Tax Insights

Barbados charts a new course, the response to Pillar Two global minimum tax

1 Introduction

The Inclusive Framework on Base Erosion and Profit Shifting (BEPS) was established in June 2016 and brings together 142 countries and jurisdictions to collaborate on the implementation of the Organisation of Economic Co-Operation and Development (OECD)/G20 BEPS Package.

As of 9 June 2023, 139 members of the G20 Inclusive Framework on Base Erosion and Profit Shifting (the Inclusive Framework), including Barbados, agreed to implement the Two-Pillar solution to address the tax challenges arising from the digitalisation of the global economy.

The OECD's implementation of a radical reform to the international tax system aims to ensure that multinational enterprises (MNEs) with consolidated revenue in excess of EUR€750m, known as "in-scope" companies, will be subject to a minimum 15 per cent tax rate from the end of 2023 onwards in each jurisdiction in which the MNE operates. These are known as the Global Anti-Base Erosion (GloBE) Rules.

The tax imposed under the GloBE Rules is a "top-up tax" calculated and applied at a jurisdictional level. The GloBE Rules use a standardised base and definition of covered taxes to identify those jurisdictions where an MNE is subject to an Effective Tax Rate (ETR) below 15%. It then imposes a coordinated tax charge that brings the MNE's effective tax rate on that income up to the minimum rate (after taking into account a substance-based carve-out).

On 7 November 2023, the Prime Minister of Barbados, the Honourable Mia Mottley, delivered an eagerly anticipated Ministerial Statement to the House of Assembly to address these international tax developments that will significantly impact Barbados corporate entities.

The statement, similar to the one given just over five years ago, has again changed the landscape of corporation tax in Barbados. Barbados continues to "ride the waves", as mentioned by the Prime Minister, in response to the Base Erosion and Profit Shifting (BEPS) Action Plan set forth by the OECD.

2 Changes to tax rates, including shipping and insurance aspects and prepayments

The Prime Minister announced the forthcoming amendments to the Income Tax Act, Cap. 73, which are scheduled to come into effect on 1 January 2024.

Change in Tax rates

Effective 1 January 2024, the Income Tax Act, Cap. 73 shall be amended to increase the corporation tax rate to 9%. This increased tax rate will impact all corporate entities other than those that fall within the stipulated exclusions under the GloBE Rules.

Multinational Enterprises

For in-scope multinational enterprises (MNEs) whose Ultimate Parent Entity (UPE) is in a jurisdiction that has not adopted or implemented either the Income Inclusion Rule (IIR) or the Under-taxed Payment Rule (UTPR), or whose constituent entities are not subject to the IIR or UTPR, the current corporation sliding scale rates of 5.5% to 1%, established in 2019, will continue to apply. The Qualified Minimum Domestic Top-up Tax (QDMTT) will not apply.

As of income year 2024, and with effect from 1 January 2024, a Qualified Domestic Minimum Top-Up Tax shall be introduced consistent with the GloBE Rules for in-scope companies.

For subsidiaries and Permanent Establishments (PEs) of in-scope MNEs' constituent entities whose UPE is in a jurisdiction that has introduced an IIR or a UTPR, a top up tax will be imposed on the constituent entities to ensure that they will be subject to an ETR of 15% in accordance with the GloBE Rules.

The new corporation tax rate will only be applicable for the portion of profits in income year 2024 that is earned from 1 January 2024.

Small Businesses

Businesses with a gross income at or below BBD$2m, which are registered under the Small Business Developments Act, Cap. 318C (SBDA), will enjoy a preferential corporation tax rate of 5.5%.

International Shipping Industry

The international shipping industry will continue to be taxed under the current tax regime established in 2019. As international shipping income is currently excluded from the application of the GloBE Rules, the exemption afforded to international shipping corporations signals Barbados' acknowledgment of this industry's unique features and economic significance.

The Prime Minister has proposed that stakeholder consultations be conducted with a view to providing recommendations on whether Barbados should contemplate the implementation of a new taxation system tailored specifically to the needs of shipping companies. The proposed changes, if any, would come into effect from the fiscal year 2025.

Insurance Business

The existing corporate tax rates of 0% for Class 1 insurance business and 2% for Class 2 and Class 3 insurance business will remain unchanged.

Corporate Tax Prepayments

Effective 1 January 2024, in-scope multinational enterprises will be required to prepay corporation tax monthly. All other companies, except for small businesses registered under the SBDA, will be required to prepay corporation taxes on a monthly basis with effect from 1 January 2025.

Monthly prepayments for fiscal years will be calculated on the previous year's tax base subject to the new applicable corporate tax rate, net of the impact of the newly introduced tax credits. For example, prepayments due in 2024 will be calculated based on income year 2023 tax payable at the new rate of 9%.

3 Tax Credits

While these measures will result in increases in the corporate tax rate for most corporate entities in Barbados, certain countermeasures were also announced with a view to maintaining Barbados' viability as an attractive jurisdiction for foreign investment and global business. In addition to existing allowances, the following new tax credits will be introduced to stimulate investment and incentivise employment in strategic business sectors. These credits satisfy the requirements of a Qualified Refundable Tax Credit (QRTC) and are therefore designed in alignment with the GloBE Rules.

Who is eligible?

The proposed tax credits will be available to entities subject to a corporation tax rate of 9% and those which are subject to the QDMTT. These tax credits will be offset against any other tax liability for a period of four (4) years.

Tax Credits

1. Qualified Job Credit

A tax credit will now be available for eligible payroll costs for designated activities in the following sectors:

- Fintech activities;
- Wholesale distribution and trading without physical inventory or storage in Barbados; and
- Research and development in medical, scientific, engineering, information technology, artificial intelligence, distillery and refinery sectors, and such other activities as may be determined by Ministerial Order.

Entities in the foregoing sectors are eligible to qualify for the qualified job credit which will be calculated on the average payroll costs on a sliding scale as follows, but the maximum average qualified job credit shall not exceed 300% collectively:

Number of Employees	Tax Credit %
First 50 employees	75%
51 - 100 employees	175%
101 - 150 employees	300%
151 - 200 employees	400%
200+ employees	475%

For the purpose of the qualified job credit, “employee” means a full-time employee as defined in section 85(1) of the Income Tax Act.

Eligible payroll costs will include: expenditures for salaries, wages and other employee benefits and remuneration such as medical insurance, National Insurance contributions, payments to a pension fund or retirement benefits, bonuses and allowances payable to eligible employees.

The qualified job credit shall not be granted for eligible payroll costs that can be considered excessive and unreasonable, having regard to the entity’s economic operations. Eligible payroll costs shall not be deemed excessive or unreasonable provided they are ordinary and necessary business expenses incurred for bona fide purposes other than to obtain a qualifying job credit.

2. Research and Development Credit

A research and development (R&D) credit of 50% on qualified expenses will be made available to any entity in Barbados which carries on basic research, applied research or experimental research activities geared towards innovating and introducing new products and services approved by the Minister of Finance by Ministerial Order (qualifying R&D activities).

This tax credit is available to entities conducting the qualifying research and development activities in the following sectors:

- Medical
- Science and technology
- Finance
- Information Technology, including Artificial Intelligence;
- Distillery or Refinery; or
- Any other industry added by Ministerial Order.

Qualifying expenses will include expenses for plant, equipment, materials and assets used in the course of the qualifying R&D activities, as well as outsourcing and local overhead expenses incurred in support of these activities.

4 Safe Harbours

The Corporation Tax Reform 2024 Policy Paper makes reference to the implementation of a number of safe harbours in relation to the new top-up tax:

1. **QDMTT Safe Harbour**
2. **UTPR Safe Harbour**
3. **Country-by-Country Reporting (CbCR) Safe Harbour**

These safe harbours serve to reduce the administrative and compliance burdens imposed on taxpayers in the implementation of the GloBE Rules.

QDMTT and UTPR Safe Harbour

An MNE group qualifying for the QDMTT safe harbour or the UTPR safe harbour (a temporary safe harbour applicable for fiscal years ending on or before 31 December, 2026) in Barbados, would be able to exclude the application of the GloBE Rules in other jurisdictions. This works by jurisdictions implementing the GloBE Rules including mechanisms in their laws that reduce the respective top-up tax for Barbados to zero.

It should be noted that the qualification of Barbados tax law for the safe harbour entitlement would require close alignment to GloBE Rules and stipulated conditions. The determination of such qualification is dependent on a peer review process. The Prime Minister has committed to ensuring that the new top-up tax would qualify for the QDMTT safe harbour.

CbCR Safe Harbour

The transitional CbCR safe harbour, also at present temporary, enables a significant simplification of the GloBE Rules by determining the top-up tax for a jurisdiction to be zero. This is based on data from CbCR reports that meet certain conditions of which the *de minimis* rule would be of particular application for taxpayers in Barbados subject to CbCR. This rule applies when the MNE Group reports Total Revenue of less than EUR€10m and Profit (Loss) before Income Tax of less than EUR€1m in Barbados.

Impact on Taxpayers

The implementation of the safe harbours in Barbados would offer a reduced administrative and compliance burden for taxpayers, albeit primarily at group or ultimate parent level. The applicability of the CbCR safe harbour will have the potential to significantly reduce compliance requirements for eligible taxpayers. It is therefore important to ensure that CbCR reporting is undertaken in a manner that would comply with the GloBE Rules. Safe harbours also provide greater certainty that there would be no additional top-up tax payable to other jurisdictions.

5 Looking Ahead

The Prime Minister indicated that there would be future developments to further incentivise investment in Barbados. In particular:

- National Development Credit
  - A national development credit will be developed following extensive consultation, geared towards investment in national development projects for low-income housing, historic buildings, public medical facilities including hospitals and polyclinics, hospices and schools up to tertiary level.
- Credit Mechanisms for the Blue and Green Economy
  - Details of tax credits for these sectors are to be announced in the 2024-25 Financial Statement by the Minister of Finance.
- Shipping and Aviation
  - A working group is to be established by January 2024 to develop incentives for these sectors.

6 Conclusion

While the changes in tax laws will have a significant impact on all Barbados corporate entities whether operating locally, regionally or globally, Barbados remains steadfast in its commitment to upholding the highest international standards. The country continues to be an attractive destination for global business as it strives to adapt to the evolving international tax landscape.

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Let's talk

For an in-depth discussion of how this issue might affect your business, please contact:

Tax and Legal services

Gloria Eduardo
Tax Partner
T: +1 246 626 6753
E: gloria.eduardo@pwc.com

Sophia Weekes
Tax Partner
T: +1 246 626 6758
E: sophia.weekes@pwc.com

Javier Lemoine
Tax Director
T: +1 246 626 6661
E: javier.lemoine@pwc.com

Ronaele Dathorne-Bayrd
Tax and Legal Services Leader
T: +1 246 626 66
E: ronaele.dathorne-bayrd@pwc.com

Amanda Layne
Tax Director
T: +1 246 626 6879
E: amanda.layne@pwc.com

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