Global Anti-Base Erosion Rules

March 2023

In brief

In the 2023 Budget presented in parliament on 14 February 2023, Deputy Prime Minister and Finance Minister Mr Lawrence Wong noted that Singapore plans to implement the Global Anti-Base Erosion (GloBE) rules as well as a domestic top-up tax (DTT) for in-scope multinational enterprises (MNEs) from their financial year beginning on or after 1 January 2025. Given the complexities involved, these MNEs should start preparing for the new regime early notwithstanding the 2025 start date. The recently announced transitional safe harbour provisions may provide a brief reprieve for MNEs which qualify for them although the additional time should be utilised effectively to implement a robust system and process to fulfil the compliance requirements.

In detail

<u>Singapore's implementation of GloBE rules</u>

Tax incentives have historically been an integral part of Singapore's fiscal toolkit in attracting foreign direct investments (FDI). There has been much interest in how Singapore's tax system (and specifically its incentive regime) will be affected ever since the OECD Inclusive Framework published its two-pillar solution to address the tax challenges arising from the digitalisation of the economy. This is because the GloBE model rules would ensure that large MNEs - those with consolidated annual revenues of EUR 750 million or more - pay tax at an effective rate of at least 15% on profits earned in the jurisdictions in which they operate. Such a global minimum tax would therefore negate the benefits of concessionary tax rates which certain large MNEs enjoy in Singapore through incentives awarded in return for making substantial investments locally.

As Pillar Two implementation gained momentum globally in December 2022 with the EU agreeing to adopt the draft Pillar Two Directive, Japan including the regime in its 2023 Tax Reform proposals and South Korea approving draft legislation for such a tax, the attention has turned to Singapore. This is particularly so since Singapore has indicated that it will adjust its tax system in response to international tax developments, including exploring the introduction of a domestic minimum top-up tax (DTT).

With the announcement that Singapore plans to implement the GloBE rules and DTT for in-scope businesses from financial year beginning on or after 1 January 2025, the Finance Minister has provided much needed certainty to the business community. It is also reassuring that he reiterated the intent to continue to engage businesses and provide them with sufficient advance notice before the rules become effective. Additionally, it should be noted that Singapore will continue to monitor international developments and adjust its implementation timeline as needed if there are any delays.

While the GloBE rules are meant to have the status of a common approach, businesses are concerned if there will be local variances upon adoption. There is therefore keen interest in how the Singapore will implement these rules, as well as the DTT. Typically, tax changes contained in the Budget Statement will be included in a set of draft legislation published for public comments a few months after the Budget speech is delivered in parliament. If this timeline is followed here, there will be an opportunity for the public to give comments (although this consultation exercise will usually focus on clarity of drafting and is not a reconsideration of policy direction taken). It remains to be seen whether this timeline is followed, since the new regime is planned to take effect only in 2025.

Observation

In deciding on a 2025 start date, some MNEs with operations in Singapore could be subject to a top-up tax in another location (generally, this should be their ultimate parent entity's (UPE) location but may be another one, depending on the corporate holding structure) if that location implements GloBE rules earlier. Without a corresponding DTT, the tax not collected in Singapore, say because of a tax incentive, could be picked up and paid elsewhere thus negating the benefit of the tax incentive offered to the business in Singapore.

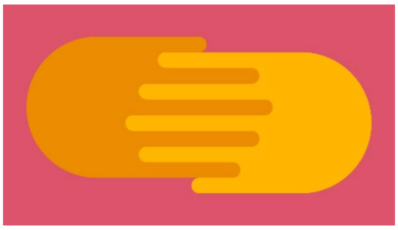
That said, not all of Singapore's key trading partners have adopted the GloBE rules, the most notable of which is the US. The 2025 start date could mean some MNEs may continue to enjoy the benefits of their tax concessions – this would preserve Singapore's competitiveness in attracting FDI in the meantime. Singapore-headquartered MNEs may also benefit during this time if their effective tax rate (ETR) (computed under these rules) is less than 15% in any foreign jurisdiction in which they operate. However, with potentially different effective dates between jurisdictions and given the broad ambit of the GloBE rules, MNEs should review their holding structures and where each of their entities is located to assess if any part of their operations is caught by the global minimum tax regime introduced in another jurisdiction.

In view of the above, in-scope MNEs should review their holding structures, monitor the progress of GloBE rules implementation in the countries in which they operate, and consider related developments such as availability of grants and qualified refundable tax credits as alternative means to alleviate investment costs.

Groups with turnover close to the EUR 750 million threshold should also consider the relevance of these rules, e.g. in the event any mergers and acquisitions activities were to bring them within the ambit of the global minimum tax regime.

The takeaway

In-scope MNEs should start preparing for the new regime early notwithstanding the 2025 start date and the recently announced transitional safe harbour provisions. The GloBE rules are extremely complex, and not identical to current tax laws nor do they follow accounting standards in all respects. The compliance with these rules requires a vast amount of data, not all of which are readily available in current financial systems. MNEs will do well to begin their implementation of systems and processes to collate the relevant data and perform the calculations for the necessary reporting that will be a key part of the GloBE regime. Furthermore, with potentially different effective dates between jurisdictions, MNE groups should closely monitor international developments, assess their exposure (if any), and take full advantage of the two-year lead time to prepare for this new tax regime.



Contact us

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