

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

POLICY & RESOURCES COMMITTEE

OECD PILLAR 2 GLOBE RULES

The States are asked to decide:-

Whether, after consideration of the Policy Letter entitled “OECD Pillar 2 GloBE Rules”, dated 18 June 2024, they are of the opinion:-

1. To specify the OECD Pillar 2 GloBE rules, together with associated commentary and administrative guidance, including the OECD (2022) Safe Harbours and Penalty Relief: Global Anti-Base Erosion Rules (Pillar Two), as an international tax measure under section 75CC(1C) of the Income Tax (Guernsey) Law, 1975, to enable the Policy & Resources Committee to make Regulations implementing the rules, commentary and guidance in domestic law and thereby introducing an income inclusion rule and domestic minimum top-up-tax for large in-scope multinational enterprises from the 1st January, 2025.

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

POLICY & RESOURCES COMMITTEE

OECD PILLAR 2 GLOBE RULES

The Presiding Officer
States of Guernsey
Royal Court House
St Peter Port

18 June, 2024

Dear Sir

1. Executive Summary

- 1.1. In May 2023, the intention to implement an Income Inclusion Rule (IIR) and a Domestic Minimum Tax from 2025 in response to the development of a new international tax framework was announced. Since then, the Policy & Resources Committee has continued to monitor implementation internationally and engage closely with affected stakeholders on the detailed design and implementation that would be fit for Guernsey.
- 1.2. Guernsey is committed to offering an attractive and globally competitive investment environment for business, providing administrative simplicity, certainty of outcome and adherence to international standards. It is for this reason that the Policy & Resources Committee is now putting forward proposals to adhere to that 2023 commitment.
- 1.3. This will be achieved by recognising the Pillar 2 Global anti-Base Erosion (GloBE) rules, together with associated commentary and administrative guidance as an international tax measure under section 75CC(1C) of the Income Tax (Guernsey) Law, 1975. This will enable the Policy & Resources Committee to make regulations providing for the introduction of an IIR and a Qualified Domestic Minimum Top-up Tax (QDMTT) for in-scope groups (i.e. multinational groups of companies with global annual turnover of more than €750m), for accounting periods beginning on or after 1 January 2025.

- 1.4. As outlined in the recent Government Work Plan debate, it is estimated that implementing these proposals will raise additional revenues of circa £30m per annum. However, these are unlikely to be fully realised until 2027. There remains some uncertainty around the estimate of additional revenue which may be raised, because it is dependent not only on how the legislation is applied in Guernsey, but also how it is applied in countries where those same entities might also face tax, or in jurisdictions where business might relocate if they feel there is an advantage to doing so.
- 1.5. The Policy & Resources Committee intend to continue engaging with affected stakeholders and industry bodies as the relevant legislation is developed, to inform design in the few areas where alternative approaches are permitted under the GloBE rules and to formulate the relevant administrative provisions. All such discussions will focus on the importance of continuing to offer an attractive and globally competitive investment environment for business, so as to retain our tax base, whilst maintaining Guernsey's position as a responsible international finance centre, meeting international tax standards and best practices.

2. Introduction

- 2.1. The Organisation for Economic Co-operation and Development (OECD) announced in July 2021 the international tax reform framework of a two-pillar solution to address the Base Erosion and Profit Shifting (BEPS) risks arising from digitalisation of the economy. In October 2021, over 130 jurisdictions in the OECD/G20 Inclusive Framework on BEPS (IF) reached an agreement on the two-pillar solution.
- 2.2. Abbreviations used in this policy letter are listed in Appendix 1, with further explanation of how the GloBE rules operate set out in Appendix 2.
- 2.3. Pillar One targets multinational enterprise (MNE) groups with global revenue above €20 billion and total profits greater than 10% of their global revenue, with the revenue threshold to be reduced to €10 billion subject to a review beginning seven years after implementation. It provides jurisdictions in which consumers and users are located (i.e. market jurisdictions) a new taxing right over a portion of the residual profits of the largest and most profitable MNEs in the world. Importantly, there is an exclusion for certain regulated financial services.

- 2.4. Pillar Two¹ targets MNE groups with global revenue above €750 million. It ensures that these MNEs pay a minimum effective tax of 15% in respect of the profits derived from every jurisdiction they operate in through two interlocking rules, the primary IIR and the secondary Undertaxed Profits Rule (UTPR), which are together referred to as the GloBE rules. To preserve its own taxing right, a jurisdiction may also consider imposing a domestic minimum top-up tax (DMTT). As GloBE is a common approach, jurisdictions are not required to adopt the rules, however where they have chosen to, they should implement and administer the rules in a way that is consistent with the outcomes provided for in the GloBE rules.
- 2.5. Pillar Two also comprises the Subject to Tax Rule (STTR) which allows source jurisdictions (being the jurisdictions in which the profits are made) to tax the gross amount of certain intra-group cross border payments, protecting their tax base and preventing base erosion. This is a treaty-based rule applicable to payments such as interest, royalties, etc paid from developing countries to a jurisdiction where the income would be subject to tax below the STTR minimum rate of 9%. A Multilateral Instrument (MLI) has been developed to facilitate swift implementation of this minimum standard. Alternatively, the STTR may be incorporated into the relevant tax treaties with developing countries through bilateral negotiations.
- 2.6. Throughout, the Policy & Resources Committee has been engaging the relevant stakeholders and MNEs to inform them of the latest progress of the formulation of the GloBE rules by the OECD and understand their views on the implementation of the GloBE rules in Guernsey. This active engagement with diverse and widespread stakeholders will continue, to help businesses to prepare for these changes.
- 2.7. On 19 May 2023, the then Treasury Lead of the Policy & Resources Committee made a joint statement², with his counterparts in Jersey and the Isle of Man, outlining that the Islands intended to implement an IIR and a domestic minimum tax to provide for a 15% effective tax rate for large in-scope MNEs, from 2025.
- 2.8. Since then, the Policy & Resources Committee has continued to monitor implementation internationally and adapt accordingly to developments which may require adjustments to implementation plans, to ensure Guernsey

¹ [Pillar Two Model Rules in a Nutshell \(oecd.org\)](https://www.oecd.org/tax/pillar-two/)

² [Guernsey aligns with Jersey and Isle of Man on approach to OECD's Pillar Two Framework - States of Guernsey \(gov.gg\)](https://www.guernsey.gov.gg/en/news/2023/05/19/guernsey-aligns-with-jersey-and-isle-of-man-on-approach-to-oecd-s-pillar-two-framework)

continues to offer an attractive and globally competitive investment environment.

2.9. On 21 May 2024, it was announced³ that the Policy & Resources Committee would be proposing the introduction of an IIR and a QDMTT in Guernsey from 2025. This coincided with a period of engagement with the business community on some specific design elements as part of the legislative drafting process.

2.10. In implementing the GloBE rules, the States of Guernsey will adhere to the following principles:

- Applying the GloBE rules and a domestic minimum tax to in-scope groups only (i.e. MNEs with global revenues above €750 million);
- Maintaining Guernsey's simple, certain and transparent tax regime with due regard to supporting and facilitating sustainable economic growth and employment;
- Minimising the compliance burden of in-scope MNE groups;
- Complying with international standards; and
- Maintaining overall alignment on corporate tax policy with Jersey and the Isle of Man.

2.11. As the GloBE rules⁴ have already been finalised based on the international consensus, there are significant limitations on variances from the GloBE rules, except in a few areas where alternative approaches are permitted on which there is ongoing engagement with the business community. This policy letter sets out the policy rationale and the design features of the GloBE rules that are relevant to Guernsey. There will be further engagement with interested stakeholders on the tax compliance and administrative framework.

3. Overview of the GloBE rules

3.1. The GloBE rules are designed to ensure that large MNE groups pay a minimum level of tax in respect of the profits derived from all jurisdictions where they operate. This is achieved by calculating a jurisdictional top-up tax, where any constituent entities (CE) (subsidiaries/branches) are taxed at an effective rate

³ [Guernsey takes next steps in implementing OECD Pillar Two Framework - States of Guernsey \(gov.gg\)](https://www.gov.gg/news/2024/05/21/guernsey-takes-next-steps-in-implementing-oecd-pillar-two-framework)

⁴ To ensure coordinated implementation of the GloBE rules with a consistent outcome, the OECD has published the GloBE Model Rules, Commentary to the GloBE Model Rules and Administrative Guidance on the GloBE Model Rules which provide for the detailed provisions: [Tax Challenges Arising from the Digitalisation of the Economy – Global Anti-Base Erosion Model Rules \(Pillar Two\) - OECD](https://www.oecd.org/tax/pillar-two/)

below 15%. The rules also allow for jurisdictions to introduce their own DMTT, protecting the right for that jurisdiction to tax the income generated by those subsidiaries or permanent establishments (PE) resident there.

3.2. The steps for charging the top-up tax are summarised as follows:

- Step 1: Determine whether an MNE group is in-scope (i.e. global revenues above €750 million).
- Step 2: Determine the income and taxes of members of the group (constituent entities).
- Step 3: Calculate the group's effective tax rate (ETR) in the jurisdiction and determine the amount of top-up tax (i.e. if ETR is below 15%).
- Step 4: Allocate the top-up tax to the group's constituent entities within that jurisdiction.
- Step 5: Impose top-up tax under the IIR or UTPR in accordance with the agreed rule order.

3.3. A Qualified DMTT (i.e. one that is implemented and administered in a way that is consistent with the outcomes provided under the GloBE Rules and Commentary) is directly creditable against liabilities otherwise arising under the IIR and the UTPR (i.e. has the effect of reducing the jurisdictional top-up tax to nil). Without the application of a Qualified DMTT, that top-up tax may be collected by another implementing jurisdiction through the imposition of either:

- 3.3.1. The IIR which imposes top-up tax on the parent entity in respect of its low-taxed constituent entities located outside the jurisdiction where the parent entity is located; or
- 3.3.2. The UTPR which is levied across the group (based on the proportion of tangible assets and employees in each jurisdiction that has implemented a UTPR) produces an increase in tax equivalent to the amount of remaining top-up tax not brought into charge under the IIR.

3.4. Jurisdictions have taken different approaches to transforming the GloBE rules into legislation. Some have enacted their own provisions of the GloBE rules⁵, whereas others have legislated by direct reference to the GloBE publications⁶. The latter ensures strict consistency with GloBE, which is of benefit to MNEs, therefore is the legislative approach Guernsey intends taking, recognising that limited adaptations may be required. The top-up tax will be provided for under

⁵ Approach adopted by the UK, Canada and Japan

⁶ Approach adopted by New Zealand

the existing Income Tax Law, 1975 as amended, therefore will rely on existing tax administration mechanisms.

- 3.5. The implementation of GloBE is fully compatible with Guernsey's existing domestic company income tax regime. This is because GloBE has been designed as a global set of rules that will be targeted at large multinational groups and will overlay the domestic regime of a jurisdiction.

4. Introduction of IIR and QDMTT in Guernsey

- 4.1. With the implementation of the IIR in Guernsey, it is expected that top-up tax attributable to foreign low-taxed constituent entities of the small number of Guernsey headquartered MNE groups in-scope will be charged on the ultimate parent entity (UPE) in Guernsey.
- 4.2. In limited situations, the IIR will apply to Guernsey Intermediate Parent Entities (IPEs) of MNE groups in-scope that are not headquartered in a jurisdiction that has introduced the GloBE rules or have more than 20% interest owned by minority investors.
- 4.3. The implementation of the IIR in Guernsey has the effect of switching off the complex UTPR rules for MNE groups and would provide greater certainty and administrative ease for Guernsey UPEs and IPEs. This would also enable those MNE groups to use Guernsey as their central filing jurisdiction for the GloBE Information Return (GIR).
- 4.4. To safeguard taxing rights, the intention is also to implement a DMTT on in-scope MNEs that is consistent with the outcomes of the GloBE rules in Guernsey, so that it will qualify as a QDMTT and achieve Safe Harbour status. This means that Guernsey resident CEs of in-scope MNE Groups would pay a 15% effective tax rate here on their combined Guernsey GloBE profits, a move that is expected to be viewed positively by some MNE Groups for reputational reasons, paying tax on profits where they are earned. The QDMTT can be deducted from the top-up tax liability, ensuring no top-up tax is payable elsewhere, either through an overseas IIR or UTPR.
- 4.5. As announced in May 2023 and again in May 2024, both the IIR and QDMTT will take effect from 2025, specifically for accounting periods beginning on or after 1 January 2025. The Policy & Resources Committee is not proposing introducing the UTPR at this time.

4.6. As outlined in the recent Government Work Plan debate, it is estimated that implementing these proposals will raise additional revenues of circa £30m per annum, although these are unlikely to be fully realised until 2027. The additional revenue is dependent not only on how the legislation is applied in Guernsey, but also how it is applied in countries where entities in Guernsey might also face tax, or in jurisdictions where business might relocate if they feel there is an advantage to doing so. This means there remains uncertainty around the estimated revenues.

4.7. The Policy & Resources Committee intends to continue engaging with affected stakeholders and industry bodies as the relevant legislation is developed, to inform design in the few areas where alternative approaches are permitted under the GloBE rules (for example accounting standards that may be used and currency for payment of the QDMTT) and to formulate the relevant administrative provisions. All such discussions will focus on the importance of offering an attractive and globally competitive investment environment for business, whilst maintaining Guernsey's tax base and ensuring what is implemented remains aligned with the GloBE rules so as to be assessed as "Qualified".

5. Recommendations

5.1. The Policy & Resources Committee is pleased to recommend that the States specify the OECD Pillar 2 GloBE rules, together with associated commentary and administrative guidance, including the OECD (2022) Safe Harbours and Penalty Relief: Global Anti-Base Erosion Rules (Pillar Two), as an international tax measure under section 75CC(1C) of the Income Tax (Guernsey) Law, 1975, to enable the Policy & Resources Committee to make Regulations introducing an Income Inclusion Rule and Domestic Minimum Top-up Tax for large in-scope multinational enterprises from the 1st January 2025.

6. Compliance with Rule 4

6.1. Rule 4 of the Rules of Procedure of the States of Deliberation and their Committees sets out the information which must be included in, or appended to, motions laid before the States.

6.2. The following information is provided in conformity with Rule 4(1):

- (a) the Propositions contribute to the States' objectives and policy plans by continuing to conform to the international taxation standards that it has agreed to;

- (b) there has been extensive engagement with the business community in the preparation of the propositions;
- (c) the Propositions have been submitted to His Majesty's Procureur for advice on any legal or constitutional implications;
- (d) the Propositions do not request the States to approve funding.

6.3. For the purposes of Rule 4(2):

- (a) the Propositions relate to the duties and powers of the Policy & Resources Committee in raising and collecting taxes and revenues and executing and requesting the extension of international agreements to which the Island is invited to acquiesce;
- (b) the Propositions have the unanimous support of the Policy & Resources Committee.

Yours faithfully

L S Trott
President

H J R Soulsby MBE
Vice-President

J P Le Tocq
R C Murray
J A B Gollop

List of abbreviations

BEPS	Base Erosion and Profit Shifting
CE	Constituent Entity
CFC	Controlled Foreign Company
DMTT	Domestic Minimum Top-up Tax
ETR	Effective Tax Rate
GIR	GloBE Information Return
GloBE	Global anti-Base Erosion
IF	OECD Inclusive Framework on BEPS
IIR	Income Inclusion Rule
IPE	Intermediate Parent Entity
MLI	Multilateral Instrument
MNEs	Multinational Enterprises
OECD	Organisation for Economic Co-operation and Development
PEs	Permanent Establishments
QDMTT	Qualified Domestic Minimum Top-up Tax
SBIE	Substance-Based Income Exclusion
STTR	Subject to Tax Rule
UPE	Ultimate Parent Entity
UTPR	Undertaxed Profits Rule

GloBE rules explained

1. Revenue Threshold

- 1.1. The GloBE rules apply to MNE groups which have consolidated annual revenue of €750 million or more, in at least two of the previous four fiscal years. Such four-year test is intended to provide for more stable and predictable outcomes. The revenue threshold is broadly similar to that used for the purposes of Country-by-Country Reporting and is estimated to cover over 90% of the global corporate income tax base.
- 1.2. Fiscal year means the accounting period with respect to which the consolidated financial statements are prepared (or assumed to have been prepared, if a group does not prepare consolidated financial statements).

2. MNE Group

- 2.1. A group is defined based on an accounting consolidation test. This means that the group comprises entities that are included in the consolidated financial statements prepared by the UPE. Entities not consolidated because they are being held for sale or excluded from consolidation solely based on size or material grounds, are still considered part of the group.
- 2.2. A group will then be an MNE Group if it has one or more entities or PEs located in a jurisdiction other than the UPE jurisdiction. This means that a standalone entity, which is not part of another group, but has one or more PEs located in another jurisdiction will also be considered as an MNE Group.
- 2.3. The UPE is an entity that owns directly, or indirectly, a controlling interest in any other entity, but is not controlled, directly or indirectly, by another entity.

3. Constituent Entity (CE)

- 3.1. Each entity that is a member of a group is treated as a CE. It is CEs that are subject to the GloBE rules, if they are treated as low-taxed.
- 3.2. A PE is treated as a separate CE from the entity that includes the PE in its financial statements. This seeks to ensure that foreign subsidiaries and PEs of MNE Groups are treated fairly.

4. Excluded Entities

4.1. A CE does not include an entity that is an excluded entity, the latter being outside the scope of the GloBE rules. This means that an excluded entity which is the UPE of an MNE Group is not required to apply the IIR (instead the rule is to be applied by the next entity in the ownership chain), although its revenue is still taken into account for the purposes of the application of the revenue threshold. An excluded entity does not have any administrative obligations under the GloBE rules.

4.2. The following types of entities are excluded entities:

- a. A governmental entity;
- b. An international organisation;
- c. A non-profit organisation;
- d. A pension fund;
- e. An investment fund that is a UPE; and
- f. A real estate investment vehicle that is a UPE.

4.3. Normally these entities would not be consolidated with other entities and therefore would not form part of an MNE Group, however for certainty in terms of the outcome, a list of excluded entities is explicitly provided in the GloBE rules.

4.4. Entities owned by excluded entities (such as asset holding entities) may also be excluded from the scope of the GloBE rules provided that certain ownership and activities tests are met. This is to protect their status as tax neutral investment vehicles.

5. Income Inclusion Rule (IIR): Top-down approach

5.1. The IIR is the primary rule, applied by a parent entity in proportion to its ownership interests in low-taxed CEs. The IIR is applied based on a top-down approach at the level of the UPE and works its way down the ownership chain. The UPE jurisdiction will usually have the first priority to collect the top-up tax. If the UPE is located in a jurisdiction where it is not required to apply a qualified IIR, then the next intermediate parent entity down the ownership chain is required to apply the IIR.

5.2. It is possible that multiple intermediate parent entities have an interest in the low-taxed CE, in which case rules will be applied to either turn off the IIR for one of the entities, or reduce the top-up tax applied, to prevent instances of double taxation.

5.3. If there is split ownership with a significant (more than 20%) minority interest holder outside an in-scope MNE group, then that minority interest holder has priority to apply the IIR irrespective of whether the UPE is also applying a qualified IIR.

6. Undertaxed Profits Rule (UTPR)

6.1. The UTPR works as a backstop rule to ensure that any residual amount of top-up tax that remains after the IIR applies will be allocated and collected.

6.2. The UTPR ensures that low-taxed constituent entities in the UPE jurisdiction are also subject to top-up tax to prevent distortions and level playing field concerns.

6.3. MNE's in the initial phase of their international activity will be exempt from the UTPR; this applies where its group has a maximum of €50 million of tangible assets and operates in no more than five other jurisdictions. This exclusion applies for five years after the MNE comes within scope of the GloBE rules for the first time.

6.4. The Policy & Resources Committee are not proposing introducing an UTPR at this time.

7. Calculation of Effective Tax Rate

7.1. The GloBE rules operate to charge a top-up tax on an in-scope MNE group in respect of its low-taxed CEs. This is accomplished through determining the ETR of the MNE group for each jurisdiction in which they operate and levying a top-up tax based on the difference between the jurisdictional ETR and the minimum rate of 15%. The calculation of ETR for a jurisdiction requires first a calculation of the income, and second a calculation of the tax on that income. The jurisdictional blending approach avoids risks that would otherwise arise to the integrity of the GloBE rules from shifting income taxes between CEs located in the same jurisdiction and also potential distortions caused by particular features of the local tax system.

7.2. The CE's GloBE income is determined by making certain adjustments to the entity's financial accounting net income or loss. These adjustments aim to better align the tax base for the global minimum tax with those typically applied for local tax purposes. For example they include removing dividends or other distributions where the MNE group holds 10% or more of the ownership interest

in the issuer, if the constituent entity has held full economic ownership of the ownership interest for a period of 12 months or more.

- 7.3. A targeted anti-avoidance rule exists to address intra-group financing arrangements, aiming to prevent MNE groups from executing transactions designed to raise the ETR in a low-tax jurisdiction. This is achieved by reducing GloBE income without a corresponding rise in taxable income on the high-taxed counterparty.
- 7.4. Consistent with the income allocation guidelines, covered taxes are typically attributed to the CE that includes the corresponding income in the computation of its GloBE income or loss. Covered taxes paid by the CE in respect of income of the PE are allocated to the PE. Likewise, covered taxes arising from a Controlled Foreign Company (CFC) tax regime are allocated to the CFC. There is a limitation on the “push-down” of taxes linked to passive income of the CFC or hybrid entity, aimed at capping the overall covered taxes on such passive income. This is done to prevent the ETR on the passive income of the CE from exceeding the minimum rate of 15%.
- 7.5. Withholding taxes and net basis taxes on dividends and distributions paid to other CEs are assigned to the distributing entity.

8. Calculation of Top-up Tax

- 8.1. A top-up tax is charged on an MNE group when its ETR in a jurisdiction is below the 15% minimum effective rate. The rate of top-up tax is the difference between the minimum rate and the ETR in a jurisdiction. The top-up tax percentage is applied to the net GloBE income in the jurisdiction, after applying the substance-based income exclusion (SBIE). The GloBE income in a jurisdiction is calculated by adding together the GloBE Income and GloBE losses of all the CEs in the jurisdiction.
- 8.2. There is an exception to this rule when the jurisdiction qualifies for the de minimis exclusion, which applies on an annual basis and at the election of the filing CE. If the exclusion applies, the top-up tax for the CEs in a jurisdiction shall be deemed to be zero, i.e., there is no need for the MNE group to compute the ETR of the CEs located in that jurisdiction. There are two conditions for a jurisdiction to be eligible for the de minimis exclusion:

- a. The average GloBE revenue of the MNE group in that jurisdiction for the current and two preceding fiscal years is less than €10 million; and
 - b. The average GloBE income of the MNE group in that that jurisdiction for the same period is less than €1 million.
- 8.3. Certain entities are also excluded within this jurisdictional calculation as set out in the GloBE rules. For example, income and taxes of investment entities and insurance investment entities located in a jurisdiction are excluded. It is possible to exclude such entities from the scope of a QDMTT, a design choice that is being discussed with industry.
- 8.4. The SBIE is a formulaic carve-out based on payroll costs and tangible assets. It seeks to exclude a fixed return for substantive activities within a jurisdiction from the application of the GloBE rules. The SBIE allows the GloBE rules to focus on excess income that is most susceptible to BEPS risks. The percentages used in the SBIE are higher during a transition period. The carve-out percentages start at 10% for payroll and 8% for tangible assets, tapering down to the normal rates of 5% over the 10-year transition period. The transition period applies regardless of when an MNE group comes within scope of GloBE rules. For a fiscal year beginning in 2033, the percentages for both are 5%.

9. Simplifications

- 9.1. Given the concerns about the complexity of the calculations and adjustments for GloBE purposes, the IF has agreed to develop jurisdictional safe harbours to relieve the compliance burden for MNE groups from performing full GloBE calculations when certain conditions are met. The permanent safe harbours allow in-scope MNE groups to assume that the top-up tax for a jurisdiction is zero under certain conditions to reduce the burden in complying with the detailed computational requirements of the GloBE rules. The transitional safe harbours allow the MNE groups to assess their potential liability for any top-up tax through a simple calculation or benchmark during the initial years of implementing the GloBE rules.
- 9.2. Of relevance to Guernsey is the QDMTT safe harbour, which it is intended would be sought. Where an in-scope MNE group is eligible for the QDMTT safe harbour in respect of a jurisdiction, the group will only need to undertake one QDMTT calculation and be relieved from applying the GloBE rules to that jurisdiction since the top-up tax payable in respect of that jurisdiction under the GloBE rules will be deemed zero.

9.3. To prevent the risk that there would be potential shortfall between the QDMTT and top-up tax under the GloBE rule, the QDMTT must meet the following additional set of standards to qualify for the safe harbour:

a) QDMTT accounting standard:

- i. This requires the GloBE income or loss to be determined using certain accounting standards. The QDMTT legislation should adopt either the financial accounting standard used for preparing the consolidated financial statements of the UPE or the local financial accounting standard rule is met.
- ii. Under the local financial accounting standard rule, the QDMTT is required to be computed based on the local financial accounting standard of the QDMTT jurisdiction if all of the constituent entities of the group located in that jurisdiction have financial accounts prepared based on that standard and either are required to keep or use such accounts under a local corporate or tax law; or such financial accounts are subject to an external financial audit.
- iii. The local financial accounting standard means a financial accounting standard permitted or required in the QDMTT jurisdiction by the authorised accounting body or pursuant to the local legislation that is an acceptable accounting standard or authorised financial accounting standard adjusted to prevent material competitive distortion.
- iv. In case where the local financial accounting standard rule is not met or the fiscal year of such accounts is different to the fiscal year of the consolidated financial statements of the in-scope MNE group, the QDMTT will be computed based on the financial accounting standard of the UPE's consolidated financial accounts pursuant to Articles 3.1.2 and 3.1.3 of the GloBE rules.
- v. The QDMTT jurisdiction must not give an option to the group to choose which financial accounting standard is to be adopted. Hence, in order to the meet the standard where a QDMTT jurisdiction adopts the local financial accounting standard rule, it shall require MNE groups to apply the standard consistently and use the local financial account standard where the conditions are met.

b. Consistency standard

The computations under the QDMTT must be the same as those under the GloBE rules, except where the Administrative Guidance explicitly requires the QDMTT to depart from the GloBE rules. There are two mandatory variations and three optional variations.

The mandatory variations require that a QDMTT:

- i. Should not take into account the allocation of cross-border taxes (such as CFC taxes or taxes incurred with respect to profits attributable to foreign PE), and
- ii. Should be computed using local currency in certain situations.

The acceptable optional variations are those which produce equivalent or greater outcomes than those under the GloBE rules, including:

- i. does not include or has a more limited SBIE, or
- ii. does not include or has a more limited de minimis exclusion, or
- iii. has a minimum tax rate above 15% for the purpose of computing the top-up tax percentage for the jurisdiction.

c. Administration standard

This requires that a QDMTT jurisdiction to the subject to the same ongoing monitoring process as the GloBE rules.

9.4. In certain cases, the QDMTT meets the above standards, but an in-scope MNE group will not be able to apply the QDMTT safe harbour because the group will be subject to the switch-off rule. The switch-off rule applies where a QDMTT jurisdiction puts in place the certain restrictions on imposing the QDMTT with respect to a particular CE or corporate structure. For example, the QDMTT jurisdiction decides not to impose the QDMTT on flow-through entities created in the jurisdiction. Whilst the group will not be able to benefit from the QDMTT safe harbour, the QDMTT will still be credited against any IIR or UTPR liability.

10. Tax compliance and administration

10.1. Under the GloBE rules, each CE of an in-scope MNE group is required to file a standardised GIR in the jurisdiction where the entity is located. Notwithstanding that the GloBE rules place the default filing obligation with respect to GIR on local filing, the rules also provide for the possibility to file a GIR in a single jurisdiction that will then exchange the information with other jurisdictions under a coordinated filing and exchange mechanism.

10.2. The OECD has released a standard template of GIR and explanatory guidance. The GIR is a comprehensive return that contains the group's general

information, corporate structure, safe harbours election, ETR computation on a jurisdictional basis, top-up tax calculations and attribution, etc. The information contained in the GIR is categorised in a way to facilitate the agreed dissemination approach.

- 10.3. Under the GloBE rules, the GIR and notifications shall be filed with the tax administration no later than 15 months after the last day of the reporting fiscal year. In order to provide an MNE group with additional time to set up the necessary compliance processes and systems when they first come within the scope, the filing deadline for the first year will be extended to 18 months after the end of its reporting fiscal year.