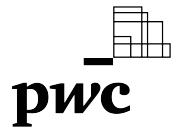


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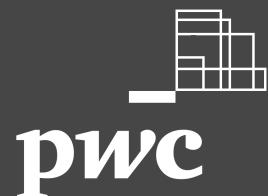
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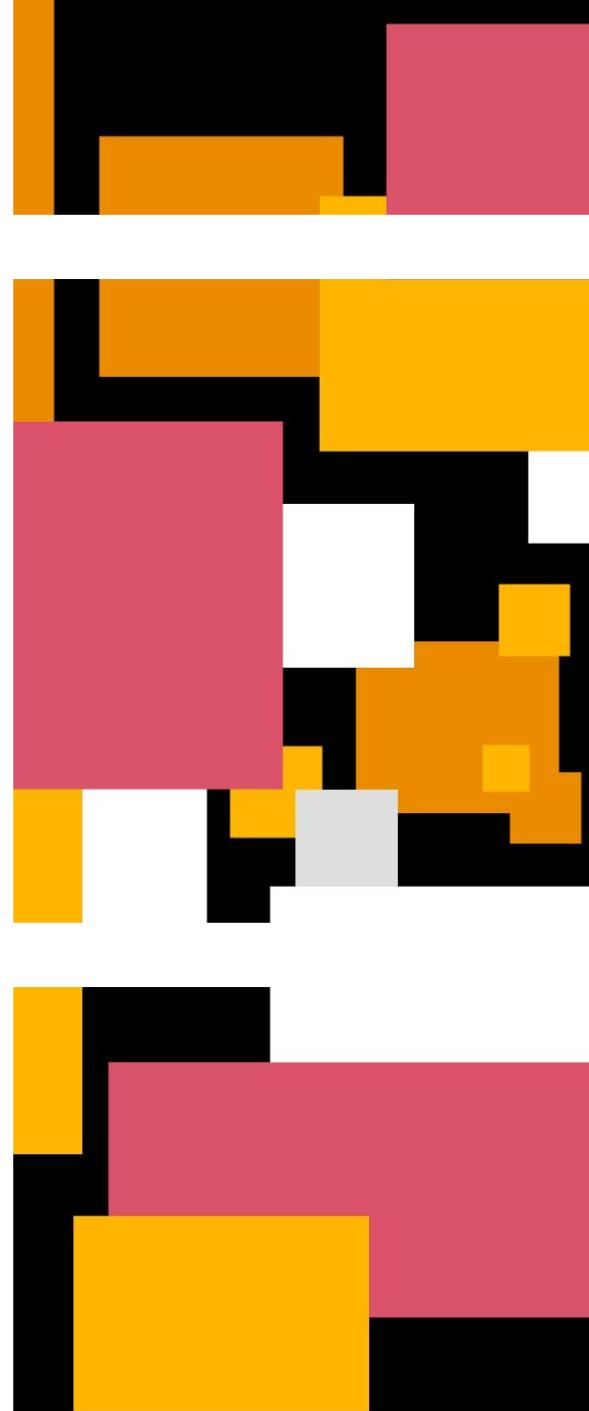
Non-Executive Directors tax webinar

PwC Channel Islands

10 November 2022



Sli.do #2133633



Your speakers today



Tom Cowsill
Tax Director - Jersey



Charlotte Beattie
Tax Director - Guernsey



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Tax Senior Manager - Jersey



Natalie Chamberlain
Tax Senior Manager - Guernsey

1. Economic Substance
2. FATCA and CRS
3. Other tax developments
4. Key takeaways
5. Pillar II update



1

Economic Substance

Economic Substance

Companies - current themes to monitor



Falling off the agenda

Lack of consistency

Basic errors persist

Economic Substance Partnerships

Legislation issued effective 30 June 2021

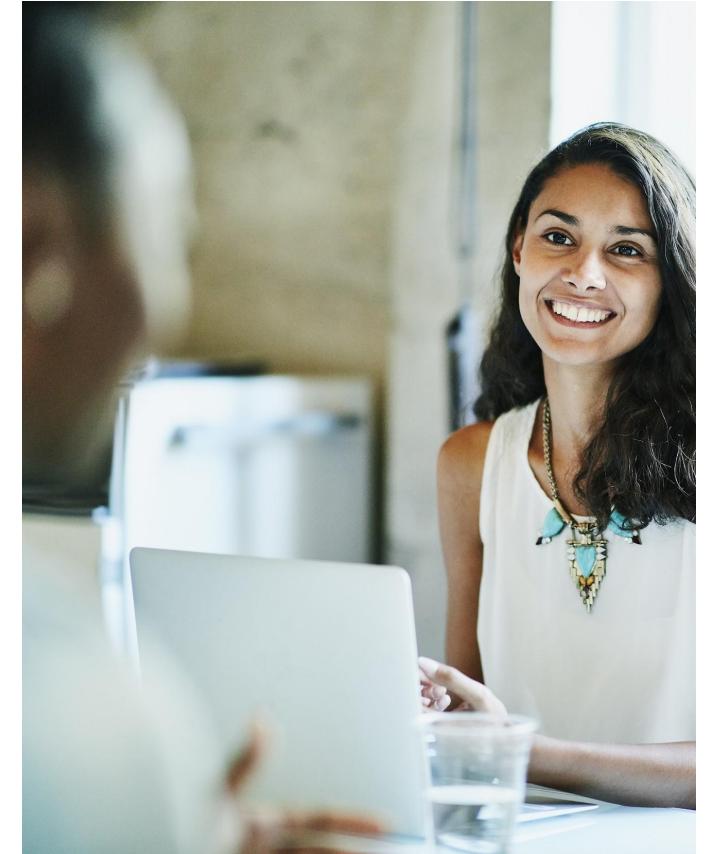
CI “**resident partnership**” undertaking a “**relevant activity**” which isn’t **exempt**.

Dates

- New partnerships 1 July 2021.
- Pre-existing partnerships 1 January 2022.
- First filings 2023.

Exemptions

- Funds.
- Domestic partnerships.
- Partnerships comprising only individuals subject to personal tax in the CD.



Practical issues

Exemptions

- Greater focus on exemptions is a development vs the corporate regime.
- Might not be enough to state no gross income from a relevant activity.

Non-CI entities

- Escalate any non-CI established entities.
- Revenue Jersey stated that certain partnership-type foreign entities are subject to tax at 20%.
- Being challenged, but yet to resolve.

Holding Partnership

- Holding Partnership definition links to companies law but extended to include LLPs.
- What about ILPs?

Duplication

- Does the overall structure make sense?
- Focus on potential duplication or where no entities in-scope.
- LP/GP complexity.

Economic Substance

Dealing with errors

Early Heads up

Investigate

Remediate

Escalate

Maintain
unprompted
notification

What was the root
cause

Migrate?
Board composition?
Controls?

Unprompted,
transparent
reporting

Won't prevent information
exchange

Revenue Authority Audits

Audits commenced at a company level in 2021

Actively challenging board meetings through minute reviews

Administrator-level audits have now commenced in Jersey:

- P&Ps, training, resourcing, board engagement, sample test



Recommendations for Boards

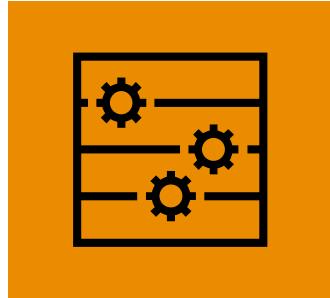
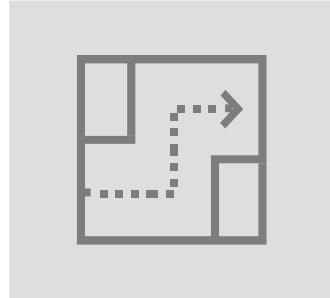
- Ensure substance is considered at least annually.
- Partnerships - undertake assessments ASAP if not already done.
- Clarify escalation points:
 - In-scope entities
 - Foreign entities with a POEM in the CI
 - LP/GP structures
- Who is reviewing the overall structure?
- Errors happen - deal with them transparently.
- If relying on an administrator, understand their ES compliance framework, consider adequacy of minutes.



2

FATCA and CRS

Why is FATCA and CRS now a key focus?



Exchange of information is an essential tool for tax authorities to ensure that all taxpayers pay the correct amount of tax through the cross border sharing of information between tax administrators to prevent tax evasion

This information sharing initiative has been hugely successful globally. The Global Forum 2021 report identified that 90% of receiving tax authorities were using the information supplied for their domestic monitoring and enforcement processes. €112 bn in additional tax revenues has been generated through AEoI

The international focus has shifted in recent years from ensuring appropriate implementation of these rules, to assurance that there is effective compliance of policies, procedures and controls.

There is now a big drive to undertake “Thematic Reviews” focused on corporate governance and training, focusing on whether a financial institutions senior management take an active lead to ensure the financial institution has appropriate policies and procedures in place and that they are applied correctly.

The audit of CRS - going beyond what is reported

How does the business evidence the quality and completeness of data reported and the effectiveness of operational procedure?

Documentation: one or more documents? When was it prepared, and does it remain relevant and appropriate?



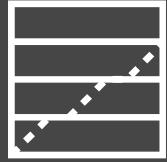
Key Persons - how are they evidencing their role or oversight? Can they talk to the wider process?



Reliance on automation - what parts of the process are systems led and how is the business verifying the outputs



Key aspects for Non Executive Directors



The lack of audit trail at entity level

Increase in centralised AEoI reporting in administrators.

Often client entities have no separate policies/ procedures or reporting records.

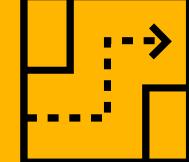
Lack of visibility by client entity/ boards surrounding the reporting undertaken.



Key Person Risk

Revenue Authorities expect key senior stakeholders of the business are involved in the reporting function.

Does your position provide you with qualification to undertake a supervisory function?



The implications of the revised penalty regime

Penalty regime change in Guernsey and forecast for Jersey.

To illustrate: combined account value of £10m with data errors would result in a 'negligence' (ie: the lower % charge) penalty of £50,000.

Considerations for Boards

Do you know the FATCA and CRS reporting requirements for the businesses you sit on?

Do you have any oversight over the policies, procedures and controls and have they been approved by the board?

Do you receive regular reports from any outsourcers?

Are information exchange matters discussed at board meetings?

Have you considered the overlap between AEol and the AML regulatory requirements for your businesses?



3

Other tax developments

Channel Islands and UK

Guernsey Beneficial Ownership Register

The States of Guernsey Policy and Resources Committee are proposing changes so as to allow increased access to information held by the Guernsey Registry.

Changes will seek to meet a commitment made jointly by the Crown Dependencies in 2019 to the UK on increased access to information as part of the global drive on further transparency of beneficial ownership of legal persons.

HMRC and Offshore Corporates owning UK property

HMRC are launching a new campaign in November 2022 to tackle non-compliance.

After reviewing data they have identified non-resident corporate owners that may not have met certain UK tax obligations.

HMRC will issue one of two letters depending on the circumstances and the letters will be accompanied by a Certificate of Tax Position and a Notice of Intention to Disclose.

UK Register of Overseas Entities

The Economic Crime (Transparency & Enforcement) Act 2022 came into force in March 2022, introducing a mandatory public Register of Overseas Entities at Companies House for all overseas registered entities owning UK land as at February 2022.

Non-compliance constitutes a criminal offence with financial penalties and will prevent entities from entering into future property transactions.

The deadline to register is 31 January 2023. Companies will be required to submit annual, verified confirmation statements.

4

Key takeaways

Key takeaways

Increased Revenue activity on tax transparency and increasing errors for failings

Understand your responsibilities and risks

If relying on an administrator, understand their ES/AEol frameworks, P&Ps, training, record keeping, 2nd/3rd LoD review

Errors happen - deal with them transparently

Prepare for Revenue audits and investigations in advance

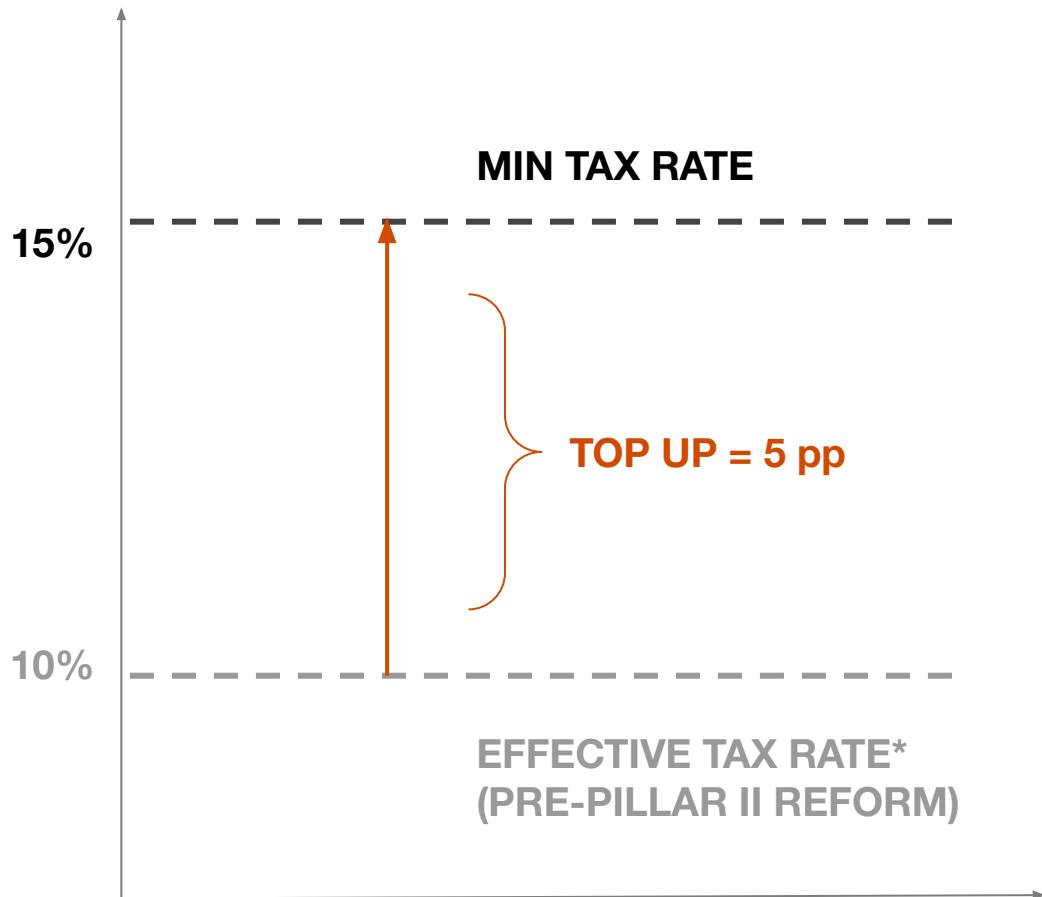


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Pillar II update

Pillar II: Introducing “GloBE”

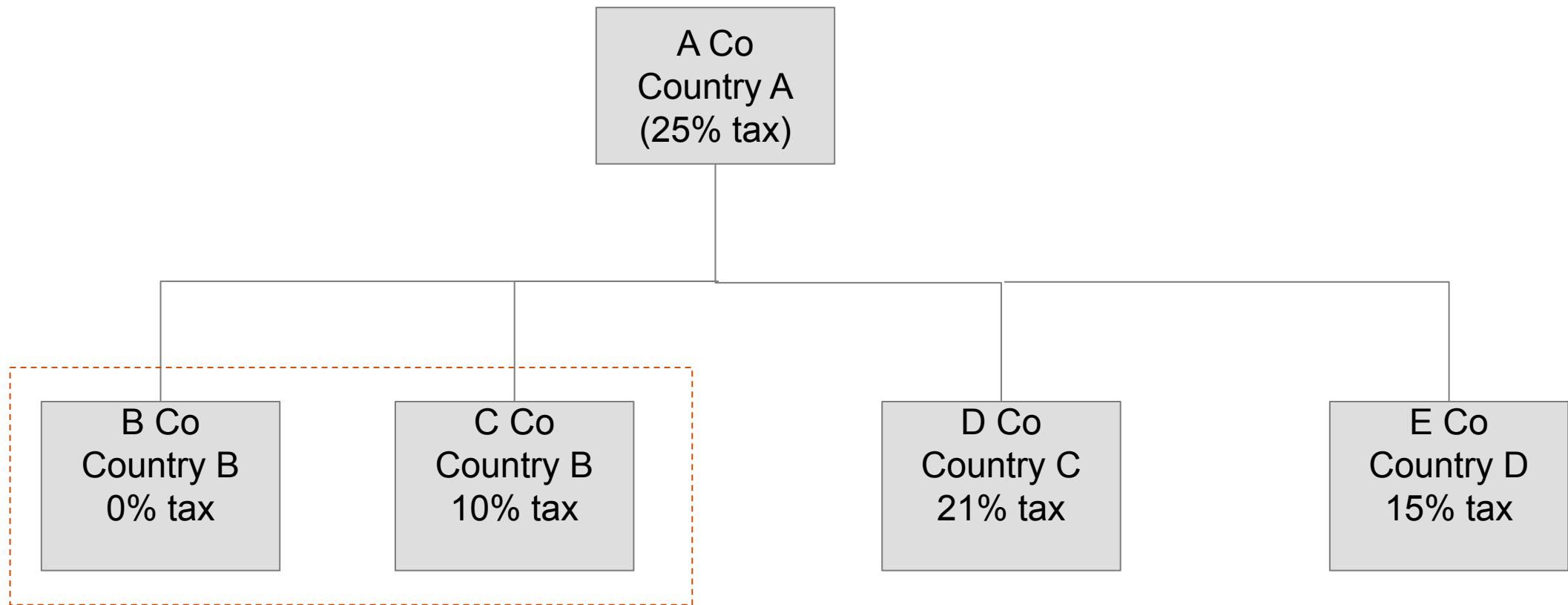
Model rules (20 December 2021), Commentary (14 March 2022)



- MNE Groups with global turnover above EUR750m
- Establishes a global minimum ETR of 15% at jurisdictional level
- Mechanically: where the jurisdictional tax liability is below a minimum, there will be a top up to the minimum effective tax rate (see graph)
- Different rules ensure that such minimum rate will be achieved in every jurisdiction, even where countries do not apply Pillar II:
 - Income inclusion Rule (IIR)
 - Under Tax Payment Rule (UTPR)
 - Subject to Tax Rule (STTR)

GloBE rules

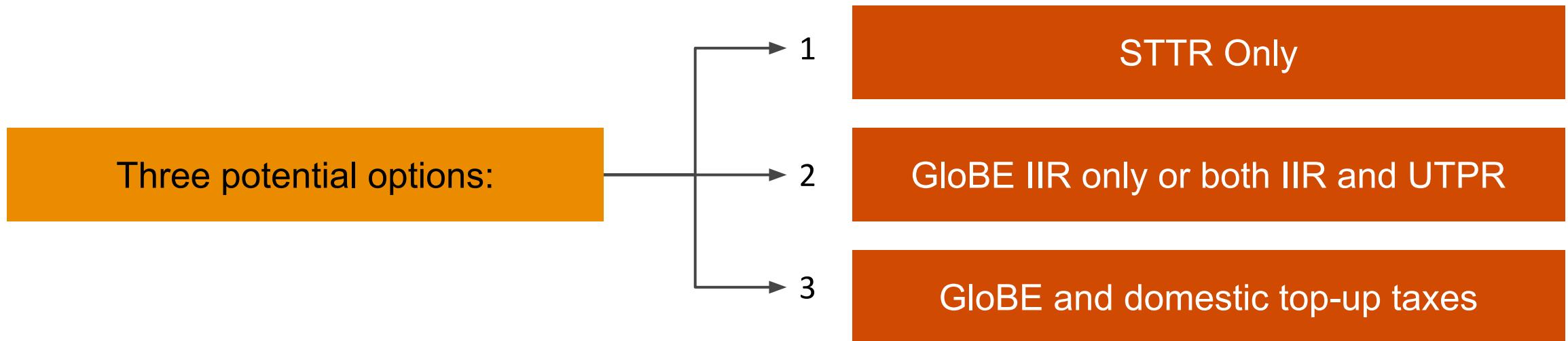
Simplified Pillar 2 example



Top-up tax on B Co and C Co potentially payable by A Co in Country A

Work still required for D Co and E Co to establish ETR - domestic deductions could take below the 15% threshold

What next for the Channel Islands



Jersey

- April policy reflection paper
- Election 22 June 2022.
- Delayed implementation takes some time pressure off.
- Further developments H2 2022, working towards 1 January 2024 implementation?

Guernsey

- Limited public announcements
- Policy options still being considered
- Likely to monitor and follow Jersey position?
- Further developments in 2023 working towards expected implementation from 2024

Director considerations

Impact question - has Pillar 2 been assessed and discounted?

- Alignment to CbCR a helpful starting point for discussions.

Impacted groups - monitor legislative developments closely

- What are your accounts disclosure requirements? Could have a material impact if it applies.
- Coordination at a group level?
- Who else is monitoring CI approach?

Accuracy of information reporting - Pillar 2, Substance and AEOI are data driven

- All connected to deepening the theme of greater transparency, information exchange and cooperation.



Questions and Answers

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Thank you

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