GloBE Bulletin

January 2025

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.

As the implementation of the Pillar Two GloBE Rules progresses, the OECD Inclusive Framework (IF) continues to refine compliance mechanisms and enhance coordination among jurisdictions. In this regard, the OECD IF has recently released a series of key documents aimed at streamlining administrative processes, providing clarity on transitional tax treatments, and ensuring consistency in the application of the GloBE framework across different jurisdictions.

These documents cover critical areas such as administrative guidance on deferred tax assets, guidance on the Global Information Return (GIR), the framework for Qualified Status under the Global Minimum Tax (GMT), and multilateral agreements for information exchange. Together, they play a pivotal role in maintaining the integrity of the GloBE Rules and preventing unintended tax advantages arising from governmental arrangements.

This is the nineteenth 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:

Introduction:

As part of the ongoing implementation of Pillar Two GloBE Rules, the OECD IF has issued on 15 January 2025, key documents to streamline compliance and enhance coordination among jurisdictions. The documents issued by the OECD IF are -

i. Administrative Guidance on Article 9.1
ii. Administrative Guidance on Article 8.1.4 and 8.1.5
iii. Qualified Status under GMT – Q&A
iv. Central Record of Legislation with Transitional Qualified Status
v. Multilateral Competent Authority Agreement on the Exchange of GloBE Information
vi. GIR XML Schema User Guide for Tax Administrations
vii. Guidance on GIR

The ensuing sections provide an overview of the aforementioned documents providing key highlights of each document.

I. Administrative Guidance on Art. 9.1

The OECD IF has issued guidance on the treatment of certain deferred tax assets that arose prior to the application of the global minimum tax as a result of certain governmental arrangements or following the introduction of a new corporate income tax.

Article 9.1.1 sets out the deferred tax accounting attributes of a Constituent Entity that may be utilised in calculating the ETR in a jurisdiction in the Transition Year and subsequent years. Rather than requiring an MNE Group to undertake complex calculations as if the Constituent Entity had been subject to the GloBE Rules in prior years, it uses a simplified approach that allows the MNE Group to take into account the deferred tax accounting attributes of the MNE Group at the beginning of the Transition Year, at the lower of the Minimum Rate or the applicable domestic tax rate.

However, the OECD IF has clarified that these transitional rules are not intended to serve as a mechanism that MNE Groups or General Governments can use to engage in transactions or provide tax attributes that produce deferred tax assets that when reversed will effectively shelter all or a portion of an MNE Group's future low-taxed income from the GloBE Rules.

The OECD IF has noted that post the publication of the Rules on 30 November 2021, certain MNE Groups have entered into arrangements with Governments of some jurisdictions whereby they are provided with tax benefits such as tax credits or basis step-ups before the effective date of implementation of the GloBE Rules. Such benefits have further been recognised as deferred tax assets by the MNE Groups which could be accounted for under Art. 9.1 transitional rules as an asset for GloBE Rules ETR computation purposes (thereby allowing such MNE Groups to shelter all or part of its low-taxed profits from being subject to top-up taxes). Accordingly, the AG clarifies that the deferred tax expenses arising from the reversal of DTAs resulting from governmental arrangements, as well as DTAs and deferred tax liabilities (DTLs) arising from similar events such as retroactive elections (under local tax law) or General Governments granting MNE Groups a step-up in basis when introducing a new corporate income tax regime after 30 November 2021 but before the GloBE Rules come into effect, are excluded under the transition rules in Art. 9.1.

Furthermore, where any jurisdiction provides any such benefit, it stands the risk of its DMTT / IIR / UTPR being not awarded the Qualified status, because of the provision of benefits which compromise the integrity of the Rules.

- **Impact on Art. 9.1.1 -** Under the erstwhile Commentary to Art. 9.1.1, a CE's tax attributes at the beginning of the Transition Year could include any DTA that was not recognised earlier because of the recognition criteria not being met. The AG has clarified the scope of DTA that can be included under Art. 9.1.1. It provides that a CE might not recognise a DTA broadly due to two reasons – one where the CE's accounting policy does not allow recognition owing to expectation of insufficient future taxable income to utilise the asset and the other where the accounting standard does not allow recognition of a DTA. The Guidance clarifies that under Art. 9.1.1, a CE can recognise such DTA which was erstwhile not recognised because of accounting policy considerations but cannot recognise DTA which cannot be reflected or disclosed under the Authorised Financial Accounting Standard of the CE.

- **Impact on Art. 9.1.2 –** Art. 9.1.2 requires DTAs arising from items excluded from the computation of GloBE Income under Article 3 of the Model Rules to be excluded from the computation of DTAs under Art. 9.1.1 when such DTAs are generated from transactions that take place after 30 November 2021.
  The AG clarifies that such DTAs also include those associated with non-economic expenses or losses for tax purposes and DTAs that are not attributable to the prepayment of tax in relation to income that would or will be included in GloBE Income or Loss. Furthermore, it has also been clarified that Art. 9.1.2 limitation also extends to DTAs arising from a transaction that takes place after the Transition Year if the DTA was reflected or disclosed in the financial accounts for the Transition Year.
  Similar to Art. 9.1.1, Art. 9.1.2 also includes within its scope DTAs attributable to governmental arrangements which provide the taxpayer with a specific entitlement to a tax credit or other tax relief (for example, a tax basis step-up) that does not arise independently of the arrangement. Such governmental arrangement shall also include any election or choice that retroactively changes taxable income for a tax year for which assessment was completed / return of income was filed. It also includes DTAs / DTLs arising from differences in tax basis and accounting carrying values where tax basis was established pursuant to a tax regime enacted after 30 November 2021 and before Transition Year in a jurisdiction which did not earlier have any such regime.
  Another important clarification with respect to Art. 9.1.2 is that it excludes DTA attributable to losses that arose more than five fiscal years immediately preceding the effective date of a newly incorporated CIT by a jurisdiction which did not have a pre-existing CIT system.

- **Grace Period and Grace Period Limitation -** The AG primarily deals with three kinds of DTAs –
  a. Those attributable to a governmental arrangement concluded after 30 November 2021 where such arrangement provides a tax credit or other relief (such as tax basis step-up)
  b. Those attributable to an election exercised after 30 November 2021 that retroactively changes the taxable income for a tax year for which return is filed / assessment is completed
  c. DTA / DTL arising from difference in tax basis and book values of assets / liabilities arising pursuant to the enactment of a CIT regime for a jurisdiction which erstwhile did not have such regime

  The AG allows an exception for deferred tax expenses to be considered during a Grace Period which is as follows –

  - For DTAs in category (a) and (b) above, the Grace Period refers to FYs beginning on or after 1 January 2024 and before 1 January 2026 but not including a Fiscal Year that ends after 30 June 2027

- For DTAs in category (c) above, the Grace Period refers to FYs beginning on or after 1 January 2025 and before 1 January 2027 but not including a Fiscal Year that ends after 30 June 2028

Furthermore, the maximum amount of deferred tax expense allowable (known as Grace Period Limitation) is equal to the aggregate of 20% of the amount of DTA originally recorded.

- **Impact on CbCR Safe Harbour –** The Simplified ETR Test of the CbCR Safe Harbour allows considering deferred taxes for the purposes of computing Simplified Covered Taxes. The AG has clarified that such deferred taxes shall not include any deferred tax expense arising on account of reversal of DTAs which arise from the aforementioned governmental arrangements entered into after 30 November 2021. However, the provisions relating to Grace Period Limitation shall equally apply in case of CbCR Safe Harbour.

II. Administrative Guidance on GIR

The standardised template for the GIR was initially published by the OECD IF on 17 July 2023 and updated on 15 January 2025. The AG has clarified that MNE Groups should use a single basis to complete the data points in the GIR.

Generally, such single basis (or single source of information) shall be the OECD Model Rules. This will also be administratively logical for the MNE Groups since domestic legislations are in-substance expected to be in lines with the OECD Model Rules.

It needs to be noted that while the detailed computation is required to be done basis the respective domestic legislation of the jurisdiction, the guidance requires the GIR to be filed using a single basis (say, the OECD Model Rules). Additionally, when the single source used to complete the GIR results in using different data points than those used under the local legislation of an implementing jurisdiction with taxing rights, MNE Groups are also required to report the impact of those differences on key indicators in the GIR. Where owing to constitutional or administrative constraints, a jurisdiction requires data corresponding directly to their domestic legislation, such jurisdictions may require further information through an additional domestic filing requirement.

III. Qualified Status under GMT – Q&A

The OECD's "Qualified Status under the Global Minimum Tax – Questions and Answers" document provides insights into the compliance and administrative aspects of the Pillar Two-GloBE Rules, emphasizing that while participation in the GloBE framework is voluntary, jurisdictions choosing to adopt the Rules are required to implement them in accordance with the agreed-upon standards.

The Q&A explains the role of ‘qualified status’ in achieving coordinated outcomes under the GloBE Rules. This status is determined through a transitional qualification mechanism or a ‘peer-reviewed’ legislative assessment. The transitional mechanism allows jurisdictions to self-certify their rules based on consistency with GloBE provisions while full legislative reviews provide a robust evaluation.

The Global Minimum Tax results from the combined effect of the three domestic charging provisions which apply in agreed rule order - the QDMTT, the Qualified IIR and the UTPR. These interconnected rules operate in a specific sequence to ensure top-up taxes apply to low-taxed profits in source or parent jurisdictions. The transitional mechanism enables jurisdictions to gain temporary qualified status through self-certification, which may later undergo full review.

The document highlights the importance of peer reviews in promoting consistent application and avoiding risks of over-taxation or disputes. The Q&A also addresses several practical concerns surrounding the implementation of transitional qualified status. It specifies that jurisdictions seeking this status must submit a self-certification within 12 months of their legislation's effective date. Once granted, the transitional qualified status remains valid until a full legislative review is completed, which must commence within two years of the legislation's effective date. Furthermore, the Q&A clarifies that jurisdictions can base their self-certification on either finalized or near-final draft legislation, provided the draft reflects a strong alignment with the Model Rules and is close to being enacted. The document also examines the implications of losing transitional qualified status, emphasizing that such loss will not have retroactive effects. For example, an MNE group operating under the Rules that later lose their status will still be treated as compliant for reporting periods that began prior to the status's expiration or revocation. Additionally, the Q&A outlines the next steps for ensuring consistency through ongoing monitoring and comprehensive legislative reviews.

IV. Central Record of Legislation with Transitional Qualified Status

The OECD IF's document on the Central Record of Legislation with Transitional Qualified Status provides a comprehensive overview of jurisdictions whose domestic rules have been granted transitional qualified status under the Pillar Two GloBE Rules. This document is part of the ongoing Administrative Guidance for implementing Pillar Two. The basis for granting "qualified status" lies in a jurisdiction's adherence to the GloBE framework, particularly its compliance with key provisions of the OECD Model Rules. This includes rules such as the IIR, the UTPR, and the QDMTT. The transitional qualified status is conferred based on self-certification by jurisdictions, followed by review and recognition under the IF's transitional qualification mechanism. This temporary measure ensures swift alignment with GloBE Rules while a full legislative review process is being developed for more rigorous assessments.

Jurisdictions achieve qualified status by demonstrating that their laws meet the minimum tax requirements and align with the GloBE Rules' objectives. In contrast, a jurisdiction may not be granted transitional qualified status if its legislation contains significant inconsistencies, lacks sufficient clarity, or if the self-certification process is incomplete. Importantly, jurisdictions not listed in the central record are not automatically disqualified; rather, their qualification process may still be pending.

As of 13 January 2025, the OECD central record identifies 27 jurisdictions with a qualified IIR and 28 jurisdictions with a qualified DMTT and QDMTT Safe Harbours indicating that their legislation has attained transitional qualified status. These include economies such as Germany, France, Japan, the United Kingdom, and Canada, among others. Some jurisdictions, such as Australia, have achieved this status based on draft legislation that aligns with GloBE Rules. Additionally, transitional qualified status applies from the effective date of the legislation and is updated regularly to reflect new developments.

V. Multilateral Competent Authority Agreement on the Exchange of GloBE Information

While Article 8.1 places an obligation on each CE to file a GIR with the tax administration of the jurisdiction where it is located, a Constituent Entity is under Article 8.1.2 discharged from this obligation when the UPE or a Designated Filing Entity files the GIR with the tax administration of the jurisdiction where it is located and the Competent Authority of that jurisdiction has a bilateral or multilateral agreement or arrangement in effect to automatically exchange the GIR with the Competent Authority of the jurisdiction of the CE.

The Multilateral Competent Authority Agreement (MCAA) on the Exchange of GloBE Information provides a framework for the automatic exchange of GIR between jurisdictions ensuring convenient administration of the GloBE Rules while reducing the compliance burden for MNEs.

The key aspects include:

i. **Centralized filing:** MNE Groups can file their GIR in a single jurisdiction if that jurisdiction has a Qualifying Competent Authority Agreement with other relevant jurisdictions.
ii. **Dissemination Approach:** Information is shared automatically with jurisdictions where the MNE operates, based on agreed rules. Data is shared only to the extent it is required for implementation of GloBE Rules by the recipient jurisdiction.
iii. **Strict confidentiality:** Jurisdictions must meet confidentiality and security standards, failing which their exchange rights may be revoked.

VI. GIR XML Schema User Guide for Tax Administrations

As part of its work on the facilitation of the implementation of the GloBE Model Rules, and with a view to ensuring a consistent, standardised approach to capturing the GIR information, the Inclusive Framework on BEPS has developed a schema in extensible mark-up language (XML) and a corresponding user guide.

This document contains the user guide for the GIR XML schema that supports the automatic exchange of information of GIR information as part of the implementation of the Global Minimum Tax. While the XML schema has been primarily designed to facilitate the exchanges of GIR information between tax administrations, the XML schema can also be used for domestic GIR filings, to the extent permitted under the domestic laws of the relevant jurisdiction.

VII. Guidance on GIR

The OECD IF has issued certain updates to the GIR format and has provided guidance on the contents of each section. Also, the document introduces a transitional simplified jurisdictional reporting framework for Fiscal Years beginning on or before 31 December 2028 but not including a Fiscal Year that ends after 30 June 2030. The transitional period provides time for MNE Groups to develop the accounting systems and/or processes that will facilitate information collection and reporting on a CE-by-CE basis for GloBE purposes.

B. Country Updates:

Indonesia: On 16 January 2025, Indonesia enacted its GloBE Rules legislation which introduces an Income Inclusion Rule (IIR) and Domestic Minimum Top-up Tax (DMTT) applicable for fiscal years beginning on or after 1 January 2025, and a UTPR applicable for fiscal years beginning on or after 1 January 2026.

Bahrain: On 16 January 2025, The Bahraini National Bureau of Revenue (NBR) released a document providing comprehensive explanations and detailed examples of the key components within the scope of its DMTT which is applicable on Bahrain-based entities of in-scope MNE groups from financial years beginning on or after 1 January 2025. The guide covers revenue thresholds, compliance requirements, exclusions, and transitional measures.

US: On 20 January 2025, the White House issued a memorandum declaring that the OECD Global Tax Deal holds no force or effect in the US, citing a lack of Congressional approval and concerns over sovereignty and economic competitiveness. The Treasury Secretary and U.S. representatives to the OECD were directed to notify the OECD that prior commitments are void and unenforceable. The memorandum also mandates an assessment of foreign measures affecting US companies, with recommendations for protective actions to be submitted to the President within 60 days.

UK: On 23 January 2025, the UK Government introduced new amendments to include the UTPR in UK law for financial years starting on or after 31 December 2024. Most of these changes, along with explanatory notes, were published for the Public Bill Committee's review, with additional clauses released on 24 January. HMRC also issued nine explanatory notes covering key changes, such as how to calculate SBIE, tax allocations for entities with permanent establishments, and adjustments for joint ventures. The amendments clarify that making a retrospection election may require consent from former group members if they could be liable for domestic top-up tax (DTT). However, only group members with an actual tax liability must provide consent, and retrospective consent is allowed. Additionally, on 29 January, the Government launched a consultation on implementing multinational and DTT rules in the UK, open until 8 April 2025. This final draft before publication addresses flow-through entities, joint ventures, the insurance sector, and additional top-up amounts.

France: On 28 January 2025, France introduced an annual filing requirement for entities belonging to in-scope MNE groups. According to the requirement, all in-scope French CEs are required to disclose specific information in their annual corporate income tax returns. This includes confirmation of their group membership, the identity of the UPE or the designated filing entity, and the jurisdiction where the UPE or designated entity is located. It must be submitted alongside the annual corporate tax return, including for the first fiscal year in which a CE ceases to be subject to Pillar Two rules.

Switzerland: On 29 January 2025, the Swiss Federal Council launched a consultation on establishing the legal framework for information exchange under Pillar Two GloBE Rules. The proposal aims to enable in-scope MNE groups to submit information centrally in a single jurisdiction while allowing implementing jurisdictions to verify tax calculations. The consultation will run until 8 May 2025.

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 (30 countries)	
Armenia	Malaysia
Azerbaijan	Maldives
Bahrain	Mongolia
Brunei	Oman
China	Papua New Guinea
Cook Islands	Philippines
Hong Kong	Qatar
India	Russia

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

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 **(34 countries)**
- Formal adoption of GloBE Rules from 2025 **(13 countries)**
- Policy framework in place to introduce IIR, QDMTT and UTPR in 2024 / 2025 **(6 countries)**
- Declaration to implement GloBE Rules though timelines are uncertain **(7 countries)**
- EU member states opting for delayed implementation **(4 countries)**

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