

OECD/G20 Base Erosion and Profit Shifting Project

**Tax Challenges Arising from the
Digitalisation of the Economy –
Administrative Guidance on the Global Anti-
Base Erosion Model Rules (Pillar Two),
December 2023**

Inclusive Framework on BEPS



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Table of contents

Executive Summary	4
1 Purchase price accounting adjustments in Qualified Financial Statements	6
1.1. Introduction	6
1.2. Issue to be considered	6
1.3. Guidance	6
2 Further Guidance on the Transitional CbCR Safe Harbour	9
2.1. Introduction	9
2.2. Tested Jurisdictions	9
2.3. Qualified Financial Statements	10
2.4. Simplified ETR computation	16
2.5. Routine Profits Test	18
2.6. Treatment of hybrid arbitrage arrangements under the Transitional CbCR Safe Harbour	18
3 Administrative Guidance on application of GloBE Rules	22
3.1. Consolidated revenue threshold	22
3.2. Mismatch between Fiscal Years of UPE and another Constituent Entity	24
3.3. Mismatch between Fiscal Year and Tax Year of Constituent Entity	26
4 Further Administrative Guidance on the allocation of Blended CFC Taxes	27
4.1. Introduction	27
4.2. Issues to be considered	28
4.3. Guidance	30
5 Transitional Filing Deadlines for MNE Groups with Short Reporting Fiscal Years	33
5.1. Introduction	33
5.2. Issues to be considered	34
5.3. Guidance	34
6 Simplified Calculation Safe Harbour for Non-Material Constituent Entities	35
6.1. Introduction	35
6.2. Definition of NMCE	36
6.3. Simplified Income, Revenue and Tax calculations for NMCEs	37
6.4. Application of the Simplified Calculations for NMCEs as part of the Simplified Calculations Safe Harbour	37
6.5. NMCE Simplified Calculations do not undermine the integrity of GloBE Rules	38
6.6. Guidance	39

Executive Summary

Background

1. In October 2021 members of the OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting (Inclusive Framework) agreed a two-pillar solution to reform the international tax framework in response to the challenges of digitalisation of the economy. As part of the October Statement, Inclusive Framework members agreed to a co-ordinated system of Global anti-Base Erosion (GloBE) rules that are designed to ensure large multinational enterprises pay a minimum level of tax on the income arising in each jurisdiction where they operate. In the October Statement, it was agreed that the *Tax Challenges Arising from Digitalisation of the Economy – Global Anti-Base Erosion Model Rules (Pillar Two): Inclusive Framework on BEPS* (the “GloBE Model Rules”) (OECD, 2021^[1]) (agreed by the Inclusive Framework and published in December 2021) and the *Tax Challenges Arising from the Digitalisation of the Economy – Commentary to the Global Anti-Base Erosion Model Rules (Pillar Two), First Edition: Inclusive Framework on BEPS* (the “Commentary”) (OECD, 2022^[2]) (agreed by the Inclusive Framework and published in March 2022) would have the status of a common approach. Under this common approach, jurisdictions are not required to adopt the GloBE rules, but, if they choose to do so, they will implement and administer the rules in a way that is consistent with the agreed outcomes. The common approach also means that Inclusive Framework members accept the application of the GloBE rules applied by other members, including agreement as to rule order and the application of any agreed safe harbours.

2. The GloBE Rules were approved and released by the Inclusive Framework on 20 December 2021. The GloBE Rules consist of an interlocking and coordinated system of rules which are designed to be implemented into the domestic law of each jurisdiction and operate together to ensure large MNE Groups are subject to a minimum effective tax rate of 15% on any excess profits arising in each jurisdiction where they operate. Consistent with the intention of the Inclusive Framework, the GloBE Rules (including the IIR and UTPR) are designed so that the imposition of top-up tax in accordance with those rules will be compatible with the provisions of the United Nations Model Double Taxation Convention between Developed and Developing Countries (the “UN Model Double Tax Convention”) (UN, 2021^[3]) and the *Model Tax Convention on Income and on Capital: Condensed Version 2017*, (the “OECD Model Tax Convention”) (OECD, 2017^[4]).

3. The Commentary to the GloBE Model Rules was approved and released by the Inclusive Framework on 14 March 2022, together with a set of detailed examples that illustrate the application of the rules to certain fact patterns. The Commentary clarifies the interpretation and operation of the provisions in the GloBE Model Rules and includes some examples illustrating how the rules apply to specific fact patterns. The Commentary is intended to promote a consistent and common interpretation of the GloBE Model Rules in order to provide certainty for MNE Groups and to facilitate coordinated outcomes under the rules. Although the Commentary is detailed and comprehensive, it does not provide guidance on every aspect of the GloBE Model Rules and, in certain cases, the Commentary specifically identifies issues that will require further consideration and development as part of the GloBE Implementation Framework.

Agreed Administrative Guidance

4. Against this background, Inclusive Framework members have agreed, under Article 8.3 of the GloBE Rules, that an implementing jurisdiction will “apply the GloBE Rules consistent with Agreed Administrative Guidance, subject to any requirements of domestic law.” Agreed Administrative Guidance is defined in Article 10.1 as guidance issued by the Inclusive Framework on either “the interpretation or administration of the GloBE Rules”. Administrative Guidance is expected to play an important role in promoting certainty under the GloBE Rules by clarifying the interpretation of the GloBE Rules and by providing guidance to tax administrations on how to apply the GloBE Rules. Because Agreed Administrative Guidance will also reflect the Inclusive Framework’s common understanding of how the GloBE Rules should be interpreted and applied, such guidance will play an important role in ensuring coordinated outcomes under the GloBE Rules and providing a level playing field for MNE Groups and will be needed on an ongoing basis to address issues as they arise.

5. The definition of Agreed Administrative Guidance in Article 10.1 of the GloBE Rules envisions that the Inclusive Framework may issue guidance on both the interpretation and the operation of the rules. Interpretive guidance provides for consistent and common interpretation of the GloBE Rules that will provide certainty for MNE Groups and facilitate coordinated and transparent outcomes under the rules. It supplements or replaces paragraphs in the Commentary or explains how to apply the language of the rules to particular fact patterns. Operational guidance sets out administrative procedures tax administrations may use to apply the rules and may include guidance on the use of administrative simplifications that result in equivalent outcomes as those provided under the GloBE Rules while avoiding undue compliance and administration costs.

December 2023 Administrative Guidance

6. This document sets out the third set of Administrative Guidance released by the Inclusive Framework, following the first and second sets of Administrative Guidance that were published in February 2023 and July 2023, respectively. As the GloBE Rules take effect in 2024, this third set of Administrative Guidance includes further clarifications on a number of key areas that will help MNE Groups transition into the GloBE Rules, such as the application of the Transitional CbCR Safe Harbour, the definition of revenues for purposes of determining whether an MNE Group is within scope of the GloBE Rules, and transitional relief to file the GloBE Information Return and notifications for in-scope MNE Groups that have short Reporting Fiscal Years. This package also includes guidance for applying the GloBE Rules in situations where there are mismatches between Fiscal Years or financial and tax years of Constituent Entities, guidance on allocating taxes arising in a Blended CFC Tax Regime when some Constituent Entities do not compute their ETR under the GloBE Rules, and the Simplified Calculations Safe Harbour for Non-material Constituent Entities. The Administrative Guidance will be incorporated into a revised version of the Commentary that will be released in 2024 (and replace the original version of the Commentary issued in March 2022).

1 Purchase price accounting adjustments in Qualified Financial Statements

1.1. Introduction

1. In the case of a Constituent Entity that was acquired through an acquisition of its Ownership Interests, adjustments to the carrying value of the Constituent Entity's assets and liabilities attributable to purchase price accounting (PPA) may be held in the MNE Group's consolidation accounts, or directly incorporated into the financial accounts of the Constituent Entity used to prepare the Consolidated Financial Statements (i.e. the reporting package), or in the separate financial statements of the Constituent Entity (where push down of PPA adjustments is allowed). In the case of PPA adjustments held in the MNE Group's consolidation accounts, the PPA adjustments are not included in the Constituent Entity's reporting package but will be made at the level of the consolidating Parent Entity. In the latter two cases, the Constituent Entity's PPA adjustments are included in its reporting package, or in its separate financial statements, and therefore no further adjustment is necessary at the level of the consolidating Parent Entity. Article 3.1.2 and the related Commentary requires a Constituent Entity to remove the effect of PPA adjustments from the computation of its Financial Accounting Net Income or Loss for all transactions unless the MNE Group lacks sufficient records to determine the amount of the adjustments in respect of a transaction that occurred before 1 December 2021. The definition of Qualified Financial Statements includes "the accounts used to prepare the Consolidated Financial Statements of the UPE (to mirror the requirement under Article 3.1.2)." The parenthetical language to the definition raises the question of whether PPA adjustments must be removed for purposes of the Transitional CbCR Safe Harbour.

1.2. Issue to be considered

2. Can a Constituent Entity use its financial accounts that are used in the preparation of the Consolidated Financial Statements (the reporting package) or its separate financial statements to prepare a Qualified CbC Report if those financial accounts include the effect of PPA adjustments in the computation of Profit (or Loss) before Tax?

1.3. Guidance

3. A Constituent Entity may use financial accounts that include the effect of PPA adjustments in the computation of Profit (or Loss) before Tax under certain conditions. To clarify the issue, the following changes to the guidance on Transitional CbCR Safe Harbour in the Safe Harbour and Penalty Relief document will be made:

- a. The parenthetical phrase “(to mirror the requirement of Article 3.1.2)” in Paragraph (a) of the Qualified Financial Statements definition in the Source of Information box is removed.
- b. The first sentence of paragraph 17 of the Safe Harbour and Penalty Relief document is revised to read as follows:

17. Qualified Financial Statements are defined as the accounts used to prepare the Consolidated Financial Statements (CFS) of the UPE or separate financial statements of each Constituent Entity provided that such financial statements are prepared in accordance with either an Acceptable Financial Accounting Standard or Authorised Financial Accounting Standard and, in the case of separate financial statements, the information contained in such statements is maintained based on that accounting standard and it is reliable.

- c. Paragraphs 17.1 through 17.4 are added after paragraph 17, to read as follows:

17.1 Paragraph (a) of the definition of Qualified Financial Statements focuses on the financial accounts of the Constituent Entity that are used in the preparation of the CFS (the reporting package); it does not further require the preparation of separate financial statements. Paragraph (b) of the definition, on the other hand, relies on separate financial statements prepared for Constituent Entities.

17.2 In the case of a Constituent Entity that was acquired through an acquisition of its Ownership Interests, adjustments to the carrying value of the Constituent Entity’s assets and liabilities attributable to purchase price accounting (PPA) may be held in the MNE Group’s consolidation accounts, directly incorporated into the financial accounts of the Constituent Entity used to prepare the CFS (i.e. the reporting package), or in the separate financial statements of the Constituent Entity (where push down of PPA adjustments is allowed). In the case of PPA adjustments held in the MNE Group’s consolidation accounts, the PPA adjustments are not included in the Constituent Entity’s reporting package but will be made at the level of the consolidating Parent Entity. In the latter two cases, the Constituent Entity’s PPA adjustments are included in its reporting package, or in its separate financial statements, and therefore no further adjustment is necessary at the level of the consolidating Parent Entity. Where the Transitional CbCR Safe Harbour does not apply, Article 3.1.2 and the related Commentary requires a Constituent Entity to remove the effect of PPA adjustments from the computation of Financial Accounting Net Income or Loss for all transactions unless the MNE Group lacks sufficient records to determine the amount of the adjustments in respect of a transaction that occurred before 1 December 2021.

17.3 The Transitional CbCR Safe Harbour does not generally require or permit adjustments to the amounts reported in financial accounts or separate financial statements in order for them to be considered Qualified Financial Statements. However, a potential for significant distortions exists where the financial accounts or separate financial statements of a Constituent Entity are based on financial accounts of a Constituent Entity that have incorporated adjustments attributable to PPA. Where the MNE Group allocated and incorporated the PPA adjustments into the financial accounts of an acquired Constituent Entity that are used in the preparation of the CFS (i.e. the reporting package of the Constituent Entity incorporates PPA adjustments) or the separate financial statements of the Constituent Entity, those financial accounts or separate financial statements will not be considered Qualified Financial Statements, unless the condition in paragraph 17.4 is met and the adjustment required by paragraph 17.5 is made.

17.4 Consistent reporting condition. The MNE Group has not submitted a CbC Report for a fiscal year beginning after 31 December 2022 that was based on the Constituent Entity’s

reporting package or separate financial statements without the PPA adjustments, except where the Constituent Entity was required by law or regulation to change its reporting package or separate financial statements to include PPA adjustments.

17.5 Goodwill impairment adjustment. Any reduction to the Constituent Entity's income attributable to an impairment of goodwill related to transactions entered into after 30 November 2021 must be added back to the PBT:

- (a) for purposes of applying the routine profits test; and
- (b) for purposes of applying the simplified ETR test, but only if the financial accounts do not also have a reversal of deferred tax liability or recognition or increase of a deferred tax asset in respect of the impairment of goodwill.

- d. Paragraph 25 of the "Safe Harbour and Penalty Relief" document will be revised to read as follows, in order to coordinate with the amendments made to paragraph 17 above:

25. In the case of the Transitional CbCR Safe Harbour, the test works in the same way except that it only considers Total Revenue and Profit (Loss) before Income Tax of the current year as reflected in the CbC Report. This test removes the need to calculate CbCR Revenue and Income over multiple years and would extend the benefit of the safe harbour to those MNEs that have previously ~~not been preparing their financial accounts based on standards set forth in Article 3.1 of the GloBE Rules~~ **CbC Reports based on sources other than Qualified Financial Statements** but have switched to **use Qualified Financial Statements** ~~meet such standards~~. Note that the condition in subparagraph (b) is met when the Tested Jurisdiction has a loss.

2 Further Guidance on the Transitional CbCR Safe Harbour

2.1. Introduction

1. The Safe Harbours and Penalty Relief document published in December 2022 (the “2022 SH document”) provided guidelines on aspects of the design and operation of a Transitional CbCR Safe Harbour. The Transitional CbCR Safe Harbour operates through the use of simplified jurisdictional revenue and income information contained in an MNE Group’s Qualified CbC Report and tax information contained in the Qualified Financial Statements. The safe harbour tests are applied to jurisdictions in which Entities and PEs of the MNE Group are located (“Tested Jurisdiction”).

2. As tax administrations and MNE Groups prepare to implement the GloBE Rules, they have identified areas in the Transitional CbCR Safe Harbour that require further clarifications. This Administrative Guidance supplements the 2022 SH document by providing clarifications for the issues that were identified. The clarifications set out below will be incorporated into Chapter 1 of the 2022 SH document. The 2022 SH document will then be incorporated into a revised edition of the Commentary, and the paragraph numbers will be refreshed for editorial purposes.

2.2. Tested Jurisdictions

2.2.1. Issue to be considered

3. If the MNE Group has both Constituent Entities and a Joint Venture or members of a JV Group in the same jurisdiction, are the Joint Venture or members of the JV Group treated as being in a separate Tested Jurisdiction from that of other Constituent Entities and other Joint Ventures and JV Groups?

2.2.2. Guidance

4. The following paragraphs will be inserted in the 2022 SH document:

Additional Guidance on the Transitional CbCR Safe Harbour

Tested Jurisdictions

74.1. The Transitional CbCR Safe Harbour tests are applied based on data from all Entities and PEs located in a Tested Jurisdiction. For this purpose, Constituent Entities, stand-alone Joint Ventures, and JV Groups that are located in the same jurisdiction are treated as being in separate Tested Jurisdictions. More specifically, all Constituent Entities in the jurisdiction are treated as a Tested Jurisdiction, all Entities of the same JV Group

located in the jurisdiction are treated as being in a Tested Jurisdiction, and each stand-alone Joint Venture located in the jurisdiction is treated as being in a Tested Jurisdiction. For example, if an MNE Group has 10 Constituent Entities and two different JV Groups located in jurisdiction A, then the MNE Group would have three Tested Jurisdictions for the purpose of the Transitional CbCR Safe Harbour in jurisdiction A – one Tested Jurisdiction for the 10 Constituent Entities, and one Tested Jurisdiction for each of the two JV Groups.

2.3. Qualified Financial Statements

2.3.1. Consistent use of data

Issue to be considered

5. Can an MNE Group use different sources of Qualified Financial Statements for the same Entity/PE?

Guidance

6. The following paragraphs will be inserted in the 2022 SH document:

Qualified Financial Statements

Consistent use of data

74.2. All of an Entity/PE's data that is used in the Transitional CbCR Safe Harbour (e.g. Total Revenue, Profit (Loss) before Income Tax (hereinafter referred to as PBT), Income Tax Expense, payroll expense, and carrying value of assets) to perform the safe harbour computations must come from the same Qualified Financial Statements. In other words, an MNE Group shall use either 1) the accounts used to prepare the CFS of the UPE or 2) separate financial statements the Constituent Entity (provided that they meet requirements outlined in this document) to populate the underlying data for an Entity/PE in order for the Tested Jurisdiction of the Entity/PE to qualify for the Transitional CbCR Safe Harbour. An MNE Group that uses data from different sources of Qualified Financial Statements for the same Entity/PE in the safe harbour computations will be disqualified from applying the Transitional CbCR Safe Harbour to the Tested Jurisdiction in which that Entity/PE is located.

74.3. Requiring all of an Entity/PE's data to come from the same Qualified Financial Statements ensures that there will not be distortions due to an asymmetry in the different components of the safe harbour computations. For example, a distortion might arise if the Income Tax Expense was taken from separate financial statements prepared under a local financial accounting standard and the PBT were taken from the financial accounts used to prepare the CFS under a different financial accounting standard. However, if the deferred tax component of the income tax expense related to PBT reflected in the Entity's reporting package or separate financial statements is reflected only in the accounting entries that are held at the level of the consolidating Parent Entity in the preparation of the CFS (instead of the Entity's own reporting package or separate financial statements), then the deferred tax expense must be drawn from the accounting entries that are held at the level of the consolidating Parent Entity in the preparation of the CFS.

74.4. The following examples illustrate the principles of paragraphs 76-77 as they would apply to the PPA adjustments that are permitted under paragraphs 17.2-17.5.

74.5. Example 1. UPE-X is the UPE of the MNE-X Group, is located in Country X, and owns CE-Y located in Country Y. The financial accounts of CE-Y that are used in the preparation of MNE-X's CFS (the reporting package) include both the PPA adjustments that arose in connection with MNE-X's acquisition of the stock of CE-Y in 2019 and the deferred tax expenses related to those PPA adjustments. CE-Y uses those financial accounts to determine the amount reported as Total Revenue and PBT in its Qualified CbC Report for Jurisdiction Y. In computing its Simplified ETR under the Transitional CbCR Safe Harbour, CE-Y must take into account the income tax expense as reflected in those financial accounts, which includes deferred tax expense (or benefit) related to the PPA adjustments.

74.6. Example 2. The facts are the same as Example 1, except that UPE-X records deferred tax expense (or benefit) exclusively through accounting entries that are held at the level of the consolidating Parent Entity in the preparation of the CFS (i.e. the deferred tax expense (or benefit) is not reflected in CE-Y's financial accounts used to prepare the CFS). In computing its Simplified ETR under the Transitional CbCR Safe Harbour, CE-Y must include the deferred tax expense (or benefit) related to the PPA adjustment that is reflected in the CFS.

74.7. Example 3. The facts are the same as in Example 2, except that CE-Y uses its separate financial statements to determine the amount of Revenue and PBT in its Qualified CbC Report for Jurisdiction Y and those statements do not include PPA adjustments or deferred taxes related to PPA adjustments. In computing its Simplified ETR under the Transitional CbCR Safe Harbour, CE-Y is not permitted to include deferred tax expense (or benefit) related to the PPA adjustments that are reflected in the CFS because the PPA adjustments are not reflected in the Qualified Financial Statements used to complete the Qualified CbC Report.

74.8. Other fields in the CbC Report that are not used in the Transitional CbCR Safe Harbour (i.e., Income Tax Paid (on Cash Basis), Income Tax Accrued – Current Year, Stated Capital, Accumulated Earnings, Number of Employees, Tangible Assets other than Cash and Cash Equivalents) may be populated from any source permitted under the Relevant CbC Regulations. Relevant CbC Regulations shall mean the CbCR requirements of the UPE jurisdiction or of the surrogate parent entity jurisdiction if a CbC Report is filed there and not in the UPE jurisdiction. If the UPE jurisdiction does not have CbC requirements and an MNE Group is not required to file a CbC Report in any jurisdiction, Relevant CbC Regulations shall mean the OECD BEPS Action 13 Final Report and the OECD Guidance on the Implementation of Country-by-Country Reporting.

Issue to be considered

7. Can an MNE Group use different sources of Qualified Financial Statements for different Entities within the same Tested Jurisdiction?

Guidance

8. The following paragraphs will be inserted in the 2022 SH document:

74.9. Further, all data used to perform the safe harbours computations for Entities in a Tested Jurisdiction under the Transitional CbCR Safe Harbour must come from the same type of Qualified Financial Statements (or the accounts used to prepare those Qualified Financial Statements). In other words, an MNE Group shall use either 1) the accounts used to prepare the CFS of the UPE for all Entities in the Tested Jurisdiction; or 2) separate financial statements of each Constituent Entity for all Entities in the same Tested Jurisdiction provided that they are prepared in accordance with an Acceptable Financial Accounting Standard or Authorised Financial Accounting Standard if the information contained in such statements is maintained based on that accounting standard and it is reliable. However, if the Constituent Entities in a Tested Jurisdiction include Non-Material Constituent Entities (NMCEs) or Permanent Establishments (PEs), the safe harbour test data of the NMCEs and PEs can come from any data source specifically permitted in the Commentary or under Agreed Administrative Guidance. This data for NMCEs and PEs is combined with the data of the other Constituent Entities in the Tested Jurisdiction for purposes of performing the safe harbour tests. Failure to use the same type of Qualified Financial Statement to perform safe harbour computations for all Entities in the same Tested Jurisdiction (except for NMCEs and PEs) will result in disqualification of that Tested Jurisdiction from the Transitional CbCR Safe Harbour.

Issue to be considered

9. Can a CbC Report that is based on data from Qualified Financial Statements for some Tested Jurisdictions be considered a Qualified CbC Report for those Tested Jurisdictions if the data for other Tested Jurisdictions are not based on Qualified Financial Statements?

Guidance

10. The following paragraphs will be inserted in the 2022 SH document:

74.10. Whether a CbC Report is considered a Qualified CbC Report is determined separately for each Tested Jurisdiction based on whether it is prepared based on Qualified Financial Statements. Consequently, a CbC Report may be considered a Qualified CbC Report with respect to some Tested Jurisdictions and not others. For example, Qualified Financial Statements have been consistently used to populate the data for Tested Jurisdiction A, and management accounts are used to populate the data for Tested Jurisdiction B. Tested Jurisdiction A's financial data would be considered as Qualified Financial Statements for the purpose of the Transitional CbCR Safe Harbour. Tested Jurisdiction B's financial data would not be considered as Qualified Financial Statements for the purpose of the Transitional CbCR Safe Harbour, and the Transitional CbCR Safe Harbor could not be applied in Tested Jurisdictions B.

Issue to be considered

11. Do separate financial statements need to be prepared for local statutory reporting purposes to be considered Qualified Financial Statements?

Guidance

12. The following paragraph will be inserted in the 2022 SH document:

74.11. Finally, Qualified Financial Statements can include separate financial statements of a Constituent Entity as long as they are prepared in accordance with either an Acceptable Financial Accounting Standard or an Authorised Financial Accounting Standard, if the information contained in such statements is maintained based on that accounting standard and it is reliable. The MNE Group may have prepared those separate financial statements for statutory reporting purposes. However, the definition of Qualified Financial Statements does not require that the separate financial statements were prepared for statutory reporting purposes or any other regulatory reporting purposes.

2.3.2. Using different accounting standards*Issue to be considered*

13. Can a CbC Report be considered a Qualified CbC Report if it is based on data from the UPE's CFS for some jurisdictions and data from local GAAP accounts for other jurisdictions?

Guidance

14. The following paragraph will be inserted in the 2022 SH document:

Using different accounting standards

74.12. An MNE Group may use different Qualified Financial Statements as the source of data for different Tested Jurisdictions in a Qualified CbC Report.

2.3.3. Adjustments to Qualified Financial Statements*Issue to be considered*

15. Can an MNE Group make adjustments to the underlying Qualified Financial Statement for the purpose of the simplified computations under the Transitional CbCR Safe Harbour if the adjustments are consistent with the GloBE Rules, e.g. for post-year end transfer pricing adjustments?

Guidance

16. The following paragraphs will be inserted in the 2022 SH document:

Adjustments to Qualified Financial Statements

74.13. Making adjustments to the data drawn from Qualified Financial Statements in a CbC Report for a jurisdiction would disqualify a Tested Jurisdiction from the Transitional CbCR Safe Harbour, regardless of whether such adjustments were intended to make CbCR data more consistent with the GloBE Rules. Similarly, making such adjustment to any other data in the Qualified Financial Statements used in the simplified computations would disqualify those computations under the Transitional CbCR Safe Harbour.

74.14. The only exceptions to the prohibition on making adjustments to the data in the Qualified Financial Statements are where adjustments are explicitly required in the Commentary or under Agreed Administrative Guidance.

74.15. For example, assume an MNE Group makes a year-end transfer pricing adjustment which increases the income of jurisdiction A by 5,000. This adjustment was reflected in jurisdiction A's local statutory account in 2024 but would not be reflected in the Constituent Entities' financial accounts used to prepare the CFS until 2025. The MNE Group uses financial accounts of Constituent Entities used to prepare the CFS to prepare its entire CbC Report. Although adding 5,000 of PBT to jurisdiction A's 2024 CbC data would make jurisdiction A's result more accurate both for GloBE purposes and for transfer pricing risk assessment purposes, doing so would disqualify the CbC Report for jurisdiction A in 2024 because an adjustment was made to the amounts in the Qualified Financial Statements for jurisdiction A.

Issue to be considered

17. The answer to Question 7.1 in Chapter 2 of the October 2022 Guidance on the Implementation of Country-by-Country Reporting document states that an intra-group payment treated as a dividend in the payer's tax jurisdiction should be excluded from the Revenue and PBT of the recipient. For purposes of the Transitional CbCR Safe Harbour, should an intra-group payment that is treated as income of the recipient in its Qualified Financial Statements and expense of the payer in its Qualified Financial Statements be excluded from the recipient's Total Revenue and PBT if it was treated as a dividend in the payer's jurisdiction for tax purposes?

Guidance

18. The following paragraph will be inserted in the 2022 SH document:

74.16. Furthermore, the information reflected in the Qualified Financial Statements shall not be adjusted in the safe harbour computations based on the tax treatment of the transaction. An intra-group payment treated as income in the Qualified Financial Statements of the recipient and expense in the Qualified Financial Statements of the payer shall be included in Total Revenues and PBT for the purpose of the safe harbour computations without further adjustments, irrespective of the treatment of that transaction for tax purposes in the jurisdiction of the recipient or the payer and the treatment of that transaction in the CbC Report.

74.17. For example, UPE-X owns CE-X. Both UPE-X and CE-X are located in Tested Jurisdiction X. UPE-X acquires certain preferred shares of CE-X that are treated as debt in UPE-X's Consolidated Financial Statements. For accounting purposes, payments arising under the shares are treated as interest expense by CE-X and interest income by UPE-X under UPE-X's Consolidated Financial Statements. The preferred shares are treated as equity for tax purposes in Tested Jurisdiction X. Under its interpretation of the applicable CbC guidance, which includes the answer to Question 7.1 in Chapter 2 of the October 2022 Guidance on the Implementation of Country-by-Country Reporting document, UPE-X excluded the payment from its Revenue and PBT in its CbC report because it is treated as a dividend in Tested Jurisdiction X. However, because the payment is treated as an expense for CE-X, UPE-X must treat the payment as income in determining its Total Revenues and PBT for purposes of the computations under the Transitional CbCR Safe Harbour, notwithstanding the treatment in the CbC Report. Failing to include such income in computing UPE-X's Total Revenues and PBT for purposes of the safe harbour computations would disqualify Jurisdiction X from the Transitional CbCR Safe Harbour.

2.3.4. MNE Groups not required to file CbCR

Issue to be considered

19. Certain MNE Groups that are in scope of the GloBE Rules may not be required to prepare and file Country-by-Country Reports for various reasons. Can those MNE Groups still qualify to use the Transitional CbCR Safe Harbour?

Guidance

20. The following paragraphs will be inserted in the 2022 SH document:

MNE Groups not required to file CbCR

74.18. BEPS Action 13 provides an exemption from the general CbC filing requirement for MNE Groups with annual consolidated group revenue in the immediately preceding fiscal year of less than EUR 750 million. The EUR 750 million consolidated revenue threshold in the GloBE Rules, however, uses a two-out-of-four-years test to reduce volatility. This means that certain Groups that are in scope of the GloBE Rules might not be required to file CbC Reports due to this variance in the threshold tests. When the CbCR and/or the GloBE thresholds are set in a currency other than Euro, differences in scope might similarly arise due to fluctuations in foreign exchange rates. Furthermore, there may be some differences in the definition of an Ultimate Parent Entity and some jurisdictions do not require CbC reporting from certain entities (e.g., dormant entities or tax-exempt entities). Finally, purely domestic Groups are not required to file CbC Reports but an Income Inclusion Rule might in some instances apply to purely domestic Groups (see Council Directive (EU) 2022/2523). Preventing MNE Groups that are subject to the GloBE Rules or a QDMTT from accessing the Transitional CbCR Safe Harbour solely on grounds that they are not required to prepare and file CbC reports would result in unequal treatment for those MNE Groups during the Transition Period.

74.19. MNE Groups that are in scope of the GloBE Rules but not required to file CbC Reports are still eligible for the Transitional CbCR Safe Harbour if they complete section 2.2.1.3(a) of the GloBE Information Return using the data from Qualified Financial Statements that would have been reported as Total Revenue and PBT in a Qualified CbC Report if the MNE Group were required to file a CbC Report. In such situations, references to amounts “as reported in a Qualified CbC Report” shall be interpreted to include the amounts that would have been reported in a Qualified CbC Report if the MNE Group were required to file a CbC Report in accordance with the CbC requirements in the UPE Jurisdiction (or, if the UPE Jurisdiction does not have CbC requirements, the amounts that would have been reported in accordance with the OECD BEPS Action 13 Final Report and the OECD Guidance on the Implementation of Country-by-Country Reporting).

2.3.5. Qualified Financial Statements for Permanent Establishments

Issue to be considered

21. What constitutes a Qualified Financial Statement for a PE?

Guidance

22. The following paragraphs will be inserted in the 2022 SH document:

Qualified Financial Statements for Permanent Establishments

74.20. A PE must use its own Qualified Financial Statements to determine the amounts used for purposes of the Transitional CbCR Safe Harbour computations in the Tested Jurisdiction if it has them. However, given that a PE is a tax and not an accounting concept, PE-specific revenue and profit data is rarely directly available from the UPE's Consolidated Financial Statements or the Main Entity's local financial accounts. If Qualified Financial Statements are not available for a PE, the MNE Group may determine the portion of the Main Entity's Total Revenue and PBT that is attributable to the PE using separate financial statements prepared by the Main Entity for the PE for financial reporting, regulatory, tax reporting, or internal management control purposes (see OECD BEPS Action 13 Final Report). To the extent a loss arising in a PE is allocated to the PE, a corresponding adjustment must be made to the PBT of the Main Entity to the extent necessary to prevent the loss from being double counted.

2.4. Simplified ETR computation

2.4.1. Clarifying definition of Simplified Covered Taxes

Issue to be considered

23. "Simplified Covered Taxes" is defined as a jurisdiction's income tax expense as reported on the MNE Group's Qualified Financial Statements, after eliminating any taxes that are not Covered Taxes and uncertain tax positions reported in the MNE Group's Qualified Financial Statements. Under this definition, Simplified Covered Taxes will include adjustments to the income tax expense provision of prior years (other than those related to uncertain tax positions). However, the last sentence of paragraph 22 of the 2022 SH document states that "Income tax expense before adjusting for uncertain tax positions is also mathematically equivalent to Income Tax Accrued (Current Year) plus deferred tax expenses..." which suggests that adjustments to prior-year income tax expense provision (other than those related to uncertain tax positions) would not be included in Simplified Covered Taxes. Which sentence of the 2022 SH document is correct?

Guidance

24. Paragraph 22 of the 2022 SH document will be revised to include the parenthetical in bold and remove the strike-through sentence:

22. Uncertain tax positions can be material and can overstate a jurisdiction's ETR in comparison to GloBE. Removing uncertain tax positions from the income tax expense does not increase the compliance burden of the MNE Group since the income tax expense and uncertain tax positions are recorded in distinct line items in an MNE Group's trial balances that are used to prepare its Qualified Financial Statement and accompanying notes. **Where the income tax expense includes an adjustment to bring the amount reported for a prior year's income tax expense in line with the final amount of the expense (sometimes referred to as a return to provision), the effect of any uncertain tax position reflected in that adjustment must be removed.** ~~Income tax expense before adjusting for uncertain tax positions is also mathematically equivalent to Income Tax Accrued (Current Year) plus deferred tax expenses⁴, and again both items are readily available in an MNE's Qualified CbC Report and Qualified Financial Statements.~~

2.4.2. Covered Taxes on income of PEs, CFCs, and Hybrid Entities

Issue to be considered

25. Is the tax paid in the PE jurisdiction on the PE's income included in both the PE Covered Taxes and the Main Entity's Covered Taxes in the Simplified ETR test?

Guidance

26. The following paragraphs will be inserted in the 2022 SH document:

Simplified ETR computation

Covered Taxes on income of PEs, CFCs, and Hybrid Entities

74.21. The Simplified ETR test is calculated using PBT data from a Qualified CbC Report and income tax expense from the Qualified Financial Statements. Paragraph 9 of the Safe Harbour and Penalty Relief document states that the income tax expense used for the Simplified ETR test therefore includes deferred items and does not require any adjustments under GloBE (such as the allocation of CFC or Main Entity taxes), other than the removal of taxes which are not Covered Taxes and Uncertain Tax Positions.

74.22. The income tax expense in the jurisdiction in which the PE is located on the PE's income must be allocated exclusively to the PE's jurisdiction and can only be included in the Simplified ETR Test for the PE jurisdiction. That income tax expense shall not be included in the Simplified ETR Test for the Main Entity's jurisdiction.

Issue to be considered

27. In some cases, an MNE Group is required to determine the Parent Entity or Main Entity's Covered Taxes on the income of the PE, CFC or Hybrid Entity and allocate those taxes to the relevant Entity pursuant to Article 4.3.2. In those circumstances, is the MNE Group required to remove those taxes from the Constituent Entity-owner's or Main Entity's Covered Taxes for purposes of the Simplified ETR computation in the Constituent Entity-owner's or Main Entity's jurisdiction?

Guidance

28. The following paragraph will be inserted in the 2022 SH document:

74.23. In a case where the Transitional CbCR Safe Harbour does not apply in a jurisdiction in which a PE, CFC or Hybrid Entity is located, the MNE Group will need to compute the jurisdictional ETR under the GloBE Rules and take into account Covered Taxes paid or accrued on its income by the Parent or the Main Entity. Taxes paid under a CFC Tax Regime or a taxable branch regime do not need to be allocated for purposes of determining the Simplified ETR for the jurisdiction of the Constituent Entity-Owner or Main Entity, notwithstanding the fact that part or all of such taxes are also taken into account in the GloBE ETR computations of a jurisdiction that includes a CFC, PE or Hybrid Entity.

2.5. Routine Profits Test

2.5.1. Issue to be considered

29. In calculating a Tested Jurisdiction's Substance-based Income Exclusion (SBIE) amount, which percentages should be used? Should it be 5%, or should it be the transitional rate for the applicable Fiscal Year set out in Article 9.2 of the GloBE Rules?

2.5.2. Guidance

30. The following paragraph will be inserted in the 2022 SH document:

Routine Profits Test

74.24. MNE Groups shall calculate their SBIE amount for the Transitional CbCR Safe Harbour using the same percentage that would be used to calculate their SBIE amount under the GloBE Rules, including based on the transitional rates stated under Article 9.2. For example, for 2024, the Article 5.3.3 rate to be used for the routine profits test is 9.8%, and the Article 5.3.4 rate is 7.8%.

2.6. Treatment of hybrid arbitrage arrangements under the Transitional CbCR Safe Harbour

2.6.1. Introduction

31. The Transitional CbCR Safe Harbour allows MNE Groups to use different sources of financial information to demonstrate their eligibility for the safe harbour. The Inclusive Framework has become aware of certain avoidance transactions marketed to MNE Groups that exploit these differences, or differences between tax and financial accounting treatment, to allow a Constituent Entity to qualify for the safe harbour. As a temporary measure, the Transitional CbCR Safe Harbour does not include the same guardrails which apply under the GloBE Rules to prevent planning involving arbitrage, including those in Articles 3.2.7 and 4.1.4, and the Agreed Administrative Guidance addressing the asymmetric treatment of dividends and distributions. These aggressive tax planning transactions typically involve the use of arrangements where the Constituent Entities that are parties to the arrangement are able to account for the income, expenses, gains, losses or taxes under that arrangement in an inconsistent or duplicative manner and in a way that purports to allow one of the Constituent Entities to qualify for the safe harbour and thereby avoid GloBE Top-up Taxes which would otherwise arise.

32. The proper application of the GloBE Rules is premised on the consistent application of the rules to every jurisdiction where the MNE Group operates. Hybrid arrangements that are designed to arbitrage differences in the source of financial information or differences between tax and financial accounting treatment to produce inconsistencies between Constituent Entities in the way they account for income, expenses and taxes under that arrangement are contrary to the purpose of the GloBE Rules. Where a Constituent Entity has entered into one of these hybrid arbitrage arrangements, the Constituent Entity's eligibility for the safe harbour should be determined on the assumption that it has treated the relevant item of income, expense or taxes in the same way as the counterparty. The Inclusive Framework has therefore agreed that the Transitional CbCR Safe Harbour is not available to an MNE Group to the extent that such hybrid arbitrage arrangements result in a Tested Jurisdiction qualifying for the safe harbour.

33. The guidance set out below confirms that a Constituent Entity cannot qualify for the Transitional CbCR Safe Harbour as a result of entering into a hybrid arbitrage arrangement after 15 December 2022, the date of the release of the Safe Harbour and Penalty Relief document. This guidance is limited to the use of the Transitional CbCR Safe Harbour and does not apply with respect to any other Temporary or Permanent Safe Harbour. However, further guidance will be provided to address hybrid arbitrage arrangements, including those addressed in this guidance, that may otherwise affect the application of the GloBE rules outside the context of the Transitional CbCR Safe Harbour.

2.6.2. Issue to be considered

34. Whether the Transitional CbCR Safe Harbour is available to MNE Groups that would only qualify as a result of one or more hybrid arbitrage arrangements.

2.6.3. Guidance

35. The following paragraphs will be inserted in the 2022 SH document:

Treatment of hybrid arbitrage arrangements

74.25. For the purposes of determining whether a Tested Jurisdiction qualifies for the Transitional CbCR Safe Harbour, adjustments must be made to the Tested Jurisdiction's PBT and income tax expense with respect to any Hybrid Arbitrage Arrangements entered into after 15 December 2022. A Hybrid Arbitrage Arrangement is (i) a deduction / non-inclusion arrangement; (ii) a duplicate loss arrangement; or (iii) a duplicate tax recognition arrangement.

74.26. A Tested Jurisdiction's safe harbour calculation must be adjusted by:

- a. excluding any expense or loss arising as a result of a deduction / non-inclusion arrangement or duplicate loss arrangement from the Tested Jurisdiction's PBT; and
- b. excluding any income tax expense arising as a result of a duplicate tax recognition arrangement from the Tested Jurisdiction's income tax expense.

74.27. **A deduction / non-inclusion arrangement** is an arrangement under which one Constituent Entity directly or indirectly provides credit or otherwise makes an investment in another Constituent Entity that results in an expense or loss in the financial statements of a Constituent Entity to the extent that:

- a. there is no commensurate increase in the revenue or gain in the financial statements of the Constituent Entity counterparty; or
- b. the Constituent Entity counterparty is not reasonably expected over the life of the arrangement to have a commensurate increase in its taxable income.

An arrangement will not be a deduction / non-inclusion arrangement to the extent that the relevant expense or loss is solely with respect to Additional Tier One Capital.

74.28. A **duplicate loss arrangement** is an arrangement that results in an expense or loss being included in the financial statement of a Constituent Entity to the extent that:

- a. the expense or loss is also being included as an expense or loss in the financial statement of another Constituent Entity; or
- b. the arrangement also gives rise to a duplicate amount that is deductible for purposes of determining the taxable income of another Constituent Entity in another jurisdiction.

74.29. A **duplicate tax recognition arrangement** is an arrangement that results in more than one Constituent Entity including part or all of the same income tax expense in its:

- a. Adjusted Covered Taxes; or
- b. Simplified ETR for purposes of applying the Transitional CbCR Safe Harbour,

unless such arrangement also results in the income subject to the tax being included in the relevant financial statements of each such Constituent Entity. An arrangement will not be a duplicate tax recognition arrangement if it arises solely because the Simplified ETR of a Constituent Entity does not require adjustments for income tax expenses which would be allocated to another Constituent Entity in determining the first Constituent Entity's Adjusted Covered Taxes.

74.30. For the purposes of paragraphs 74.25 to 74.30:

- a. the term Constituent Entity includes an Entity treated as a Constituent Entity under the GloBE rules, such as a Joint Venture, and any entity with a Qualified Financial Statement that has been taken into account for the purposes of the Transitional CbCR Safe Harbour regardless of whether such Entities are in the same Tested Jurisdiction;
- b. Financial statements of a Constituent Entity means the financial statements used to calculate that Constituent Entity's GloBE Income or the Qualifying Financial Statements where that entity is subject to the Transitional CbCR Safe Harbour;
- c. a Constituent Entity will be considered to have entered into an arrangement after 15 December 2022 if after that date:
 - i. the arrangement is amended or transferred;
 - ii. the performance of any rights or obligations under the arrangement differs from the performance prior to 15 December 2022 (including where payments are reduced or ceased with the effect of increasing the balance of a liability); or
 - iii. there is a change in the accounting treatment with respect to the arrangement;
- d. a Constituent Entity will not be considered to have a commensurate increase in its taxable income to the extent that:
 - i. the amount included in taxable income is offset by a tax attribute, such as a loss carryforward or an unused interest carryforward, with respect to which a valuation adjustment or accounting recognition adjustment has been made or would have been made if the adjustment determination were made without regard to the ability of a Constituent Entity to use the tax attribute with respect to any Hybrid Arbitrage Arrangement entered into after 15 December 2022; or

- ii. the payment that gives rise to the expense or loss also gives rise to a taxable deduction or loss of a Constituent Entity that is located in the same jurisdiction as the Constituent Entity counterparty without being included as an expense or loss in determining the PBT for that jurisdiction (including as a result of being an expense or loss in the financial statements of Flow-Through Entity which is owned by a Constituent Entity in the jurisdiction of the Constituent Entity counterparty);
- e. an arrangement will not be a duplicate loss arrangement under paragraph 74.28(a) to the extent that the amount of the relevant expense is offset against revenue which is included in the financial statements of both Constituent Entities;
- f. an arrangement will not be a duplicate loss arrangement under paragraph 74.28(b) to the extent that the amount of the relevant expense is offset against revenue or income which is included in both:
 - i. the financial statements of the Constituent Entity including the expense or loss in its financial statements; and
 - ii. the taxable income of the Constituent Entity claiming the deduction for the relevant expense or loss;
- g. an expense or loss will not be considered to be in the financial statement of a Tax Transparent Entity to the extent that the expense or loss is included in the financial statements of its Constituent-Entity owners; and
- h. where a duplicate loss arrangement arises under paragraph 74.28(a) and all Constituent Entities including the relevant expense or loss in their financial statements are located in the same Tested Jurisdiction, an adjustment does not need to be made under paragraph 74.26(a) with respect to the expense or loss in the financial statements of one of the Constituent Entities.

74.31. If a jurisdiction is unable to apply the Administrative Guidance contained in paragraphs 74.25 to 74.30 by reference to transactions entered into after 15 December 2022 based on constitutional grounds or other superior law that jurisdiction can adopt this Administrative Guidance as if references to '15 December 2022' were replaced with '18 December 2023' (the date of publication of this Agreed Administrative Guidance).

3 Administrative Guidance on application of GloBE Rules

3.1. Consolidated revenue threshold

3.1.1. Introduction

1. The GloBE Rules apply to MNE Groups that have revenues equal to or in excess of the EUR 750 million threshold set out in Article 1.1. The GloBE Commentary notes that the revenue threshold is based on that used in the CbCR rules. This means that what constitutes revenue is determined under financial accounting standards and taken from the consolidated profit and loss statement of an MNE Group. Chapter 4 of the October 2022 Guidance on the Implementation of Country-by-Country Reporting defines total consolidated group revenue for the purpose of determining CbC reporting thresholds. However, whether certain elements (for example, extraordinary income and gains from investment activities) are included in that threshold can vary among financial accounting standards and UPE jurisdiction under this definition. Further, a consolidated income statement prepared under some financial accounting standards may present some gains and losses on a net basis rather than reporting the gains and losses separately. These discrepancies in financial reporting practices and requirements could cause the results of applying the EUR 750 million threshold to vary by MNE Group and by Implementing Jurisdiction. The Inclusive Framework has determined that in order to increase certainty and uniformity in the application of the GloBE Rules, the definition of revenues for the purpose of Article 1.1 should be further clarified.

3.1.2. Issue to be considered

2. To determine whether an MNE Group is subject to the GloBE rules under Article 1.1, which items shown in the financial statements are counted as revenue for purpose of the EUR 750 million threshold?

3.1.3. Guidance

3. The following paragraphs will be added after paragraph 10 of the Commentary to Article 1.1:

10.1 As stated in paragraph 4, the Article 1.1 revenue threshold is based on that used in the CbCR rules. The GloBE and CbCR revenue thresholds are not identical, however. For example, Article 1.1 is based on the MNE Group's revenues in two of the past four years. Nevertheless, both thresholds are applied based on the annual revenue taken from the profit and loss statement of the MNE Group's consolidated financial statements. This naturally means that the definition of revenue for both purposes is derived from the financial accounting standard used in the MNE Group's consolidated financial statement.

10.2 Applying the revenue threshold based on the revenues shown in profit and loss statement of the consolidated financial statement reduces the burden of determining whether an MNE Group is within the scope of the GloBE Rules. The MNE Group only has

to look at its consolidated profit and loss statements, which are often already prepared for another purpose, to determine its total annual revenues. However, financial accounting standards have different requirements for how revenue must be presented in the consolidated profit and loss statement. Some standards provide more flexibility to the MNE Group than others. Because of this flexibility, revenues as defined in the financial accounting standard may be presented in different ways by different MNE Groups. Some may present all revenues on a single line and others may identify and separately present various types of revenues. Further, depending on the financial accounting standard used, some items (e.g. extraordinary or non-recurring items; investment income for insurance companies) may be segregated and presented separately from revenues by some MNE Groups and included and presented as part of revenues by others. These different standards and practices for presenting revenues in the consolidated income statement could create a lack of uniformity in applying the Article 1.1 threshold. In order to increase certainty and uniformity in the application of the GloBE Rules, the definition of revenues for the purpose of Article 1.1 should be further clarified.

10.3 For purposes of Article 1.1 of the GloBE Rules, revenue includes the inflow of economic benefits arising from delivering or producing goods, rendering services, or other activities that constitute the MNE Group's ordinary activities. The revenue amounts shall be determined in line with the relevant accounting standard, which may allow for netting for discounts, returns and allowances, but in any event before deducting cost of sales and other operating expenses; these amounts will typically be reflected at the top of the profit and loss statement. If different types of revenue are separately presented in the consolidated profit and loss statement of the consolidated financial statements, they must be aggregated for purposes of Article 1.1.

10.4 In addition, revenue for the purpose of Article 1.1 shall include net gains from investments (whether realised or unrealised) reflected in the profit and loss statement of the consolidated financial statements and income or gains separately presented as extraordinary or non-recurring items. If the MNE Group's consolidated profit and loss statement presents gross gains from investments and gross losses from investments separately, the MNE Group shall reduce revenues by the amount of such gross losses to the extent of gross gains from investments in determining revenues for purposes of Article 1.1. This ensures that an MNE Group is not disadvantaged in the application of the Article 1.1 threshold test by a financial accounting standard that requires gains and losses to be presented separately in the profit and loss statement.

10.5 For financial entities, which may not record gross amounts from transactions in their financial statements with respect to certain items, the item(s) considered similar to revenue under the Ultimate Parent Entity's financial accounting standards should be used in the context of financial activities. Those items could be labelled as 'net banking product', 'net revenues', or others depending on the financial accounting standard. For example, if the income or gains from a financial transaction, such as an interest rate swap, is appropriately reported on a net basis under the Ultimate Parent Entity's financial accounting standards, the term 'revenue' means the net amount from the transaction.

10.6 Example 1: MNE Group A is a manufacturing company, and it has generated ancillary interest income outside its ordinary activities. The interest income is recorded in MNE Group A's profit and loss statement as Interest Income, below Cost of Goods Sold and Selling, General and Administrative Expenses. Therefore, interest income shall not be included in MNE Group A's revenue for the purpose of Article 1.1.

10.7 Example 2: MNE Group B engages in manufacturing, sale, and leasing of industrial equipment. In its ordinary course of business, MNE Group B offers its customers

loans when they purchase its equipment; MNE Group B reports interest and leasing income as part of Net Revenues in its profit and loss statement. In this case, interest and leasing income shall be included in MNE Group B's revenue for the purpose of Article 1.1.

3.2. Mismatch between Fiscal Years of UPE and another Constituent Entity

3.2.1. Introduction

4. In some cases, an MNE Group may maintain the financial accounts of some Constituent Entities based on a different fiscal year than the UPE's Fiscal Year. For example, the UPE and other Constituent Entities in the MNE Group may maintain their financial accounts based on a 31 December Fiscal Year, and the foreign subsidiary Constituent Entities may maintain their financial accounts based on a 30 November Fiscal Year. In such cases, MNE Groups may apply different accounting conventions in the preparation of the Consolidated Financial Statements depending upon the rules of the financial accounting standard used in the Consolidated Financial Statements. Some MNE Groups will incorporate the Constituent Entity's financial accounting results for its fiscal period into the Consolidated Financial Statements, which will mean that some of the income or expenses reported in the Consolidated Financial Statements will be attributable to transactions before the beginning of the UPE's Fiscal Year. Other MNE Groups will segregate the income of the Constituent Entity based on the UPE's Fiscal Year and combine the amounts from the Constituent Entity's two fiscal years that straddle the UPE's Fiscal Year.

3.2.2. Issue to be considered

5. When the financial accounts of a Constituent Entity that are used in the preparation of the Consolidated Financial Statements are maintained based on a fiscal period that is different from the Fiscal Year of the UPE, what financial account data should be used for the GloBE computations of those Constituent Entities?

3.2.3. Guidance

6. The following paragraphs will be added after paragraph 13 of the Commentary to Article 1.1:

13.1 In some cases, an MNE Group may maintain the financial accounts of some Constituent Entities based on a different fiscal year than the UPE's Fiscal Year. For example, the UPE and other Constituent Entities in the MNE Group may maintain their financial accounts based on a 31 December Fiscal Year and the foreign subsidiary Constituent Entities may maintain their financial accounts based on a 30 November Fiscal Year. In such cases, MNE Groups may apply different accounting conventions in the preparation of the Consolidated Financial Statements depending upon the rules of the financial accounting standard used in the Consolidated Financial Statements.

13.2 Some MNE Groups will incorporate the Constituent Entity's financial accounting results for its fiscal period into the Consolidated Financial Statements. Thus, in the foregoing example, the UPE would include in its Consolidated Financial Statements the income and taxes of each foreign Constituent Entity for its 30 November Fiscal Year that ends within the UPE's 31 December Fiscal Year. In that case, some of the income or expenses reported in the Consolidated Financial Statements will be attributable to transactions before the beginning of the UPE's Fiscal Year.

13.3 Other MNE Groups will segregate the income of the Constituent Entity based on the UPE's Fiscal Year and combine the amounts from the Constituent Entity's two fiscal years that straddle the UPE's Fiscal Year. Thus, in the foregoing example, the Constituent

Entity would combine the income and expenses from the last 11 months of the fiscal year that ends within the UPE's Fiscal Year (i.e. January through November) with those of the first month of the fiscal year that begins in the UPE's Fiscal Year (i.e. December) and include the resulting combined amounts in the Consolidated Financial Statements.

13.4 The Fiscal Year for purposes of the GloBE Rules is generally the accounting period used by the UPE in the preparation of its Consolidated Financial Statements. See Article 10.1. When some Constituent Entities of an MNE Group maintain their financial accounts on a different fiscal year as described above, the GloBE computations for the UPE's Fiscal Year will be based on the method to address the discrepancy in the fiscal years that is used by the MNE Group in its Consolidated Financial Statements. Accordingly, for those MNE Groups that simply include the results of the Constituent Entity's fiscal year in the Consolidated Financial Statements, those are the amounts that must be used for GloBE computations. On the other hand, for those MNE Groups that determine the Constituent Entity's financial results for the UPE's Fiscal Year and include those results in the Consolidated Financial Statements, those are the amounts that must be used for GloBE computations.

3.2.4. Introduction

7. There may be situations where a Constituent Entity has a different fiscal year than the UPE. This can happen where a Constituent Entity is included in the Consolidated Financial Statements as explained above. It can also happen where a Constituent Entity is not included in the Consolidated Financial Statements, for example, where the Constituent Entity is excluded from the Consolidated Financial Statements on materiality grounds. In these latter cases, the MNE Group may be relying on Article 3.1.3 to determine the Financial Accounting Net Income or Loss of the Constituent Entity. Further, a Joint Venture or JV Group of the MNE Group may also maintain its financial accounts on a fiscal year different from the UPE's Fiscal Year.

3.2.5. Issue to be considered

8. When a Constituent Entity has a different fiscal year from the UPE and its financial accounts are not included in the preparation of the UPE's Consolidated Financial Statements, which Fiscal Year data is used for the GloBE computations?

3.2.6. Guidance

9. The following paragraphs will be added after paragraph 13 of the Commentary to Article 1.1:

13.5 In other situations, a Constituent Entity may have a different fiscal year than the UPE and it is not included in the Consolidated Financial Statements, for example, where the Constituent Entity is excluded from the Consolidated Financial Statements on materiality grounds. In these cases, the MNE Group may be relying on Article 3.1.3 to determine the Financial Accounting Net Income or Loss of the Constituent Entity. Further, a Joint Venture or JV Group of the MNE Group may also maintain its financial accounts on a fiscal year different from the UPE's Fiscal Year.

13.6 The GloBE Rules apply based on the Fiscal Year of the UPE. Where the financial accounts of a Constituent Entity are maintained on a fiscal year different from the UPE's Fiscal Year and are not included in the Consolidated Financial Statements, the GloBE computations for the Constituent Entity's Fiscal Year must be made based on the financial accounting period that ends during the UPE's Fiscal Year. Similarly, where a Joint Venture or JV Group's financial accounts are maintained on a different fiscal year, the GloBE

computations for the Joint Venture or JV Group's Fiscal Year must be made based on the financial accounting period that ends during the UPE's Fiscal Year. This will ensure that the data necessary to determine the MNE Group's Top-up Tax liability, if any, for a Reporting Fiscal Year is available when the GloBE Information Return for that Reporting Fiscal Year is due.

13.7 For example, MNE Group-A owns Constituent Entity-B located in jurisdiction B. MNE Group A has a Reporting Fiscal Year that ends on 31 December. Constituent Entity-B is not included in the Consolidated Financial Statements of MNE Group-A. The separate financial accounts of Constituent Entity-B are prepared using an Authorised Financial Accounting Standard and maintained on a fiscal year that ends on 30 November. For the Reporting Fiscal Year of 1 January 2024 to 31 December 2024, MNE Group-A shall use the separate financial statement of Constituent Entity-B that cover the period of 1 December 2023 to 30 November 2024.

3.3. Mismatch between Fiscal Year and Tax Year of Constituent Entity

3.3.1. Introduction

10. In some cases, a Constituent Entity will have a fiscal year different from its tax year. However, the MNE Group will need to determine its Adjusted Covered Taxes based on its Fiscal Year.

3.3.2. Issue to be considered

11. How should the MNE Group determine the Adjusted Covered Taxes for a Fiscal Year in a jurisdiction if the taxable period of Constituent Entities in the jurisdiction does not align with the Fiscal Year of the MNE Group?

3.3.3. Guidance

12. The following paragraphs will be added after paragraph 4 of the Commentary to Article 4.1.1:

4.1 In some cases, the fiscal year of a Constituent Entity may not correspond to the taxable year of the Entity in its location. For example, the Constituent Entity may maintain its financial accounts based on a Fiscal Year that ends on 31 December but it may be required to use a taxable year that ends on 30 April. In such cases, different MNE Groups may apply different accounting conventions in the preparation of the Consolidated Financial Statements depending upon the rules of the financial accounting standard used in the Consolidated Financial Statements. In the case of a Constituent Entity that has a tax year different from its Fiscal Year, the Constituent Entity should apply the method used in the Consolidated Financial Statements (or other financial statements used to determine the Financial Accounting Net Income or Loss of the Constituent Entity) to determine its Adjusted Covered Taxes for the Fiscal Year. A similar approach should be taken in determining the Adjusted Covered Taxes of a Joint Venture or JV Group that has a tax year different from its Fiscal Year.

4 Further Administrative Guidance on the allocation of Blended CFC Taxes

4.1. Introduction

1. Under Agreed Administrative Guidance that applies for a limited period (i.e. for Fiscal Years that begin on or before 31 December 2025 but not including a Fiscal Year that ends after 30 June 2027), CFC tax incurred under a Blended CFC Tax Regime is allocated to Entities located in jurisdictions in which the GloBE Jurisdictional ETR is below the Applicable Rate for the Blended CFC Tax Regime. The allocation formula, as set out in the Agreed Administrative Guidance on Allocation of taxes arising under a Blended CFC Tax Regime, is seen below:

Blended CFC Tax Allocated to an Entity:	
$\frac{\textit{Blended CFC Allocation Key}}{\textit{Sum of All Blended CFC Allocation Keys}}$	$\times \textit{Allocable Blended CFC Tax}$

Blended CFC Allocation Key:	
$\textit{Attributable Income of Entity}$	$\times (\textit{Applicable Rate} - \textit{GloBE Jurisdictional ETR})$

2. The GloBE Jurisdictional ETR used in the allocation formula is the Effective Tax Rate for Entities located in a jurisdiction computed under Article 5.1 without regard to any Covered Taxes under a CFC Tax Regime. A GloBE Jurisdictional ETR is needed for every jurisdiction that has Attributable Income in order to compute the Sum of All Blended CFC Allocation Keys. In some cases, due to the application of special GloBE computation rules, an MNE Group may be required to compute separate GloBE Jurisdictional ETRs for different subgroups of Entities located in the same jurisdiction (blending groups), such as in the case of a Joint Venture or where there are Minority-Owned Constituent Entities or Investment Entities located in the jurisdiction. Further guidance is needed to clarify that where multiple GloBE Jurisdictional ETRs are computed for one jurisdiction due to the presence of multiple blending groups, the Blended CFC Allocation Key for an Entity shall be calculated using the GloBE Jurisdictional ETR that is applicable to the blending group to which such Entity belongs.

3. In some other cases, an MNE Group may not otherwise be required to compute an ETR under Article 5.1, for example, if the Entities located in a jurisdiction are eligible for a safe harbour, such as the Transitional CbCR Safe Harbor or the QDMTT Safe Harbour, or if the Filing Constituent Entity elects the De Minimis exclusion under Article 5.5. Requiring an MNE Group to compute an ETR under Article 5.1 for such jurisdictions would undermine the simplification benefits and purpose of the relevant safe harbour or

the de minimis exclusion. Therefore, guidance is needed on how to compute the GloBE Jurisdictional ETR for the purpose of calculating the Blended CFC Allocation Key of an Entity that is located in a jurisdiction for which the MNE Group is not otherwise required to compute an ETR under Article 5.1.

4.2. Issues to be considered

4. This item of Administrative Guidance considers the following three issues:
 - a. What GloBE Jurisdictional ETR should be used to compute the Blended CFC Allocation Key of an Entity when multiple GloBE Jurisdictional ETRs are computed for the same jurisdiction?
 - b. How should the GloBE Jurisdictional ETR be computed for the Blended CFC Allocation Key of a Constituent Entity, Joint Venture or member of a JV Group if that Entity is located in a jurisdiction for which the MNE Group is not otherwise required to compute an ETR under Article 5.1?
 - c. How should the GloBE Jurisdictional ETR be computed for the Blended CFC Allocation Key of non-GloBE Entities when there are multiple ETRs computed for Entities in the jurisdiction?

4.2.1. Computing an Entity's Blended CFC Allocation Key when multiple GloBE Jurisdictional ETRs are computed for a jurisdiction

5. In cases where an MNE Group computes multiple GloBE Jurisdictional ETRs for different blending groups of Entities located in the same jurisdiction, the Blended CFC Allocation Key for an Entity shall be calculated using the GloBE Jurisdictional ETR that is applicable to the blending group to which such Entity belongs. For instance, if an MNE Group has four Constituent Entities located in a jurisdiction, two of which are Investment Entities, the Blended CFC Allocation Key for each of the two blending groups of Constituent Entity will be determined based on the GloBE Jurisdictional ETR applicable to each blending group, which may be different because, under Article 7.4, the ETR is determined separately under Article 5.1 for Investment Entities from all other Constituent Entities located in the jurisdiction. The Sum of All Blended CFC Allocation Keys includes those computed for all of the Entities located in the jurisdiction notwithstanding that some may have been computed based on different GloBE Jurisdictional ETRs.

4.2.2. Computing an Entity's Blended CFC Allocation Key when it is not required to compute an ETR under Article 5.1

6. For a Tested Jurisdiction for which the MNE Group elects the simplified ETR test under the Transitional CbCR Safe Harbour, the MNE Group shall use that Tested Jurisdiction's Simplified ETR, as calculated under the Transitional CbCR Safe Harbour guidance in lieu of the GloBE Jurisdictional ETR when determining the Blended CFC Allocation Key for Entities in that Tested Jurisdiction. This will result in a Blended CFC Allocation Key of zero for the Entities in the blending group. If an MNE Group elects the de minimis test or the routine profits test for the Tested Jurisdiction under the Transitional CbCR Safe Harbour, the MNE Group shall calculate the Tested Jurisdiction's Simplified ETR following the guidance set forth in the Transitional CbCR Safe Harbour document (i.e., dividing the Tested Jurisdiction's Simplified Covered Taxes by its Profit (Loss) before Income Tax as reported on the MNE Group's Qualified CbC Report), as well as any Agreed Administrative Guidance that relates to the application of the Transitional CbCR Safe Harbour. Under this approach, MNE Groups that qualified for the Transitional CbCR Safe Harbour under the routine profits test or the de minimis test would need to obtain additional data points to

perform their Blended CFC Tax allocation. However, the additional data points needed should be easily accessible.

7. In cases where an MNE Group computes multiple Simplified ETRs for a jurisdiction under the Transitional CbCR Safe Harbour, the Blended CFC Allocation Key for an Entity shall be calculated using the Simplified ETR that is applicable to the blending group to which such Entity belongs. For example, an Entity that is a JV or member of a JV Group should use the Simplified ETR as calculated for the JV or JV Group's Tested Jurisdiction under the Transitional CbCR Safe Harbour guidance in lieu of the GloBE Jurisdictional ETR when determining its Blended CFC Allocation Key.

8. For a jurisdiction for which the MNE Group has elected the QDMTT Safe Harbour, the GloBE Jurisdictional ETR shall be determined based on the taxes and income used to determine the ETR for the jurisdiction pursuant to the jurisdiction's QDMTT, except that any creditable QDMTT payable in the jurisdiction for the Fiscal Year shall be added to the taxes in the numerator of the ETR computation. See example in the below table:

Item	Formula	Amount
GloBE Income or Loss	A	100
Adjusted Covered Taxes	B	10
GloBE ETR	$C = B/A$	10%
Substance-based Income Exclusion	D	60
Creditable QDMTT payable	$E = (15\% - C) * (A - D)$	2
GloBE Jurisdictional ETR	$F = (B + E) / A$	12%

**Assume 0 Additional Current Top-up Tax*

9. A QDMTT is creditable for this purpose only if the Blended CFC Tax Regime allows a foreign tax credit for the QDMTT on the same terms as any other creditable Covered Tax. In cases where an MNE Group computes multiple ETRs for a QDMTT jurisdiction, the Blended CFC Allocation Key for an Entity shall be calculated using the ETR as determined under the QDMTT (with adjustments for the QDMTT payable in the jurisdiction) that is applicable to the blending group to which such Entity belongs. Any Blended CFC Tax allocated to an Entity in the QDMTT jurisdiction will not affect the ETR calculations under the QDMTT because CFC taxes and Blended CFC taxes are excluded for the purposes of the QDMTT.

10. For any other jurisdiction for which the MNE Group is not required to compute an ETR under Article 5.1, such as when the Article 5.5 de minimis election exclusion has been elected, the GloBE Jurisdictional ETR will be computed using the same rules for computing the Simplified ETR under the Transitional CbCR Safe Harbour, except that, instead of taking Profit (Loss) before Income Tax from a Qualified CbC Report, the MNE Group shall take such information from its Qualified Financial Statements.

11. Under both the Transitional CbCR Safe Harbour and the QDMTT Safe Harbour, scenarios may arise where some of the Entities located in a jurisdiction are not eligible for the safe harbour (e.g., Investment Entities or Joint Ventures). In those scenarios, an ETR would be computed under Article 5.1 for the blending group (or blending groups) that include(s) the Entities that are not eligible for the safe harbour, and this ETR shall be used to determine the GloBE Jurisdictional ETR and the Blended CFC Allocation Key for those Entities. The methodology described in this section would only apply to Entities for which the MNE Group is not required to compute an ETR under Article 5.1.

12. For example, an MNE Group has both a Joint Venture and a Constituent Entity located in a jurisdiction that has enacted a QDMTT that generally qualifies for the QDMTT Safe Harbour, except that the switch-off rule described in paragraph 38(d) of the Agreed Administrative Guidance on the QDMTT

Safe Harbour applies such that the safe harbour does not apply to the Joint Venture. In this case, the Constituent Entity would use the methodology applicable to an MNE Group that has elected to apply a QDMTT Safe Harbour in computing the Constituent Entity's Blended CFC Allocation Key. However, because the safe harbour does not apply to the Joint Venture, the MNE Group would use the GloBE Jurisdictional ETR computed under paragraph 58.6 (including the amount of any QDMTT payable) for computing the Joint Venture's Blended CFC Allocation Key. For purposes of allocating the Allocable Blended CFC Tax among Entities, the Blended CFC Allocation Keys of both Entities would be included in the Sum of All Blended CFC Allocation Keys for purposes of allocating the Allocable Blended CFC Taxes between them.

4.2.3. Computing a non-GloBE Entity's Blended CFC Allocation Key when multiple GloBE Jurisdictional ETRs are computed for a jurisdiction

13. To the extent a Constituent Entity is subject to a Blended CFC Tax Regime with respect to the income of non-GloBE Entities (i.e. Entities that are not Constituent Entities, Joint Ventures or JV Subsidiaries) in which it has a direct or indirect Ownership Interest, an amount of tax imposed under the Blended CFC Tax Regime must be allocated to such non-GloBE Entities to ensure such tax is properly excluded from the Adjusted Covered Taxes of the Constituent Entities, Joint Ventures or JV Subsidiaries of the MNE Group for GloBE purposes. Each such non-GloBE Entity should compute a Blended CFC Allocation Key using the GloBE Jurisdictional ETR for the blending group in the same jurisdiction that has the largest aggregate amount of Attributable Income of Entity and shall include its Blended CFC Allocation Key in the Sum of All Blended CFC Allocation Keys. This approach is simpler than requiring the MNE Group to determine which blending group the non-GloBE Entity would belong to if it were not a non-GloBE Entity. It also avoids an additional ETR computation that would have been required if the non-GloBE Entity would have formed a separate blending group.

4.3. Guidance

14. The bold text will be added to the first sentence of paragraph 58.6 of the Commentary to Article 4.3.2 for the sentence to read as follows:

58.6 GloBE Jurisdictional ETR means the Effective Tax Rate for **Entities located in a jurisdiction** as computed under Article 5.1 without regard to any Covered Taxes under a CFC Tax Regime.

15. The following guidance will be included after paragraph 58.6 of the Commentary to Article 4.3.2.

58.6.1 In cases where an MNE Group computes ETRs under Article 5.1 for multiple different subgroups of Entities located in the same jurisdiction (blending groups), such as when there are Joint Ventures, JV Subsidiaries, Minority-Owned Constituent Entities, or Investment Entities located in the jurisdiction, the Blended CFC Allocation Key for an Entity will be computed using the GloBE Jurisdictional ETR (computed under paragraph 58.6) that is applicable to the blending group to which such Entity belongs. Any QDMTT payable that could be taken into account under paragraph 58.6 with respect to a blending group shall be allocated to that blending group for purposes of determining its ETR. For purposes of allocating the Allocable Blended CFC Tax among Entities, the Sum of All Blended CFC Allocation Keys includes those computed for all of the Entities located in the jurisdiction notwithstanding that some may have been computed based on different GloBE Jurisdictional ETRs.

58.6.2 For jurisdictions for which the MNE Group is not required to compute an ETR under Article 5.1, the MNE Group shall calculate the Blended CFC Allocation Key of

Constituent Entities, Joint Ventures or JV Subsidiaries located in that jurisdiction using an alternative GloBE Jurisdictional ETR computed based on the following metrics, in lieu of the GloBE Jurisdictional ETR as described under paragraph 58.6:

(a) For a Tested Jurisdiction for which the MNE Group has elected the Transitional CbCR Safe Harbour, the MNE Group shall use the Simplified ETR, computed in accordance with the Safe Harbours and Penalty Relief document and any further Agreed Administrative Guidance, regardless of whether the election is based on the Simplified ETR test, the routine profits test, or the de minimis test.¹

(b) For a jurisdiction for which the MNE Group has elected the QDMTT Safe Harbour, the MNE Group shall use an ETR determined by taking the sum of (1) taxes used to determine the ETR for the jurisdiction pursuant to the jurisdiction's QDMTT and (2) any QDMTT payable in the jurisdiction for the Fiscal Year that could be taken into account under paragraph 58.6, and dividing that sum by the income determined pursuant to the jurisdiction's QDMTT.

(c) For any other jurisdiction for which the MNE Group is not required to compute an ETR under Article 5.1, it shall use the Simplified ETR under the Transitional CbCR Safe Harbour, except that, instead of taking Profit (Loss) before Income Tax from a Qualified CbC Report, the MNE Group shall take such information from its Qualified Financial Statements.

58.6.3 In cases where an MNE Group computes Simplified ETRs or QDMTT ETRs for multiple Tested Jurisdictions/blending groups in a jurisdiction, the Blended CFC Allocation Key for an Entity shall be calculated using the Simplified ETR or QDMTT ETR that is applicable to the blending group to which such Entity belongs. Any QDMTT payable that could be taken into account under paragraph 58.6 with respect to a blending group shall be allocated to that blending group for purposes of determining its ETR under paragraph 58.6.2. In cases where a safe harbour applies only with respect to some Entities in a jurisdiction and not others, the MNE Group shall use the methodology described in paragraph 58.6.2 for computing the Blended CFC Allocation Keys of Entities that are eligible for the safe harbour; the MNE Group shall use the GloBE Jurisdictional ETR computed under paragraph 58.6 for computing the Blended CFC Allocation Keys of Entities that are not eligible for the safe harbour. For purposes of allocating the Allocable Blended CFC Tax among Entities, the Sum of All Blended CFC Allocation Keys includes those computed for all of the Entities located in the jurisdiction notwithstanding that some may have been computed based on different GloBE Jurisdictional ETRs.

16. Paragraph 58.7 of the Commentary to Article 4.3.2. shall be modified as follows, with deletions shown in strikethrough and insertions shown in bold:

58.7 To the extent a **Constituent Entity is subject to a Blended CFC Tax Regime with respect to** the income of non-~~Constituent~~**GloBE Entities (i.e. Entities that are not Constituent Entities, Joint Ventures or JV Subsidiaries)**~~is subject to the Blended CFC Tax Regime~~ in which it has a direct or indirect Ownership Interest, an amount of CFC tax imposed under the Blended CFC Tax Regime must be allocated to such non-~~Constituent~~**GloBE Entities** to ensure such tax is properly excluded from **the Adjusted Covered Taxes of the Constituent Entities, Joint Ventures or JV Subsidiaries of the MNE Group** for GloBE purposes. ~~Accordingly, Each such non-Constituent~~**GloBE Entity shall also be included in the allocation formula set out in paragraph 58.3 compute a**

¹ For the purpose of the Transitional CbCR Safe Harbour and the QDMTT Safe Harbour, the jurisdiction of a JV or JV Subsidiary is treated as a separate jurisdiction from that of other Constituent Entities and other JV Groups.

Blended CFC Allocation Key using the GloBE Jurisdictional ETR that was computed under paragraph 58.6 through 58.6.3 for the blending group in the same jurisdiction that has the largest aggregate amount of Attributable Income of the Entity and shall include its Blended CFC Allocation Key in the Sum of All Blended CFC Allocation Keys. If the non-ConstituentGloBE Entity is located in a jurisdiction in which the MNE Group does not compute an jurisdictional ETR under Article 5.1 **or an alternative GloBE Jurisdictional ETR under paragraphs 58.6.2-3** (for instance, because the MNE Group has no Constituent Entities in the jurisdiction), the GloBE Jurisdictional ETR **for all such Entities located in that jurisdiction** will be computed based on the aggregate income and taxes shown in the financial accounts of all non-ConstituentGloBE Entities in the jurisdiction **with respect to which the Constituent Entity is subject to the Blended CFC Tax Regime.**

5 Transitional Filing Deadlines for MNE Groups with Short Reporting Fiscal Years

5.1. Introduction

1. Under Article 8.1.6, the GloBE Information Return (GIR) and the domestic notifications shall be filed with the relevant tax administration no later than 15 months after the last day of the Reporting Fiscal Year. This deadline is extended to 18 months for the Transition Year (i.e., the first Fiscal Year that the MNE Group comes within the scope of the GloBE Rules) under Article 9.4.1.

2. In practice, Article 8.1.6 and 9.4.1 provides tax administrations with 30 months, starting from when the GloBE Rules become effective, to prepare and activate their filing systems. However, the 30-month window is shortened for MNE Groups with certain fact patterns, such as those that have a short Reporting Fiscal Year in the first Fiscal Year in which they come within the scope of the GloBE Rules (2024 for most MNE Groups).

3. For example, an MNE Group that has a 12-month Reporting Fiscal Year ending on 31 December 2024 that is subject to the GloBE rules for the first time in Fiscal Year 2024 would need to file its GIR and notifications by 30 June 2026. The same MNE Group, however, would need to file its GIR and notifications 6 months early (i.e., by 31 December 2025) if it had a 6-month Reporting Fiscal Year that ended on 30 June 2024. This accelerated deadline would not only impact MNE Groups but also tax administrations, who need to ensure their systems are ready to accept the early GIR and notification filings.

4. The same issue arose at the inception of Country-by-Country Reporting in 2016, and the Inclusive Framework provided relief. The Guidance on Implementation of Country-by-Country Reporting states that “jurisdictions may allow the Reporting Entity of an MNE Group with a short accounting period beginning on or after 1 January 2016 and ending before 31 December 2016 to file the required CbC report in accordance with the same timelines as for MNE Groups with a fiscal year ending on 31 December 2016.”²

5. In addition, if an MNE Group had a Fiscal Year of less than 3 months that begins in 2025, the regular 15-month filing date could be before the 18-month filing date applicable to the Fiscal Year that begins in 2024. For example, if an MNE Group has a calendar Fiscal Year, its GIR for the 2024 Fiscal Year will be due on or before 30 June 2026. If that MNE Group then has a short Fiscal Year that spanned 1 January to 28 February 2025, the GIR for that short Fiscal Year would be due on 31 May 2026, one month before the Fiscal Year 2024 GIR.

6. The Inclusive Framework has agreed that administrative relief similar to the Country-by-Country Reporting relief is necessary for the filing of GIRs and notifications. MNE Groups that have short Reporting

² Source: OECD Guidance on the Implementation of Country-by-Country Reporting, October 2022, p. 23.

Fiscal Years ending before 31 March 2025 should not be required to file their GIR or notifications prior to 30 June 2026.

7. The Inclusive Framework will consider further similar guidance to address short Reporting Fiscal Years of MNE Groups operating in jurisdictions that adopt the GloBE Rules for the first time for Fiscal Years that begin after 2024. The Inclusive Framework will also consider further guidance on Article 9.4.1 for MNE Groups that are subject to the GloBE rules in a jurisdiction for a Reporting Fiscal Year after being subject to those rules in another jurisdiction for a prior Reporting Fiscal Year.

5.2. Issues to be considered

8. Should all MNE Groups, regardless of their Reporting Fiscal Years, be given relief so that they do not need to file any GIR and notifications before 30 June 2026?

5.3. Guidance

9. Paragraph 32 of the Commentary to Article 9.4.1 shall be amended as follows (with strikethrough text removed and bold text added):

32. Article 9.4.1 provides transitional relief for the filing and notification obligations pursuant to Article 8.1 ~~with respect to the Transition Year~~. The filing and notification obligations must be fulfilled within 18 months, rather than the normal 15 months, after the end of the Reporting Fiscal Year that is the Transition Year. **Further, the due date for filing and notification obligations for any Fiscal Year shall not be before 30 June 2026.**

6 Simplified Calculation Safe Harbour for Non-Material Constituent Entities

6.1. Introduction

1. It is common for MNEs to exclude subsidiaries from their consolidated financial statements where it could be reasonably expected that the omission of the subsidiary's financial data would not influence the decisions made by primary users of the financial statements. While the exclusion of these subsidiaries is not mandatory under the applicable accounting standards, the decision to exclude them from the consolidated financial statements is typically driven by a materiality test which uses a cost-benefit analysis where the expected cost of incorporating their financial information would be disproportionate in terms of its impact on those financial statements as a whole. While there is not an unequivocal bright-line definition of a materiality threshold within the relevant accounting principles, both IFRS³ and US GAAP⁴ provide for a general concept of materiality, which is essentially whether the omission or misstatement of an item could reasonably influence the judgement of a person who is relying on the financial report. This general concept needs to be adapted to the specifics of each MNE Group (e.g., industry, size, etc.).

2. Under the GloBE Rules, these subsidiaries are Constituent Entities of the MNE Group. Given that the starting point for determining the GloBE Income or Loss is the financial accounts used for the preparation of the Group's Consolidated Financial Statements determined in accordance with the financial accounting standards applied by the UPE of the MNE Group, non-material subsidiaries might not have financial accounts prepared in accordance with that standard. Instead, non-material subsidiaries might prepare their financial accounts in accordance with local accounting standards or may prepare management accounts if they do not have any legal obligation to prepare financial accounts. Although the external auditor will typically use these accounts to determine the materiality of the subsidiary, they are not required to be in line with the accounting standards of the UPE because they are not necessary for the preparation of the consolidated financial statements.

3. Where the financial statements of these subsidiary are prepared in accordance with local financial accounting standards other than the one used by the UPE, it is possible for the MNE Group to rely on

³ IFRS definition of materiality: Information is material if omitting, misstating or obscuring it could reasonably be expected to influence the decisions that the primary users of general purpose financial statements make on the basis of those financial statements, which provide financial information about a specific reporting entity.

⁴ US GAAP concept of materiality: The omission or misstatement of an item in a financial report is material if, in the light of surrounding circumstances, the magnitude of the item is such that it is probable that the judgment of a reasonable person relying upon the report would have been changed or influenced by the inclusion or correction of the item.

those financial accounts for GloBE purposes provided that the conditions set forth in Article 3.1.3 are met. However, there may be circumstances where these requirements are not met.

4. Even in cases where Article 3.1.3 is applicable, the inclusion of these subsidiaries within the scope of GloBE Rules may pose increased compliance challenges in terms of data collection, processing and recording. In particular, information may not be incorporated into the Group's accounting systems but may be kept and managed on separate accounting platforms or even outsourced to external providers. Even where the UPE maintains management accounts for these Entities under Acceptable or Authorised Financial Accounting Standards, the financial data in such accounts may not be sufficiently detailed and/or complete, and may not be available in a timely manner to comply with the GloBE-relevant obligations.

5. In this context, MNE Groups have raised concerns about incurring significant additional compliance costs in bringing the financial accounts (and financial accounting systems) of these subsidiaries located in jurisdictions in which no Top-up Tax would arise into line with GloBE requirements and the potential non-compliance consequences for failure to do so.

6. In response to these concerns, in December 2022 the Inclusive Framework agreed on providing a Simplified Income, Revenue and Tax Calculations for Non-material Constituent Entities (Simplified Calculations for NMCEs) as part of the Simplified Calculations Safe Harbour. The Simplified Calculations Safe Harbour provides a framework for the subsequent development of Agreed Administrative Guidance on the use of simplified calculations that will avoid detailed adjustments that would otherwise be required under the GloBE Rules. The Simplified Calculations for NMCEs are both simplified and conservative, and fall within the framework of the Simplified Calculations Safe Harbour as they will not undermine the integrity of the GloBE Rules. These simplified calculations apply only to Non-material Constituent Entities (NMCEs) as defined in the Simplified Calculations for NMCEs.

6.2. Definition of NMCE

7. For purposes of the Simplified Calculations for NMCEs, an NMCE is defined as an Entity that is not consolidated in the UPE's Consolidated Financial Statements but considered as a Constituent Entity in accordance with Article 1.2.2 (b) of the GloBE Rules and which meets the conditions described in Paragraphs 8 to 10. The NMCE definition includes all the subsidiaries and their Permanent Establishments (PEs), if any, that are excluded from the scope of the Consolidated Financial Statements in a given Fiscal Year solely on size or materiality ground. A PE will only be considered an NMCE if its Main Entity is itself an NMCE.

8. The NMCE definition will only be met when the MNE Group's Consolidated Financial Statements meet paragraphs (a) or (c) of the definition of Consolidated Financial Statements in Article 10.1.1. In other words, it only applies when Consolidated Financial Statements have been prepared in accordance with an Acceptable Financial Accounting Standard or an Authorised Financial Accounting Standard adjusted to prevent material competitive distortions. The Simplified Calculation for NMCEs therefore does not apply to cases where the group did not prepare consolidated financial statements or to groups composed solely of a Main Entity and a PE.

9. The Consolidated Financial Statements must also be externally audited for the NMCE definition to apply. This is because the external auditor has an important role in determining whether an Entity is excluded from the Consolidated Financial Statements on materiality grounds. Therefore, an Entity will only be considered a NMCE if an external auditor has agreed that such Entity does not meet the materiality standards and has been excluded from the consolidation process on those grounds. This requirement ensures that there is an independent assessment of whether the entity is material and ensures the reliability of the NMCE's financial data because it is subject to certain checks in order to properly judge the relevant

materiality. In these respects, the external audit requirement could be considered as a safeguard to the integrity of the rule.

10. Finally, an Entity whose revenues exceed EUR 50 million will only be an NMCE if the Entity's financial accounts are prepared in accordance with an Acceptable Financial Accounting Standard or an Authorised Financial Accounting Standard.

6.3. Simplified Income, Revenue and Tax calculations for NMCEs

11. This Agreed Administrative Guidance provides for Simplified Calculations for NMCEs as part of the Simplified Calculations Safe Harbour described in Chapter 2 of the Safe Harbours and Penalty Relief Document (December 2022). The Simplified Calculations for NMCEs provide for an alternative method for determining the GloBE Income or Loss, GloBE Revenue, and Adjusted Covered Taxes of such NMCEs, which is based on a conservative measure of income and taxes. The Simplified Calculations for NMCEs only apply for the purpose of the Simplified Calculations Safe Harbour. If the terms of the Simplified Calculations Safe Harbour are not met with respect to a Tested Jurisdiction (i.e. the Routine Profits, De Minimis and ETR tests were not met), then the general GloBE computations shall apply to that jurisdiction. This means that the Simplified Calculations are alternative to the regular GloBE computations and can only be used for the purposes of the Simplified Calculations Safe Harbour and not the regular GloBE computations.

12. The Simplified Calculations for NMCEs is composed of a Simplified Income, Revenue and Tax calculations.

13. In the case of the Simplified Income Calculation, instead of computing the GloBE Income or Loss of an NMCE (i.e., the Financial Accounting Net Income or Loss adjusted in accordance with the GloBE Rules), the MNE Group will determine the NMCE's GloBE Income based on its Total Revenue as determined under CbCR.

14. In the case of the Simplified Revenue Calculation, the GloBE Revenue of the NMCE will also equal the Total Revenue of such Entity as determined under CbCR. This means that the GloBE Income and GloBE Revenue will be the same under the Simplified Income and Revenue calculations.

15. Similarly, the Simplified Tax Calculation will be based on the information being used by the MNE Group to prepare its CbC Report. The Adjusted Covered Taxes of the Constituent Entity under this calculation will be the Entity's Current Year's Accrued Income Tax, which excludes any deferred tax expenses, adjustments for non-current items and provisions for uncertain tax liabilities. The Simplified Calculations for NMCEs shall be extracted, on a Constituent Entity-by-Constituent Entity basis, from the financial accounts available to NMCEs using definitions stipulated in the Relevant CbC Regulations.

6.4. Application of the Simplified Calculations for NMCEs as part of the Simplified Calculations Safe Harbour

16. The Simplified Calculations Safe Harbour for NMCEs is an annual election and is made for each NMCE individually.

17. Assuming that the Simplified Calculations for NMCEs are the only Simplified Calculations elected by the MNE Group in the Tested Jurisdiction for the Fiscal Year, the MNE Group shall apply the regular GloBE Rules for all the other Constituent Entities of the Tested Jurisdiction, other than NMCEs, and shall apply the Simplified Calculations for NMCEs in accordance with the present guidance. As a consequence, the MNE Group will apply the following tests, after taking into account the Simplified Calculations for NMCEs to determine whether the terms of the Simplified Calculations Safe Harbour are met:

- a. The Routine Profits Test shall mirror Article 5.3 with the only difference that the GloBE Income for the NMCEs (for which the election is performed) shall be equal to the relevant Total Revenue as determined under the relevant CbC regulations;
- b. The De Minimis Test shall mirror Article 5.5, with the only difference that both the GloBE Revenue and the GloBE Income for the NMCEs (for which the election is performed) shall be equal to the relevant Total Revenue as determined under the relevant CbC regulations;
- c. The ETR test shall mirror the GloBE rules, and in particular Article 5.1, with the only difference that the GloBE Income and the Adjusted Covered Taxes for the NMCEs (for which the election is performed) shall be respectively equal to the relevant Total Revenue and Accrued Income Tax (Current Year) for the Current Year as determined under the relevant CbC regulations.

18. If one of the tests above is met for a Tested Jurisdiction, then the terms of the Simplified Calculations Safe Harbour are met, and the Top-up Tax of that jurisdiction shall be deemed to be zero in accordance with Article 8.2.1 of the GloBE Rules.

6.5. NMCE Simplified Calculations do not undermine the integrity of GloBE Rules

19. The Inclusive Framework agreed on a framework to develop Simplified Income, Revenue and Tax calculations as part of the Simplified Calculation Safe Harbour, which are alternative calculations to the GloBE Income or Loss, GloBE Revenue, and Adjusted Covered Taxes required under the GloBE Rules. In order to meet the standards to become a simplified calculation, such alternative calculation shall:

- a. provide for the same final outcome as the one provided under the GloBE Rules;
or
- b. should not otherwise undermine the integrity of the GloBE Rules.

20. In this context, the Simplified Income Calculation for NMCEs will not undermine the integrity of the GloBE Rules because it does not take into account expenses making it a very conservative calculation of the GloBE Income. Theoretically, there can be a situation in which the NMCE's Total Revenue can be less than the NMCE's GloBE Income because it was not subject to net upward adjustments required under GloBE (e.g. due to a Qualified Refundable Tax Credit). This creates a minor risk that does not undermine the integrity of the GloBE Rules given the size and materiality of these Entities and the limited circumstances in which the NMCE's GloBE Income would be greater than the NMCE's Total Revenue.

21. Similarly, the Simplified Revenue Calculation for NMCEs will not undermine the integrity of the GloBE Rules because it is a reasonable approximation of the GloBE Revenue. As stated above, the GloBE Revenue will not be subject to the adjustments required under the GloBE Rules, however, this minor risk is deemed acceptable because (i) the GloBE Revenue is only used for the De Minimis test under the Safe Harbour which also takes into account the GloBE Income of the Entity; and (ii) the size of such Entities should not impact significantly the jurisdiction's Safe Harbour calculations. Therefore, this minor risk does not undermine the integrity of the GloBE Rules.

22. The Simplified Tax Calculation is based on the Current Year's Accrued Income Tax as determined under CbCR which excludes any deferred tax expenses, adjustments for non-current items and provisions for uncertain tax liabilities. This calculation does not undermine the integrity of the GloBE Rules because it does not systematically overstate the tax expense for the year. Although deferred tax expense is not taken into account in the calculation, deferred tax expense has a neutral effect on the Entity's tax expense over time (i.e. in the year a DTA (or DTL) arises, it will reduce (increase) tax expense and in the year it reverses, it will increase (reduce) tax expense). In addition, some deferred tax expenses relate to the timing

of expenses and expenses are not taken into account in the denominator of the calculation, therefore, such deferred tax expenses should not be reflected in the numerator. In addition, this calculation excludes any Covered Taxes that are not reported as income taxes in the CbCR. Thus, there is little risk of consistently overstating the numerator of the ETR fraction. Given the size and materiality of such Entities, such simplified calculation should not impact significantly the calculations for the jurisdiction.

23. Therefore, given the broader definition of income and the narrower definition of taxes, the Simplified Income, Revenue and Tax Calculations for NMCEs are expected to generally result in a higher income and lower ETR than that provided under the GloBE Rules. Accordingly, the Inclusive Framework considers that the Simplified Income, Revenue, and Tax Calculations for NMCEs should not undermine the integrity of the GloBE Rules. The Inclusive Framework will review the methodology used in these Simplified Calculations no later than 2028 to evaluate whether these conclusions remain valid.

6.6. Guidance

24. Paragraph 32 of the Commentary to Article 8.2.1 would be replaced to read as follows:

32. The GloBE Safe Harbours are designed to limit compliance costs for MNE Groups as well as administrative burden for tax authorities and incorporate thresholds that ensure only those parts of the MNE Group's operations that are nearly certain to have no Top-up Tax liability would be eligible for the GloBE Safe Harbour. Article 8.2.1 and the definition of GloBE Safe Harbour contemplate that any GloBE Safe Harbour will be developed and released as part of the GloBE Implementation Framework. The GloBE Safe Harbours that have been agreed by the Inclusive Framework are the following:

1. Transitional CbCR Safe Harbour, set out in Annex A, Chapter 1;
2. Simplified Calculations Safe Harbour, set out in Annex A, Chapter 2;
3. QDMTT Safe Harbour, set out in Annex A, Chapter 3; and
4. Transitional UTPR Safe Harbour, set out in Annex A, Chapter 4.

25. The following paragraph will be added after paragraph 32:

32.1 The framework for a potential Simplified Calculations Safe Harbour is based on simplified calculations that will be developed as part of the GloBE Implementation Framework. The simplified calculations that have been developed by the Inclusive Framework are:

- a. *Non-material Constituent Entity Simplified Calculations*, set out in Annex A, Chapter 2, Section 1.

26. The following section will be added to Chapter 2 of Annex A:

Section 1 – Non-material Constituent Entity (NMCE) Simplified Calculations

Non-material Constituent Entity (NMCE) Simplified Calculations

1. In order to determine the eligibility for the Simplified Calculations Safe Harbour for a Tested Jurisdiction, a Filing Constituent Entity may make an Annual Election to determine the GloBE Income or Loss, GloBE Revenue and Adjusted Covered Taxes of a Non-Material Constituent Entity using the **NMCE Simplified Calculations**.

2. A **Non-material Constituent Entity** is an Entity, including its Permanent Establishments, that is not consolidated on a line-by-line basis in the UPE's Consolidated Financial Statements solely on size or materiality grounds and is considered a Constituent Entity in accordance with Article 1.2.2, provided that:
 - a. the Consolidated Financial Statements are those that are described in paragraphs (a) or (c) of the definition provided under Article 10.1.1;
 - b. the Consolidated Financial Statements are externally audited; and
 - c. in the case of an Entity with a Total Revenue that exceeds EUR 50 million, its financial accounts that are used to complete the CbC Report are prepared in accordance with an Acceptable Financial Accounting Standard or an Authorised Financial Accounting Standard.
3. Using the **NMCE Simplified Calculations** means applying all of the following calculations with respect to a Non-material Constituent Entity for purposes of applying the tests under the Permanent Safe Harbour:
 - a. under the **Simplified Income Calculation**, the GloBE Income of a Non-Material Constituent Entity is equal to the Total Revenue as determined in accordance with the **Relevant CbC Regulations**;
 - b. under the **Simplified Revenue Calculation**, the GloBE Revenue of a Non-Material Constituent Entity is equal to its Total Revenue as determined in accordance with the **Relevant CbC Regulations**; and
 - c. under the **Simplified Tax Calculation**, the Adjusted Covered Taxes of a Non-Material Constituent Entity is equal to its Income Tax Accrued (Current Year) as determined in accordance with the **Relevant CbC Regulations**.
4. **Relevant CbC Regulations** means the Country-by-Country Reporting regulations of the UPE Jurisdiction or of the surrogate parent entity jurisdiction if a Country-by-Country Report is not filed in the UPE Jurisdiction. If the UPE jurisdiction does not have CbC requirements and an MNE Group is not required to file a CbC Report in any jurisdiction, Relevant CbC Regulations shall mean the OECD BEPS Action 13 Final Report and the OECD Guidance on the Implementation of Country-by-Country Reporting.

27. The Inclusive Framework agreed on a framework to develop Simplified Income, Revenue and Tax calculations as part of the Permanent Safe Harbour, which are alternative calculations to the GloBE Income or Loss, GloBE Revenue, and Adjusted Covered Taxes calculations required under the GloBE Rules. In this context, the Inclusive Framework agreed to incorporate into the Simplified Calculations Safe Harbour the Simplified Income, Revenue, and Tax Calculations for Non-Material Constituent Entities (NMCEs).

Definition Non-Material Constituent Entity

28. Under the definition set out in paragraph 2 of the box above, NMCE means an Entity that is excluded from the Consolidated Financial Statements solely on size or materiality ground of the Ultimate Parent Entity (UPE) and is considered a Constituent Entity in accordance with Article 1.2.2 of the GloBE Rules. Additionally, three additional conditions need to be met so the Constituent Entity is considered a NMCE.

29. The first condition, described in paragraph 2(a) of the box above, is that the UPE has to prepare Consolidated Financial Statements as defined by paragraphs (a) and (c) of the Consolidated Financial Statements definition in Article 10.1.1. This means that the UPE has to prepare Consolidated Financial Statements in accordance with an Acceptable Financial Accounting Standard or an Authorized Financial Accounting Standard subject to adjustments to prevent any Material Competitive Distortions.

30. The definition of an NMCE is not met where the MNE Group has Consolidated Financial Statements as defined by paragraphs (b) or (d) of the definition of the Consolidated Financial Statements in Article 10.1.1. Consolidated Financial Statements as defined by paragraph (b) of the definition do not meet the standards of the NMCE definition because paragraph (b) refers to the financial statements of a Main Entity with its foreign Permanent Establishments (i.e. an MNE Group in accordance with Article 1.2.3). Therefore, an MNE Group that is composed exclusively of a Main Entity and its Permanent Establishments does not have NMCEs and cannot apply the NMCE Simplified Calculations.

31. Similarly, the Consolidated Financial Statements as defined by paragraph (d) do not meet the standards set in the NMCE definition because paragraph (d) is a deeming provision that applies where the UPE has not prepared a set of consolidated financial accounts. The NMCE definition requires the existence of financial statements that have been consolidated and that have been externally audited to determine the non-materiality of the Entity, and therefore, Constituent Entities of an MNE Group that has deemed Consolidated Financial Statements cannot meet the definition of NMCE.

32. The second condition is included in paragraph 2(b) of the box above which requires the Consolidated Financial Statements of the MNE Group to be externally audited. This condition requires the auditor's opinion not to contain objections (i.e. qualifications) in relation to the exclusion of the Entity from the consolidation perimeter. There is no definition for "external auditor" in the box, however, it is recognized that it has to be a legal person or individual with the expertise to undertake the relevant audit tasks. A person registered as an auditor under the laws of a jurisdiction is considered as having this expertise.

33. Lastly, the third condition in paragraph 2(c) of the above states that in the case of an Entity with a Total Revenue that exceeds EUR 50 million, the Entity's financial accounts that are used to fill in the CbC Report must be prepared in accordance with an Acceptable Financial Accounting Standard or an Authorised Financial Accounting Standard.

34. Where a Main Entity with a Permanent Establishment (PE) is consolidated on a line-by-line basis, then the PE shall not be considered a NMCE irrespective of its size or materiality. On the other hand, if the Main Entity is an NMCE then all of its PEs are also considered NMCEs.

Simplified Income, Revenue and Tax Calculations

35. The Simplified Calculations for NMCEs provide for an alternative method for determining the GloBE Income or Loss, GloBE Revenue, and Adjusted Covered Taxes of such Entities as part of the Simplified Calculations Safe Harbour. The election to apply the Simplified Calculations for NMCEs to determine the eligibility for the Simplified Calculations Safe Harbour for a jurisdiction is an Annual Election that applies on an Entity-by-Entity basis not on a jurisdictional basis. For the purposes of the Simplified Calculations Safe Harbour Tests (i.e., De minimis Test, Routine Profit Test and ETR Test), the following Simplified Income, Revenue and Tax Calculations shall be undertaken for each NMCE subject to the election.

36. Under the Simplified Income Calculation, GloBE Income or Loss for an NMCE will be the Total Revenue as determined in accordance with the Relevant CbC Regulations.⁵ Therefore, instead of computing the GloBE Income or Loss of an NMCE (i.e. the Financial Accounting Net Income or Loss

⁵ The OECD CbCR guidance provides for a broad definition of Revenue, which includes: "revenues from sales of inventory and properties, services, royalties, interest, premiums and any other amounts", including any "extraordinary income and gains from investment activities". Revenue excludes dividends received from other Constituent Entities and other comprehensive income (e.g., "comprehensive income/earnings, revaluation, and/or unrealized gains reflected in net assets and the equity section"). Source: OECD BEPS Action 13 Final Report; OECD Guidance on the Implementation of Country-by-Country Reporting.

adjusted in accordance with the GloBE Rules), the GloBE Income or Loss of the NMCE will be equal to its Total Revenue as determined under the Relevant CbC Regulations.

37. Under the Simplified Revenue Calculation for an NMCE, the GloBE Revenue is equal to the Total Revenue of the Entity as determined under the Relevant CbC Regulations. This means that both the GloBE Income and GloBE Revenue will be the same amount in the context of the NMCE Simplified Calculations.

38. Under the Simplified Tax Calculation, the measure of Adjusted Covered Taxes of NMCEs is the Current Year's Accrued Income Tax as determined under the Relevant CbC Regulations. This means that the Simplified Tax Calculation excludes any deferred tax expenses, adjustments for non-current items, and provisions for uncertain tax liabilities.

39. In the case of a PE that is an NMCE, the amount of the GloBE Income, GloBE Revenue, and Adjusted Covered Tax is the Total Revenue and Income Tax Accrued as determined under the Relevant CbC Regulations with respect to such PE. For example, the total revenue reported in the financial statements of an NMCE that is a Main Entity is 100. Under the Relevant CbC Regulations, 60 of such revenue is reported in the jurisdiction of the Main Entity and 40 is reported in the jurisdiction of the PE. In this case, the GloBE Income and Revenue for the Main Entity is 60, and the GloBE Income and Revenue for the PE is 40.

Relevant CbC Regulations

40. Paragraph 4 of the box above defines the term Relevant CbC Regulations for purposes of the Simplified Calculations for NMCEs. Such term means the Country-by-Country Reporting legislation or regulations applicable in the UPE Jurisdiction or in the surrogate parent entity jurisdiction if a Country-by-Country Report is not filed in the UPE Jurisdiction. If the UPE jurisdiction does not have CbC requirements and an MNE Group is not required to file a CbC Report in any jurisdiction, Relevant CbC Regulations shall mean the OECD BEPS Action 13 Final Report and the OECD Guidance on the Implementation of Country-by-Country Reporting.

Monitoring

41. The OECD's CbCR Model Rules are undergoing review as part of the 2020 Review of Country-by-Country Reporting. The Inclusive Framework will monitor changes to the CbCR Model Rules as they relate to Total Revenues and Income Tax Accrued, so that any changes do not give rise to issues which may cause the NMCE Simplified Calculations to undermine the integrity of the GloBE Rules.

42. In addition, the Inclusive Framework will review the methodology used in these Simplified Calculations no later than 2028 to evaluate whether in practice these simplified calculations meet the conditions of the Permanent Safe Harbour.

Example

43. Assuming an MNE Group has two NMCEs located in jurisdiction A and three NMCEs located in jurisdiction B. In jurisdiction A, there are no other Constituent Entities other than the NMCEs, while in jurisdiction B, there are 50 Constituent Entities which are consolidated on a line-by-line basis in the Consolidated Financial Statements.

44. The MNE Group performs an election for the Simplified Calculations Safe Harbour and decides to apply the Simplified Calculations for NMCEs for the Fiscal Year. It decides to apply the Simplified Calculations for the two NMCEs located in jurisdiction A, and for only one NMCE in respect of jurisdiction B.

45. As for jurisdiction A, the overall Total Revenue of the two NMCEs is equal to EUR 250,000 and the Income Tax Accrued (Current Year), as determined under the Relevant CbC Regulation, is equal to EUR 50,000. For the purposes of the ETR test under the Simplified Calculations Safe Harbour, the GloBE Income of the jurisdiction is equal to EUR 250,000 and the Adjusted Covered Taxes of the jurisdiction is equal to EUR 50,000. The ETR will therefore be 20% and the Top-up Tax for jurisdiction A will be deemed to be zero.

46. As for Jurisdiction B, the MNE decides to undertake the Simplified Calculations for NMCEs only with respect to one NMCE located in jurisdiction B. The 50 Constituent Entities which are consolidated on a line-by-line basis, as well as the two NMCEs for which the election is not performed, shall perform regular GloBE computations as part of the Simplified Calculations Safe Harbour. These 52 Constituent Entities are regular Constituent Entities which are blended together for the purposes of the ETR computation (i.e., no MOCEs, no JVs, nor Investment Entities). The aggregate Net GloBE Income and Adjusted Covered Taxes computed for these 52 Constituent Entities are EUR 10 million and EUR 1.6 million respectively. The Simplified Income and Simplified Tax computed for the NMCE for which the election is performed are respectively equal to EUR 100,000 and EUR 10,000. Therefore, the ETR test under the Simplified Calculation is equal to 15.94% (i.e., EUR 1,610,000/10,100,000). The ETR test under the Simplified Calculations Safe Harbour is met and therefore, the Top-up Tax of jurisdiction B is also deemed to be zero.