An overview of the 15% global minimum tax rules of Pillar 2 and how DLA Piper can assist

In the remaining months of 2023, many of the 137 jurisdictions that have signed up to the Organization for Economic Cooperation and Development's global Pillar 2 initiative will be implementing its GLoBE rules in their respective domestic tax legislation, which will enter into force as of January 1, 2024.

Pillar 2 is the final part of the OECD's BEPS (Base Erosion and Profit Shifting) initiative, which launched back in 2015 and addressed what was considered aggressive tax planning by multinationals to shift their profits to low-taxed jurisdictions. The GLoBE rules aim to ensure that large multinationals, with a consolidated revenue of more than EUR750 million, pay at least 15 percent tax in all the jurisdictions in which they operate. Although the GLoBE rules have certain exclusions, in principle all multinational businesses may be within scope of these rules, including businesses in the investment industry.

The GLoBE rules will introduce a new tax which is expected to raise at least EUR250 billion in tax revenue on a global basis. These new rules will require companies that are in scope to prepare a new tax return based on stand-alone financial statements of all group entities.

The GLoBE rules provide for a large number of adjustments that need to be made to these financial statements in order to arrive at the GLoBE income for a particular jurisdiction. In addition, the GLoBE rules have specific provisions to determine the total amount of qualifying taxes in a jurisdiction. Based on these calculations, the effective tax rate for GLoBE purposes can be calculated in a jurisdiction and it can be determined whether a so-called top-up tax to the minimum 15 percent threshold is due. It is important to understand that, due to the nature of the GLoBE rules, a top-up

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tax may be due in jurisdictions that have a statutory tax rate below 15 percent and that a top-up tax may also be due in jurisdictions with a statutory rate above 15 percent, for instance due to the availability of applicable tax incentives, concessionary rates, IP box regimes, tax holidays or free-trade zones. The GLoBE rules prescribe an ordering rule as to which jurisdiction actually gets to levy the top-up tax. In principle, the first right of levy is with the low-taxed jurisdiction itself.

The United States has signed up to the Pillar 2 initiative but is unlikely to implement the GLoBe rules into its domestic legislation in the near future. This will, of course, impact the Pillar 2 analysis for US multinationals. The OECD has provided some guidance with respect to the treatment of the US GILTI rules in the context of the GLoBE rules. Based on this guidance, in principle GILTI is only creditable against top-up tax in certain specific situations, while in other situations, GILTI could result in potential double taxation.

To simplify the compliance burden for companies, the OECD has introduced so-called transitional safe harbor rules which are to apply at least for the first two years of the GLoBE rules coming into effect. If a multinational is in scope of these safe harbor rules in a jurisdiction, then it will not be necessary for it to prepare the detailed GLoBE calculations. One of the safe harbor tests is a simplified effective tax rate or ETR test based on the income of a multinational's country-by-country (CBC) report and the tax expense in the financial statements.

How DLA Piper can assist

Based on our experience, companies are in a wide variety of stages of preparation for the GLoBE rules and the new compliance and tax return obligations that will come into force starting as of January 1, 2024. To help you address this process:

- We can provide any form of training on the GLoBE rules to educate tax departments and/or other stakeholders in your company.
- Our Pillar 2 professionals can provide general tax advisory services on complex technical GLoBE rules questions.
- DLA Piper has developed an Excel-based Pillar 2 tool which can be made available to your tax department and maintained by you in house. Here are some ways to use this tool:
  1. The tool can help generate a tax impact assessment to gain insight into the ETR impact your company may expect from these new rules (this is also relevant for auditors in Q4 of FY23).
  2. The tool may be used to assess the availability of the transitional safe harbor rules and to simplify impact analysis.
  3. It also allows the company to understand the data it needs to gather when preparing the GLoBE tax return (data from different sources within the company, such as tax, accounting, legal, HR, and corporate, as well as data that might not be readily available).
- DLA Piper can help you proactively determine the actions to take to enhance your company's position now, before these new rules come into effect.

Stats

137

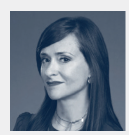
Countries implementing Pillar 2

15%

Minimum tax rate for large multinationals under GLoBE rules

Contacts

Pie Geelen
Principal, Head of European Tax Desk
T +1 347 266 2761
pie.geelen@dlapiper.com



Marica De Rosa
Managing Director, European Tax Desk
T +1 212 335 4655
marica.derosa@dlapiper.com