

OECD releases Pillar Two GloBE Consolidated Commentary & Examples

6 May 2024

In brief

The OECD on 25 April 2024 published [Consolidated Commentary](#) (Commentary) to the Pillar Two Global Anti-Base Erosion (GloBE) Model Rules that incorporates all agreed Administrative Guidance that has been released by the Inclusive Framework (IF) from March 2022 through December 2023. The Commentary aims to provide tax administrations and taxpayers with guidance on the interpretation and application of the GloBE Model Rules, which are designed to ensure that large businesses pay a minimum level of tax on the income arising in each jurisdiction where they operate. The OECD also released updated [Illustrative Examples](#) (Examples), originally published in March 2022, including the examples that were developed as part of the various pieces of Administrative Guidance approved by the IF before the end of December 2023.

In detail

Overview

The Commentary is intended to promote a consistent and common interpretation of the [GloBE Model Rules](#) by explaining the intended outcomes under the rules and clarifying the meaning of certain terms, and has been approved by the IF. The Examples, issued by the OECD Secretariat (not the IF), illustrate the application of the GloBE Model Rules to certain fact patterns and are intended only for this purpose and do not form part of the Commentary.

The Commentary and Examples update the original [March 2022 GloBE Commentary and Examples](#) by consolidating the various pieces of Administrative Guidance approved by the IF before the end of December 2023. This includes:

- [December 2022 Administrative Guidance](#), covering the Transitional CbCR Safe Harbour, Simplified Calculations Safe Harbour, and Transitional Penalty Relief Regime;

- [February 2023 Administrative Guidance](#), covering Qualified Domestic Minimum Top-up Taxes (QDMTT), Ordering, Global Intangible Low-Taxed Income (GILTI) allocation/coexistence, scope, technical details for other income and taxes, insurance companies, and Transition Period issues;
- [July 2023 Administrative Guidance and GloBE Information Return](#), covering Marketable Transferable Tax Credits, Non-Marketable Transferable Tax Credits, other tax credits, QDMTT design features and QDMTT Safe Harbour, Transitional UTPR Safe Harbour, Substance-Based Income Inclusion (SBIE), and currency conversion rules; and
- [December 2023 Administrative Guidance](#), covering Purchase Price Accounting adjustments in Qualified Financial Statements, Simplified Effective Tax Rate and Routine Profits Test, hybrid arbitrage arrangements, revenue definitions for scoping, fiscal year and tax year mismatches, allocation of blended controlled foreign corporations (CFCs) taxes, transitional filing deadlines for multinational enterprise (MNE) groups with short reporting fiscal years, and the Simplified Calculation Safe Harbour for non-material constituent entities.

The Commentary and Examples do not include any new technical guidance. Annex A of the Commentary includes guidance on the safe harbours. The consolidated version of the Examples incorporates additional examples that were developed for the Administrative Guidance published since the prior version.

Observation: *The Commentary now stands at 334 pages, which is notably shorter than the sum of the pages in the original commentary and all the piecemeal published guidance to date. Consolidation should hopefully help in terms of referencing a single source of guidance. However, as the IF plans to issue more guidance on specific areas, it is expected that the commentary will be further updated and consolidated in the future.*

Forthcoming GloBE Administrative Guidance

The IF is aiming to release the next batch of GloBE Administrative Guidance by the end of June. This is expected to largely focus on details for identifying and tracking deferred tax liabilities in scope of the five-year recapture rule and additional guidance on the allocation of taxes imposed on the income of permanent establishments (PEs) and CFCs. The following topics could also be covered: the treatment of losses for different types of entities; divergences in carrying values between GloBE and financial accounting (IFRS/GAAP); securitisation vehicles under certain accounting standards; return to provision and transfer pricing adjustments, and further guidance on flow-through entities.

Future Priority Guidance/Administrative and Tax Certainty Mechanisms

The IF continues to focus on implementation issues now that countries are actively legislating the GloBE rules/EU minimum tax Directive. There are now over 35 countries with rules effective in 2024 and the OECD expects over 60 countries to have rules in place by 2025. Concerning the subject to tax rule ([STTR](#)), a signing ceremony of the multilateral instrument (which was open for signature in October 2023) is planned for 19 September 2024 in Paris, France.

Observation: *The IF is apparently considering a 'pause' on further administrative guidance after the next batch is released. This is, perhaps, to allow the rules to stabilise and would enable countries to incorporate the already agreed administrative guidance into their national legislation. However, the OECD is expected to continue working on a general anti-arbitrage provision (which will likely be finalised before the end of the year to ensure it is broadly applicable in 2025), an exchange of information mechanism for sharing GloBE information, and (perhaps, aspirationally) a multilateral dispute resolution mechanism to address the incorrect application of the rules by implementing jurisdictions. Further guidance will likely also be necessary for the intragroup financing arrangement*

rule, mobile assets, and the substance-based income exclusion (SBIE). No word, unfortunately, on what taxpayers might find most useful: permanent safe harbours.

Let's talk

With the first quarter of 2024 behind us, Pillar Two is now in effect in some jurisdictions and MNEs are required to estimate and disclose Pillar Two impacts for interim and annual reporting periods. PwC has released three regional Pillar Two Guides (for [US MNEs](#), [EMEA MNEs](#), and [Asia-Pacific MNEs](#)) as a practical reference to help companies navigate Pillar Two. For a deeper discussion of how Pillar Two might affect your business, please contact:

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