is treated as ‘qualifying JV’ w.r.t MNE 1 but not w.r.t MNE 2. This is because ‘ownership interests’ refers to profits, capital, or reserves of an Entity and not to voting power.



The GloBE Rules apply to JV and its subsidiaries as follows for each fiscal year:

- Computation of GloBE Income (Loss), Adjusted Covered Taxes, ETR and TUT of the JV Group shall be calculated separately taking JV entity as the UPE;
- a Parent Entity that holds directly or indirectly Ownership Interests in the JV or a JV Subsidiary shall apply the IIR with respect to its Allocable Share of the TUT; and
- the JV Group TUT shall be reduced by each Parent Entity's Allocable Share of the TUT of each member of the JV Group that is brought into charge under a Qualified IIR, and any remaining amount shall be added to the Total UTPR TUT amount.

Example 2 – X Co and Y Co respectively hold 60% and 40% shares of JV Co which in turn holds 90% shares in Z Co. Both JV Co and Z Co are low-taxed CEs for GloBE purposes and have TUT of INR 60 and INR 40 respectively.



JV Co will be treated as 'qualifying JV' only w.r.t MNE 1. X Co.'s allocable share of TUT –

- For JV Co. = INR (60 * 60%) = INR 36
- For Z Co. = INR (40 * 60% * 90%) = INR 21.60 = ~ INR 22

Amount to be added to total UTPR TUT is remaining unallocated TUT of JV Group i.e., INR (100 – 36 – 22) = INR 42.

2. MINIMUM TAX IMPLEMENTATION HANDBOOK

India at its G20 presidency had requested the OECD Secretariat, in July 2023, to develop a handbook by October 2023 to support the effective implementation of the GloBE Rules to be delivered to Finance Ministers and Central Bank Governors. Responding to India's request, the OECD Inclusive Framework (OECD IF) released the much anticipated 'Minimum Tax Implementation Handbook' on 11 October 2023.

The Implementation Handbook intends to provide a higher level, straight-forward entry point into the overall design and operation of the GloBE Rules as well as a starting point for considering implementation options. It has been prepared for use by tax policy officials, administration officials and other stakeholders to give them an overall understanding of the GloBE Rules and their expected impact. The Implementation Handbook is divided into two chapters:

- The first chapter provides an overview of the Model GloBE Rules to assist a broad understanding of the scope, design, and operation of the global minimum tax.
- The second chapter sets out the considerations to be taken into account by jurisdictions in assessing implementation options such as impact assessment, legislative incorporation, etc.

The Handbook draws upon the experience of jurisdictions which have made significant progress on their path to the GloBE Rules implementation. Such experiences highlight that



governments generally proceed through two basic stages:

a. Decide: In consultation with stakeholders, tax policy makers assess whether TUT is likely to arise under the GloBE rules by reference to either the domestic or foreign operations of MNE Groups operating in the jurisdiction and whether to adopt changes to their domestic law including adoption of all or part of the GloBE rules.

b. Implement: A jurisdiction that decides to introduce all or part of the global minimum tax will then need to consider various practical and legal issues that inform the drafting of any domestic rules, ensure that its rules align with those agreed by the Inclusive Framework and are applied consistently in accordance with the common approach.

The Implementation Handbook also summarises a variety of other resources and programmes that have been developed to assist jurisdictions with the implementation of the GloBE Rules. The Handbook intends to supplement the GloBE Rules and does not address the STTR. With the Implementation Handbook in place, we could expect more jurisdictions making strides in adopting the GloBE Rules in their domestic legislation.



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 (31 countries)
	Policy framework in place to introduce IIR, QDMTT and UTPR in 2025 (5 countries)
	Written declaration to implement GloBE Rules though timelines are uncertain (13 countries)

Reach out to us



Dinesh Kanabar (CEO)
email: dinesh.kanabar@dhruvaadvisors.com



Aditya Hans (Partner)
email: aditya.hans@dhruvaadvisors.com
mobile: +91 905 104 8715



Radhakishan Rawal (Senior Advisor)
email: radhakishan.rawal@dhruvaadvisors.com
mobile: +91 982 032 8887



Ashish Jain (Principal)
email: ashish.jain@dhruvaadvisors.com
mobile: +91 629 180 4283

Nilesh Chandak has been a key contributor in preparation of this Monthly Alert.



ADDRESSES

Mumbai

1101, One IndiaBulls Centre,
11th Floor, Tower 2B,
841, Senapati Bapat Marg,
Elphinstone Road (West),
Mumbai 400 013
Tel: +91 22 6108 1000 / 1900

Ahmedabad

402, 4th Floor, Venus Atlantis,
100 Feet Road,
Prahlanagar,
Ahmedabad 380015
Tel: +91-79-6134 3434

Delhi / NCR

101 & 102, 1st Floor, Tower 4B
DLF Corporate Park
M G Road, Gurgaon
Haryana - 122 002
Tel: +91-124-668 7000

Pune

305, Pride Gateway,
Near D-Mart, Baner,
Pune - 411 045
Tel: +91-20-6730 1000

Kolkata

4th Floor, Unit No 403, Camac Square,
24 Camac Street, Kolkata
West Bengal – 700016
Tel: +91-33-66371000

Abu Dhabi

Dhruva Consultants
1905 Addax Tower, City of Lights,
Al Reem Island,
Abu Dhabi, UAE
Tel: +971 2 678 0054

Dubai

Dhruva Consultants
Emaar Square Building 4, 2nd Floor,
Office 207, Downtown,
Dubai, UAE
Tel: +971 4 240 8477

KEY CONTACTS

Dinesh Kanabar (Mumbai)

Chief Executive Officer
dinesh.kanabar@dhruvaadvisors.com

Mehul Bheda (Ahmedabad)

mehul.bheda@dhruvaadvisors.com

Vaibhav Gupta (Delhi/ NCR)

vaibhav.gupta@dhruvaadvisors.com

K. Venkatachalam (Pune)

k.venkatachalam@dhruvaadvisors.com

Aditya Hans (Kolkata)

aditya.hans@dhruvaadvisors.com

Nimish Goel (UAE)

nimish.goel@dhruvaadvisors.com

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