Pillar 2
15% minimum tax rules – are you ready?

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 on January 1, 2024.

Pillar 2 at a glance

137

Countries implementing Pillar 2

15%

Minimum tax rate for large multinationals under GLoBE rules

What is Pillar 2?

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 EUR750m+, pay at least 15 percent tax in all the jurisdictions in which they operate**. Although the rules have certain exclusions, in principle all multinational businesses may be within scope of these rules, including businesses in the investment industry.

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GLoBE rules

What will the rules introduce?

A new tax which is expected to raise **at least EUR250bn** 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.

What will the rules provide?

- 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.
- The 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% threshold is due.
- Due to the nature of the rules, a top-up tax may be due in jurisdictions that have a statutory tax rate below 15%.
- A top-up tax may also be due in jurisdictions with a statutory rate above 15%, eg due to the availability of applicable tax incentives, concessionary rates, IP box regimes, tax holidays or free-trade zones.
- The rules prescribe an ordering rule on 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 impact for multi-nationals

- The US 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 on the treatment of the US GILTI rules in the context of the GLoBE rules – 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.

Simplifying the burden

- 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 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 test based on the income of a multinational's country-by-country (CBC) report and the tax expense in the financial statements.

How can we help?

To help you prepare for implementation of Pillar 2 rules, we can:

- Provide training on the GLoBE rules to educate tax departments and/or other stakeholders in your company
- Help you proactively determine the actions to take to enhance your company's position now – before these new rules come into effect
- Provide general tax advisory services on complex technical GLoBE rules questions
- Share our Excel-based Pillar 2 tool with your tax department, which can be maintained by you in house. It can help you with:
  - Generating a tax impact assessment to gain insight into the ETR impact your company may expect (also relevant for auditors in Q4 of FY23)
  - Understanding the data you need to gather when preparing the GLoBE tax return (data from different sources within the company, eg tax, accounting, legal, HR, and corporate, as well as data that might not be readily available)
  - Assessing the availability of the transitional safe harbor rules and to simplify impact analysis