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Calculating the Global Minimum Tax Liability

Understanding OECD Pillar Two Guidelines as the EU Implements a Minimum Tax Directive on Multinational Enterprises

An Overview of OECD Pillar Two

What is Pillar Two?

- A global minimum tax framework seeking to establish a 15% minimum tax liability for each country of operation for large multinational enterprises (MNEs)
- MNE definition: annual consolidated revenues greater than EUR 750M for at least two of the previous four years
- Governmental entities, pension funds, and non-profits are excluded from the Pillar Two framework

When Does Pillar Two Take Effect?

- Effective January 1, 2024
  - Potential to impact the Q1 ETR for public companies in scope

How Does Pillar Two Work?

Pillar Two requires each legal entity in the MNE to:

- Calculate Global Anti-Base Erosion **(GloBE) Income**
  — Financial Statement Income +/- over 30 adjustments
- Determine **Covered Taxes**
  — Current + Deferred Tax Expense +/- over 20 adjustments
- Consider the applicability of a **Substance Based Carve-Out**
  — Excluded routine return on tangible assets and payroll

The minimum tax liability is applied at a jurisdictional[1] level:

- If the jurisdictional effective tax rate is less than 15%, a "top-up" tax is applied
- Any top-up tax is applied to the highest legal entity (Ultimate Parent Entity, or UPE), or the next highest legal entity that has passed legislation

Refer to the following page for a summary guide on how to calculate your company's global minimum tax liability

[1] Transitional Safe Harbors exist to reduce computational complexity for certain low risk jurisdictions

Additional insights for CFOs and corporate tax professionals are available here.

How to Calculate Your Company's Global Minimum Tax Liability

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Riveron's summary of the OECD Pillar Two Fact Sheet; additional insights for CFOs and corporate tax professionals are available in this article: EU to Implement Minimum Tax Directive on Multinational Enterprises

1 Identify Entities in Scope

- **Assess Consolidated Revenue of MNE Group**
  - EUR 750M Threshold
- **Identify Constituent Entities**
  - Entities included in group and those with Permanent Establishment
- **Remove Excluded Entities**
  - Entities not subject to GloBE rules
- **Determine location of each Constituent Entity**
  - Location is based on tax residence or Permanent Establishment

2 Calculate GloBE Income *

- **Determine Constituent Entities Financial Accounting Net Income**
  - Net Income (or Loss) presented on Consolidated Financial Statements pre-elimination of intra-group activity
- **Adjustments to Financial Accounting Net Income**
  - Remove excluded dividends and equity gain (or loss)
  - Remove policy disallowed expenses
  - Remove stock-based compensation
  - Remove foreign currency gain (or loss)
  - Exclude international shipping income
- **Allocate GloBE Income to Permanent Establishments and Flow-Through Entities**

3 Determine Covered Taxes

- **Identify Covered Taxes**
  - Current Tax Expense – Tax Credits Refundable After 4 Years + Tax Credits Refundable Within 4 Years
- **Adjust for Temporary Differences and Losses**
  - Adjust for Deferred Taxes
  - Recognition limited to minimum rate
  - Simplified loss-carryforward may apply
- **Allocate Covered Taxes to Constituent Entities**
  - CFC taxes, withholding taxes, Permanent Establishment
- **Consider Post-Filing Adjustments**

4 Compute Top-Up Tax

- **Compute Jurisdictional Top-Up Tax**
  - Calculate ETR: ETR = Covered Taxes / GloBE Income
  - ETR < Minimum Rate: Top-Up Tax Percentage = ETR – Minimum Rate
  - Calculate Top-Up Tax: Top-Up Tax = Top-Up Tax Percentage x Excess Profit
  - Calculate Excess Profit: Excess Profit = GloBE Income – Substance Based Income Exclusion
  - Reduce Top-Up Tax by any QDMTT
- **Allocate Top-Up Tax**
  - Allocate in proportion to GloBE Income
- **Consider Exclusions and Safe Harbors**
  - De Minimis Exclusion
  - Safe Harbors

5 Allocate IIR and UTPR

- **Identify Parent Entity**
  - Ultimate Parent Entity of the MNE Group or next Intermediate Parent Entity subject to Income Inclusion Rule (IIR)
- **Determine Top-Up Tax Paid by Parent Entity**
  - Attribute in proportion to their allocable share
  - UPE Top-Up Tax may be reduced for lower-tier parent entities share
- **Identify Residual Tax to be Allocated under Undertaxed Profit Rule (UTPR)**
  - Consider back-stop mechanism, application to UPE jurisdiction and limitations
- **UTPR Adjustments**
  - Allocated in 2 factor formula
  - Collected through denial of deduction for otherwise deductible expenses

Global Anti-Base Erosion (GLoBE), or Pillar Two income, is based on group financial reporting under an appropriate accounting standard, such as US GAAP or IFRS.

The transitional Country-by-Country Reporting (CbCR) simplifies the GloBE Income and Covered Tax computations in the immediate term, covering the next few years. The full calculation for GloBE Income and Covered Taxes is only relevant during this transition period if the CbCR safe harbor is not met.

Learn More

ADDITIONAL RESOURCES

For more details, read EU to Implement Minimum Tax Directive on Multinational Enterprises: Insights for CFOs and Corporate Tax Pros.

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