



GloBE Bulletin

September 2024

Dhruva publications are designed to assist readers to keep abreast with latest news, developments and tax issues that concern businesses. It is our endeavour to put forward painstaking research which equips you with the knowledge necessary to navigate the complex world of taxation effectively. At Dhruva, our international tax team is a frontrunner in analysing all latest developments with respect to the OECD IF's proposed two-pillar solution. We hope that you will find this publication to be a valuable resource and we look forward to hearing your comments and suggestions.

The Pillar Two GloBE Rules have reshaped global tax competition by introducing a 15% minimum corporate tax, making traditional income-based incentives like tax holidays or exemptions less effective. In response, countries are exploring to shift towards expenditure-based incentives such as refundable tax credits and non-tax subsidies to attract investment without reducing the effective tax rate below the GloBE threshold.

However, this transition poses challenges, particularly for developing countries, which may struggle to afford refundable tax credits due to the required four-year refund window. Additionally, enterprises must carefully analyse that the design of these incentives comply with GloBE's 'no benefit requirement'. Despite these hurdles, countries are finding innovative ways to adjust their fiscal policies to attract multinational enterprises in the post-GloBE world.

This is the fifteenth edition of our monthly alert series on the GloBE Rules. This essential resource aims to serve as a compass in navigating the evolving landscape of GloBE Rules, enabling one to anticipate and effectively respond to the challenges and opportunities presented by the imminent implementation of these rules.



a. Knowledge Bytes:

Historically, countries have employed a wide range of incentives, both tax as well as non-tax, to attract multinational enterprises (MNEs) and stimulate economic growth. The bulk of these incentives have been tax incentives, which have included tax holidays, reduced tax rates, and full or partial exemptions - primarily aimed at encouraging foreign direct investment (FDI), fostering job creation, and driving technological advancements. For developing economies, tax incentives have over time become a key tool in leveling the playing field, enabling them to compete for investments against more advanced markets. Over time, the scope of these incentives has expanded to target specific sectors such as research and development (R&D), renewable energy, and regional development. By offering favourable tax treatments, governments have sought to create business-friendly environments that have driven sustained economic development but at the same time, have given MNEs the opportunity to reduce their tax burdens and enhance profitability.

GloBE Rules introduce a global minimum tax on large MNEs to discourage profit shifting and ensure that they pay a minimum 15% of tax in every jurisdiction where they operate. Furthermore, this also aims to reduce tax competition between jurisdictions thereby halting the 'race to bottom' and ending the culture of tax havens and aggressive tax incentives by the governments.

Tax incentives vis-à-vis non-tax incentives:

Incentives can broadly be classified into tax incentives and non-tax incentives. Tax incentives include measures aimed at lowering the tax burden for businesses. Non-tax incentives, on the other hand, include subsidies, grants, and regulatory benefits like easier access to permits or reduced compliance costs, designed to support investment without directly

affecting tax liabilities. Both categories work together to make a jurisdiction more attractive for business investments.

Income-based vis-à-vis expense-based tax incentives:

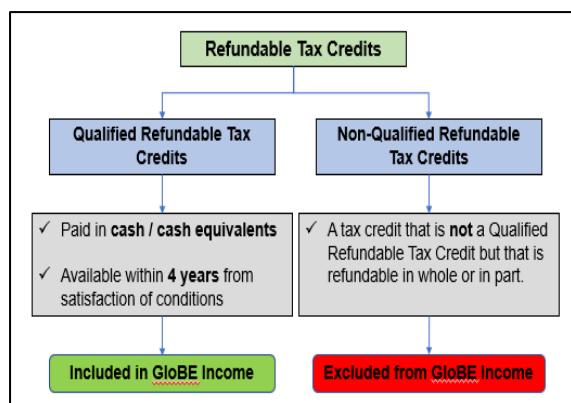
Tax incentives can be further broken down into income-based and expense-based incentives. Traditionally, many countries have offered income-based tax incentives such as tax holidays, reduced tax rates, or full tax exemptions. These incentives directly lower the taxable income of businesses, often making the effective tax rate (ETR) for large MNEs much lower than the headline corporate tax rate. Expense-based incentives, like accelerated depreciation, immediate expensing, or tax credits, provide relief based on specific investments or expenditures, irrespective of the company's profitability. While income-based incentives target overall earnings, expense-based incentives encourage targeted investments in assets or activities such as R&D or capital infrastructure.

Given that GloBE Rules are specifically designed to address aggressive tax incentives offered by countries, tax incentives are adversely impacted by GloBE Rules. Within tax incentives, income-based incentives are relatively more adversely impacted vis-à-vis expense-based incentives. Income-based tax incentives are more adversely impacted by the GloBE Rules because they directly reduce a company's ETR, potentially lowering it below the 15% global minimum tax threshold. Expense-based incentives are less adversely impacted by the GloBE Rules because they don't directly lower a company's ETR below the 15% minimum threshold. These incentives, like accelerated depreciation or immediate expensing, reduce taxable income by allowing deductions based on specific investments or expenditures (e.g., capital assets or R&D), but they don't reduce the ETR to the same extent as income-based incentives.

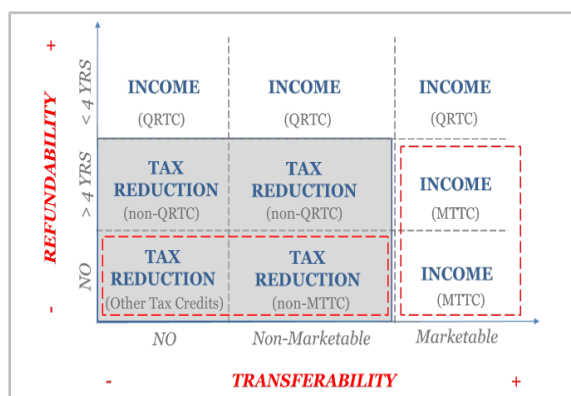


Tax credits:

Tax credits are prime examples of expense-based tax incentives. The Model GloBE Rules provide detailed guidance for tax credits. The OECD IF has given two broad parameters for tax credits – refundability and transferability. Refundable tax credits are treated in accordance with the following guidance depending on their nature –



Transferable tax credits are also divided into two types basis legal transferability and marketability (transfer price \geq 80% of NPV of credit). Tax credits satisfying both these conditions are termed 'Marketable Transferable Tax Credit' (MTTC) while the ones not satisfying any condition are non-MTTC credits. Generally, MTTCs are included in GloBE income while non-MTTCs are reduced from covered taxes. The interplay between refundable credits and transferable credits has been shown in the diagram below –



Source: OECD Administrative Guidance July 2023

The beneficial treatment accorded to QRTCs vis-à-vis NQRTCs can be elucidated from the following example –

Description	Reference	Non-QRTC	QRTC
Investment Volume	A	1,00,000	1,00,000
Revenue	B	10,000	10,000
Expenses	C	5,000	5,000
Net Income	D = B - C	5,000	5,000
Tax exp. (CIT assumed @ 22%)	E = D * 22%	1,100	1,100
Tax incentive – Non-QRTC	F = A * 0.5%	(500)	-
Tax incentive – QRTC	G = F	-	500
Adjusted Covered Taxes	H = E - F	600	1,100
GloBE Income	I = D + G	5,000	5,500
ETR for GloBE	J = H / I	12%	20%
Top-up Tax Rate	K = 15% - J	3%	-
SBIE	L (assumed)	500	500
Excess Profit	M = I - L	4,500	5,000
Top-up Tax	N = M * K	135	-

The above illustration shows a case where the ETR falls from 22% to 12% in the case of non-QRTC (thereby leading to a payment of top-up tax), compared to a fall from 22% to 20% in the case of QRTC, ceteris paribus. The structural design on page 5 summarises the impact of GloBE framework on the fiscal incentive regime.

Economic reality of tax credits:

Given that QRTCs require the credit to be refunded within 4 years, many developing countries may find it financially challenging to implement such incentives. The need for immediate liquidity and the pressure on government budgets make it difficult for these nations to offer substantial refundable credits, limiting their ability to compete with wealthier jurisdictions that can more easily provide timely refunds to attract investment.

It is therefore generally observed that much of the tax credits offered by developed countries, like the UK's 20% R&D Expenditure Credit, France's 30% R&D Tax Credit, Ireland's 25% R&D Tax Credit, and Spain's 25% R&D Tax Credit, have characteristics that could help them qualify for QRTC status. On the contrary, developing economies have to mostly rely on income-based incentives, like tax holidays or tax exemptions, to attract FDI. Such incentives are very common in leading Asia-Pacific economies like Indonesia's tax holiday for financial sector, Thailand's tax holiday for high-tech



manufacturing, digital and renewable industries, Malaysia's EV tax incentive and Philippines' income tax holiday.

Incentives landscape in the post-GloBE era:

As countries transition into the post-GloBE regime, jurisdictions are adapting their competitive strategies to remain attractive to MNEs. Traditional tax competition through low corporate tax rates is no longer viable for many jurisdictions. Instead, countries are now exploring creative competition by rethinking and redesigning their fiscal incentives to align with the new tax landscape.

Many economies like Singapore, Switzerland, Ireland, Bermuda and Barbados have initiated steps to redesign their taxation systems to remain competitive despite the introduction of a Qualified Domestic Minimum Top-up Tax (QDMTT). Singapore, for instance, has announced the introduction of Refundable Investment Credits (RICs), whereby companies can receive up to 50 percent of support on qualifying expenditure categories, such as capital expenditures, intangible assets, and training costs. This will support high-value economic activities like manufacturing expansion, innovation, and green initiatives. It is expected that such RIC could qualify as QRTC under the GloBE Rules, thereby according them the favourable status. Switzerland too has proposed to introduce QRTCs along with the introduction of non-tax incentives such as subsidies to be offered for decarbonization investment, research and development, and ESG projects. Ireland is changing the way companies can claim relief under R&D credit and film tax credit programs, so they qualify as refundable tax credits. Bermuda is also developing a package of QRTCs, supporting sectors such as infrastructure, education, and innovation. Furthermore, it is proposing to allow

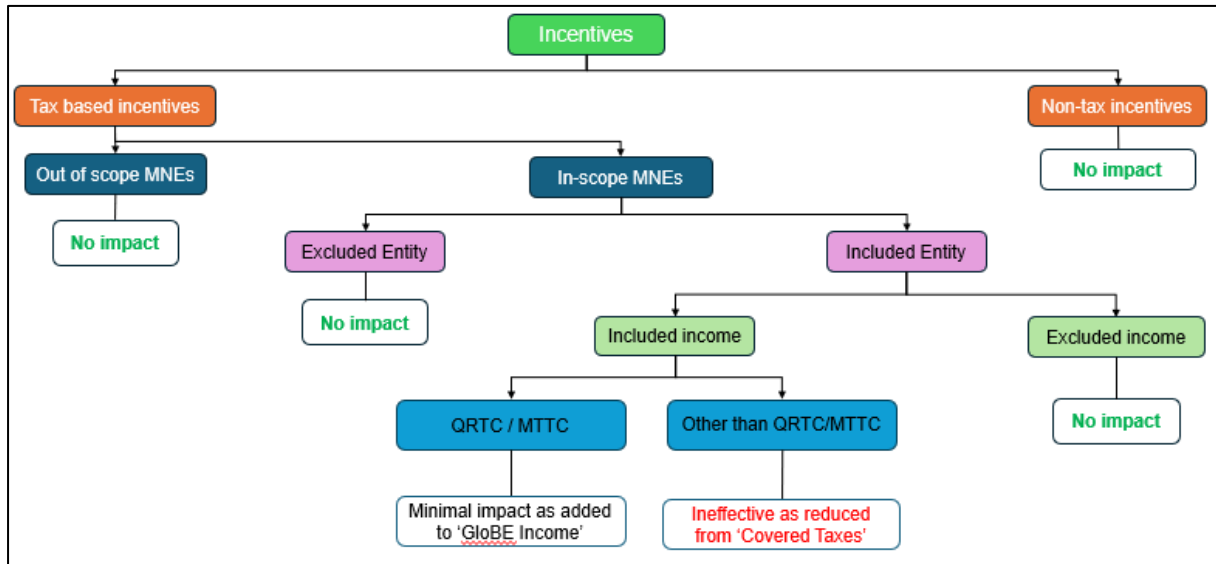
in-scope companies to markup intangible assets to their estimated market value as of 30 September 2023. These assets can be amortized over 10 years, providing a significant future tax deduction.

'No benefit requirement' test:

OECD has mandated that the QDMTT will be 'qualified' — and therefore prevent other countries from imposing top-up taxes — only if that *"jurisdiction does not provide any benefits that are related to such rules"*. Such a requirement is generally referred to as the 'no benefit requirement test'. A critical point that MNEs need to keep in mind when analysing QRTCs is to ensure that such QRTCs do not breach the 'no benefit requirement test' under the GloBE Rules. Put differently, in the context of tax credits, offering direct or indirect benefits that reduce the impact of the top-up tax could disqualify the tax credit, undermining its effectiveness and potentially triggering penalties.

The road ahead:

In conclusion, the global shift brought by the Pillar Two GloBE Rules is driving countries to rethink their approach to tax incentives. While traditional income-based incentives may lose their appeal, the creative use of refundable tax credits, expenditure-based incentives, and non-tax subsidies offers a promising alternative for jurisdictions to remain competitive. However, the careful analysis of these incentives, particularly QRTCs, is crucial to ensure compliance with GloBE's 'no benefit requirement' while still fostering investment. As countries continue to innovate, the balance between maintaining attractiveness to MNEs and adhering to global tax standards will shape the future of fiscal competition.



Structural framework summarising the impact of GloBE framework on incentives regime



B. Country Updates:

Bahrain: On 1 September 2024, the National Bureau for Revenue of Bahrain announced the introduction of a domestic minimum top-up tax in alignment with the Pillar Two GloBE Rules effective from fiscal years beginning on or after 1 January 2025. The in-scope MNEs are required to register with the National Bureau of Revenue to comply with the tax requirements.

Belgium: On 30 August 2024, Belgium's tax authority announced that large MNEs and domestic groups in scope of GloBE Rules, which have registered with the Crossroads Bank for Enterprises can start making advance tax payments from 2 September 2024. To do this, they must first register with the, a database managed by the Ministry of Economy, to get their taxpayer identification numbers. The payments must be completed by 20 December 2024. The law provides for a surcharge of 9% if advance tax payments are not made. This option applies to top-up taxes under the Qualified Domestic Minimum Top-up Tax (QDMTT) as well as the Income Inclusion Rule (IIR) systems.

Brazil: On 3 October 2024, Brazil issued a provisional measure for Domestic Minimum Tax aligning Brazil's corporate taxation with the Pillar Two – GloBE Rules. This measure introduces a Social Contribution on Net Income (CSLL) surcharge which is in-principle equivalent to the QDMTT of the GloBE Rules. If enacted, the GloBE Rules will be effective in Brazil from fiscal years beginning on or after 1 January 2025.

Denmark: On 1 October 2024, the Danish Prime Minister's office published a legislative program to amend the Minimum Taxation Act. These amendments aim to align the law with the OECD's administrative guidance, addressing hybrid arbitrage arrangements and providing rules on handling CbCR and Safe Harbour provisions during transitional phases.

European Union: On 2 October 2024, the European Commission referred four EU Member States, namely, Spain, Cyprus, Poland,

and Portugal to the Court of Justice of the European Union (CJEU) for failure to transpose the EU Minimum Tax directive into their respective national legislations. All EU member states were required to implement the Directive by 31 December 2023. The commission issued reasoned opinions in May 2024, and formal referrals were made in October 2024.

Finland: On 20 September 2024, the Government of Finland proposed amendments to its Global Minimum Tax law, aligning it with the OECD's 2023 Administrative Guidance. The key changes include clarifications on the definitions of 'fiscal year' and 'ultimate parent entity' and provisions for handling marketable and refundable tax credits. The bill introduces new deductions for passthrough entities, cross-border assets, and staff expenses, along with safe harbours for simplified calculations and hybrid arbitrage arrangements. It also includes a transitional UTPR safe harbour. Finland's law is effective from fiscal years beginning on or after 1 January 2024.

Netherlands: On 17 September 2024, the Dutch Government released a draft legislation as part of its tax plans which proposes technical amendments to its Minimum Tax Act. The draft amendments propose adopting certain critical elements from Administrative Guidances issued by OECD IF in 2023. Dutch law on GloBE Rules is effective from fiscal years beginning on or after 1 January 2024.

Poland: On 25 September 2024, Poland introduced a draft legislation to transpose the EU Minimum Tax Directive into its national law. The draft legislation intends to introduce the QDMTT, IIR and UTPR for fiscal years beginning on or after 1 January 2025. This comes after the European Commission initiated infringement proceedings due to Poland's delay in implementing the EU Directive. The Prime Minister of Poland has urged the Parliament to expedite the bill to avoid negative consequences for Polish businesses.



Portugal: On 11 September 2024, Portugal's Council of Ministers submitted a draft legislation to the Parliament for transposing the EU Minimum Tax Directive into national law. The legislation introduces an IIR and QDMTT for tax years beginning on or after 1 January 2024 while the UTPR will apply to tax years starting on or after 1 January 2025.

Puerto Rico: On 25 September 2024, Puerto Rico opened a public consultation on its plan to adopt QDMTT in line with the OECD's Pillar Two framework. The consultation seeks stakeholder feedback on various implementation options, including whether the QDMTT should be applied to domestic profits, and how it might interact with Puerto Rico's existing tax incentives. The consultation also seeks input on whether the law should apply from 2024 or 2025. The Treasury Department is considering not adopting the IIR or UTPR. The consultation closes on 10 October 2024.

Singapore: On 31 August 2024, the Singapore Ministry of Finance responded to public feedback on the implementation of Pillar Two GloBE Rules in Singapore, rejecting the stakeholders' request to limit the Domestic Minimum Top-up Tax (DMTT) to wholly owned entities of in-scope Singaporean MNEs. The Ministry stated that to qualify for the QDMTT Safe Harbour, the tax must apply to all constituent entities. On 9 September 2024, the MOF proposed a bill to the Parliament to implement a minimum tax for MNEs, aligning with the GloBE Rules. The bill includes rules for applying top-up taxes, procedures for group registration, returns, payments, and handling assessments and appeals. It also outlines the potential consequences for non-compliance. The bill aims to introduce a top-up tax under the IIR and establish a DMTT. The bill includes the Transitional CbCR Safe Harbour, designed to ease the compliance requirements for affected taxpayers during the initial years of the GloBE Rules' implementation. Furthermore, on 4 October 2024, Inland Revenue Authority of

Singapore issued a consultation paper, and two pieces of draft subsidiary legislation related to enactment of the GloBE Rules in Singapore. Comments are invited on the consultation until 18 October 2024.

Switzerland: On 4 September 2024, the Federal Council of Switzerland announced that the IIR will take effect from fiscal years beginning on or after 1 January 2025. This international tax will complement the Swiss Supplementary Tax (QDMTT), which is effective from 2024. The Federal Council decided not to implement the UTPR for now, citing legal concerns and the belief that the risks outweigh the potential revenue.

United Kingdom: On 12 September 2024, the HMRC initiated consultation inviting comments on key topics such as the QDMTT Safe Harbour, Transitional CbCR Safe Harbour, and controlled foreign corporation (CFC) tax regimes. It is also seeking public input on draft technical guidance for the Multinational Top-up Tax (MTT) and Domestic Top-up Tax (DTT). These measures constitute the UK's adoption of a qualifying IIR and a QDMTT. The consultation period ends on 23 October 2024.



C. Around the globe:

European Union (27 countries)

Austria	Italy
Belgium	Latvia
Bulgaria	Lithuania
Croatia	Luxembourg
Cyprus	Malta
Czech Republic	Netherlands
Denmark	Poland
Estonia	Portugal
Finland	Romania
France	Slovakia
Germany	Slovenia
Greece	Spain
Hungary	Sweden
Ireland	

Rest of Europe (23 countries)

Albania	Moldova
Andorra	Monaco
Belarus	Montenegro
Bosnia Herzegovina	North Macedonia
Faroe Islands	Norway
Georgia	San Marino
Gibraltar	Serbia
Guernsey	Switzerland
Iceland	Turkey
Isle of Man	Ukraine
Jersey	United Kingdom
Liechtenstein	

Africa (25 countries)

Angola	Mauritania
Benin	Mauritius
Botswana	Morocco
Burkina Faso	Namibia
Cabo Verde	Republic of Congo
Cameroon	Senegal
Congo	Seychelles
Côte d'Ivoire	Sierra Leone
Djibouti	South Africa
Egypt	Togo
Eswatini	Tunisia
Gabon	Zambia
Liberia	

Asia (29 countries)

Armenia	Maldives
Azerbaijan	Mongolia
Bahrain	Oman
Brunei	Papua New Guinea
China	Philippines
Cook Islands	Qatar
Hong Kong	Russia
India	Samoa

Indonesia	Saudi Arabia
Israel	Singapore
Japan	South Korea
Jordan	Thailand
Kazakhstan	UAE
Macau	Vietnam
Malaysia	

North America (24 countries)

Anguilla	Grenada
Antigua	Haiti
Bahamas	Honduras
Barbados	Jamaica
Bermuda	Mexico
British Virgin Islands	Montserrat
Canada	Panama
Cayman Islands	Saint Lucia
Costa Rica	St. Vincent and the Grenadines
Dominica	St. Kitts and Nevis
Dominican Republic	Turks and Caicos Islands
Greenland	USA

South America (11 countries)

Argentina	Curacao
Aruba	Paraguay
Belize	Peru
Brazil	Trinidad and Tobago
Chile	Uruguay
Colombia	

Australasia (3 countries)

Australia	New Zealand
Fiji	

Legend

	Formal adoption of GloBE Rules from 2024 (28 countries)
	Policy framework in place to introduce IIR, QDMTT in 2024 and UTPR in 2025 (7 countries)
	Policy framework in place to introduce IIR, QDMTT and UTPR in 2025 (14 countries)
	Declaration to implement GloBE Rules though timelines are uncertain (8 countries)
	EU member states opting for delayed implementation (4 countries)



REACH OUT TO US



Dilpreet Singh Obhan
PARTNER
dilpreet.singh@dhruvaadvisors.com
+65 9144 6415

ADDRESSES

Singapore
NeoDhruva Consultants Pte Ltd
#16-04, 20 Collyer Quay,
Singapore 049319
Tel: +65 9144 6415

Mumbai
1101, One World Center,
11th Floor, Tower 2B,
841, Senapati Bapat Marg,
Elphinstone Road (West),
Mumbai 400 013
Tel: +91 22 6108 1000 / 1900

Ahmedabad
402, 4th Floor, Venus Atlantis,
100 Feet Road, Prahladnagar,
Ahmedabad 380 015
Tel: +91 79 6134 3434

Bengaluru
Lavelle Road, 67/1B,
4th Cross, Bengaluru,
Karnataka - 560001

Delhi / NCR
305-307, Emaar Capital Tower-1,
MG Road, Sector 26, Gurgaon
Haryana - 122 002
Tel: +91 124 668 7000

New Delhi
1007-1008, 10th Floor, Kailash Building,
KG Marg, Connaught Place,
New Delhi – 110001
Tel: 011 4514 3438

Pune
305, Pride Gateway,
Near D-Mart, Baner,
Pune - 411 045
Tel: +91 20 6730 1000

Kolkata
4th Floor, Unit No 403, Camac Square,
24 Camac Street, Kolkata
West Bengal – 700016
Tel: +91 33 6637 1000

Abu Dhabi
Dhruva Consultants
1905 Addax Tower, City of Lights,
Al Reem Island,
Abu Dhabi, UAE
Tel: +971 2 678 0054

Dubai
Dhruva Consultants
Emaar Square Building 4, 2nd Floor,
Office 207, Downtown,
Dubai, UAE
Tel: +971 4 240 8477

KEY CONTACTS

Mumbai
Dinesh Kanabar
Chief Executive Officer
dinesh.kanabar@dhruvaadvisors.com

Singapore
Dilpreet Singh Obhan
Partner
dilpreet.singh@dhruvaadvisors.com

Middle East
Nimish Goel
Partner
nimish.goel@dhruvaadvisors.com

Reach out to us



Dinesh Kanabar (CEO)
email: dinesh.kanabar@dhruvaadvisors.com



Aditya Hans (Partner)
email: aditya.hans@dhruvaadvisors.com
mobile: +91 905 104 8715



Radhakishan Rawal (Senior Advisor)
email: radhakishan.rawal@dhruvaadvisors.com
mobile: +91 982 032 8887



Ashish Jain (Principal)
email: ashish.jain@dhruvaadvisors.com
mobile: +91 629 180 4283

Nilesh Chandak has been a key contributor in preparation of this Monthly Alert.

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