The 5th BRITACOF

Deepening Tax Administration Cooperation for High-Quality Belt and Road Development

Hong Kong, China 24-26/9/2024

The OECD GloBE Rules (Pillar 2) and Digitalization

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The Starting Point

Pillar Two Current Status

Published so far:

- GloBE Model Rules
- GloBE Model Rules Commentary (revised)
- GloBE Safe Harbour Rules (transitional)
- GloBE Information Return
- GloBE Administrative Guidance
  - *Batch 1, Feb'23*
  - *Batch 2, July'23*
  - *Batch 3, Dec'23*
  - *Batch 4, Jun' 24*

Expected to come:

- Tax Certainty Rules

EU Level:

December 2022: Agreement on Directive
→ mandatory introduction of the regulations in the EU member states

Germany:

- Since 1st Jan '24: Pillar Two Law effective
- Expected to come this year:
  Amendment Act, Tax Administration Regulation

<u>Open (and controversial) topic</u>
German legislator insists on separate financial statements as a starting point for GloBE Income calculation.
(no usage of IFRS packages)

Many countries are implementing (or plan to implement) the GloBE rules
→ including a QDMTT ("Qualified Domestic Minimum Top-up Tax") or first time CIT (e.g., Bermuda)

Local laws sometimes also contain registration obligations (even if the UPE is not based there), e.g. Belgium.
These registration requirements might have to be fulfilled at very short notice!

GloBE Rules Mechanics (1)

What? Global Taxation Concept by the OECD to be implemented worldwide

Goal? A Multi-National Enterprise (MNE) shall pay at least 15% income tax in every country it operates in

How?

ETR-Calculation per Jurisdiction:

$$\text{GloBE ETR per country} = \frac{\text{covered taxes per country}}{\text{GloBE Income per country}} < 15\% \,?$$

YES → **Top-Up-Tax-Calculation:** Top-up-tax = 15% - ETR, on excess profit

→ **Top-Up-Tax-Collection** with Income Inclusion Rule (IIR) via UPE (Siemens AG in GER)

→ Reporting & Declaration: **GloBE Information Return (GIR)**

NO

GloBE Rules Mechanics (2)

To ensure comparability between jurisdictions regarding the tax base and the taxes included into the equation, the GloBE rules define

- the **GloBE income or loss** (tax base) as the **Financial Accounting Net Income** and

- the **covered taxes** (tax) as the **current tax expense accrued in its Financial Accounting Net Income**

The starting point is no longer domestic law but Financial Accounting Standards (e.g. IAS, US-GAAP)

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The Problems and their Solutions

Problems & Solutions (1)

The GloBE approach brings with it two problems:

(1) **The Financial Accounting Net Income includes many components which usually are exempted/excluded from tax in many countries**

This includes, e.g., certain Dividends, Equity Gains or Losses, Disposition Gains, Policy Disallowed Expenses, Prior Period Errors etc.

Solution: Respective Adjustments to the GloBE Income

Problems & Solutions (2)

(2) The Financial Accounting Net Income does not match the respective domestic tax base

Because of different depreciation tables, asset and liability recognition rules etc., tax expense (= current tax expense) might be recorded in a different period than the respective Net income (= Tax base), thus under- or overstating the tax burden in the different periods

Solution: Deferred Tax Adjustments (so called Total Deferred Tax Adjustment Amount)

Many additional issues, such as the interplay between QDMTTs and IIR.

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The Problems with the Solutions …

The Solutions described add an extra layer of complexity

- **Adjustments to the Financial Accounting Income**
  - Data Points for the adjustments need to be defined and compiled
  - Data Points mostly don‘t flow from the ERP systems, because they do not fully match Financial Accounting terms
  - Certain adjustments are not made intra-period but inter-periods

- **Total Deferred Tax Adjustment Amount**
  - Capped at 15% or lower, if lower (4.4.1.)
  - Deferred Tax Liability recapture (4.4.4.): If deferred tax liabiliy is not paid within 5 years after having been taken into account it needs to be recaptured

- **+: Extra Complexity created by Qualifying Domestic Top Up Taxes (QDMTTs)**

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The Solution to the Problems with the Solutions…

GloBE Rules can only be handled using respective Digital support (Tool)

- **Starting Point is the ERP system landscape**

- **ERP might include a tax ledger**

- **A P2 ledger could be added or**

- **an extra P2 support system needs to be implemented**

For Tax Administrations, extra training needed
- to understand Financial Accounting including accouting for income taxes (coincept of deferred taxes)
- to understand the underlying ERP systems and accounts
- To understand the computation process and respective support systems

Full P2 audit almost not doable (also, full P2 compliance almost impossible) – possible approach could be a system audit approach.

Dataflows for the P2 calculation

ESPRIT

SiTax

CISS

CbCR-Tool Extension

...

HQ Tax Dpt.:
World Calculation
(accord. to GloBE rules)

HQ Tax Dpt.:
Adjusted World Calculation
(with QDMTT-data)

Germany:
UPE Filing
(top-up-tax declaration and GIR)

data per country
(accord. to GloBE)

adjusted data per country
(accord. to QDMTT)

Local Tax Teams:
Local QDMTT adjustments

Exchange of Information:
GIR

QDMTT-filing to **local tax administration**

SIEMENS

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Thank you