Grant Thornton

# OECD Pillar Two Rules in Australia

**A summary on the global and domestic minimum tax rules in Australia**

*Australia will implement the Global Anti-Base Erosion (GloBE) Model Rules as a new, independent tax legislation, designed to impose and administer both GloBE and domestic minimum top-up taxes.*

## Background

On 10 December 2024 the bills containing the Pillar Two GloBE rules in Australia was given royal assent and are now enacted into law in Australia.

Broadly the Pillar Two GloBE rules introduces a global minimum tax requirement set at a 15% effective tax rate (ETR) as part of Australia's commitment to the OECD/G20 Two-Pillar Solution to address the tax challenges related to profit shifting and base erosion and 'stopping a global race to the bottom'.

The GloBE rules generally apply to Constituent Entities (CEs) that are members of a Multinational Enterprise (MNE) Group that has annual consolidated revenue of €750 million (approximately AUD 1.2 billion) or more in at least two of the preceding four years.

To be in scope, a group must have at least one entity or permanent establishment that is not located in the jurisdiction in which the Ultimate Parent Entity (UPE) of the group is located.

The Australian GloBE rules include the following:

- an Income Inclusion Rule (IIR) which will apply for income years starting on or after 1 January 2024;
- a domestic minimum top-up tax (DMT) which will apply for income years starting on or after 1 January 2024; and
- an Undertaxed Profits Rule (UTPR) which will apply for income years starting on or after 1 January 2025.

Three new returns will be required by all Australian-located entities that are part of an in-scope MNE group, including nil returns under the GloBE Rules, these include:

1. the GloBE information return (GIR)
2. the Australian IIR/UTPR tax return, and
3. the Australian DMT return.

Where a jurisdiction's ETR is below 15%, the IIR, DMT or UTPR may apply to impose a top-up tax on the relevant profits.

Transitional safe harbour provision may apply to in-scope entities to eliminate the need to undertake detailed GloBE calculations. Where the safe harbour applies no top-up tax will be applied on the entities in the jurisdiction.

## Key facts

### Status of the Pillar Two rules in Australia

On 10 December 2024 the Bills containing the Pillar Two rules in Australia (the GloBE rules) was given royal assent and are now enacted into law in Australia.

### Who will be impacted by the rules?

MNEs with consolidated global revenue of at least EUR 750m (≈AUD 1.2bn) including MNEs which include Australian entities. Transitional safe harbour provisions may apply to exempt entities preparing the ETR calculation.

### What are the impact of the rules?

The GloBE rules may impose additional top-up tax amounts under the IIR **or** the domestic top-up tax amounts under the DMT **or** Tax under the UTPR, based on the ETR of the effected group.

### How will the top up tax be reported?

Three new returns: 1. the GloBE Information Return, 2. the Australian IIR/UTPR Tax Return and 3. the Australian DMT Return will be required by all Australian in-scope MNE groups, including nil returns.

### When will the rules apply?

The IIR and DMT will commence for income years starting on or after 1 January 2024, while the UTPR will commence for income years starting on or after 1 January 2025.

### What the filing and payment dates?

The first returns and tax payments in Australia are due 18 months after year-end, which will be 30 June 2026 for the first in-scope entities and thereafter 15 months after year-end.

 

# The Details: Pillar Two in Australia

## How will the Pillar Two rules apply in Australia?

The GloBE rules apply to large multinational groups with annual consolidated group revenue of at least €750 million (approx. AUD 1.2 billion) over at **least 2 of the preceding 4 years** and contain the following key components:

- An **Income Inclusion Rule (IIR)** which applies on a top-down basis and will apply to Australian headquartered groups and Australian intermediate parents (entities with foreign subsidiaries) where the foreign parent does not have a qualified IIR or a partially-owned parent entity. The tax due is the 'top-up' amount needed to bring the overall tax on the profits in each country where the group operates up to the minimum effective tax rate of 15%.
- A **Domestic Minimum Top-up Tax (DMT)** aligned with GloBE computation. DMT tax payable in respect of any low-taxed profits of a group's entities in a country are paid to the local tax authority under a qualified domestic minimum top up tax (QDMTT). The DMT applies to in-scope entities located in Australia, including joint ventures, partnerships and trusts and Australian permanent establishments and will apply to both foreign headquartered and Australian headquartered entities.
- The **Under Taxed Profits Rule (UTPR)** will apply as a backstop) rule where the effective tax rate is below the minimum rate of 15%, but the income inclusion rule has not been fully applied. The UTPR tax is allocated, based on a formula, to countries where the group operates which have adopted the undertaxed profits rule. The UTPR is delayed until 2025 and in practice should only apply in Australia in the context of foreign headquartered groups.

## What are the safe harbors / exemptions available?

The safe harbour provisions to the GloBE rules in Australia, aligned with the OECD's global minimum tax framework, are designed to simplify compliance and reduce administrative burdens for multinational enterprises (MNEs).

The transitional CBC reporting safe harbour allows an MNE to use CBC reporting and financial accounting data as the basis for the safe harbour calculation, eliminating the need to undertake detailed GloBE calculations and to which nil top-up tax will apply.

This safe harbour applies to fiscal years beginning on or before 31 December 2026 but not including a fiscal year that ends after 30 June 2028.

An MNE may elect to use the safe harbour if it can demonstrate, based on their 'Qualified CBC Reports' and 'Qualified Financial Statements', that it meets either the:

- **The De minimis test** – broadly the jurisdiction's total revenue is less than EUR 10 million and profit before tax is less than EUR 1 million;
- **The Simplified ETR test** – broadly income tax expense divided by profit before tax is equal or greater to the transition rate (15%: 2024, 16%: 2025, 17%: 2026); or
- **The Routine profits test** – broadly the jurisdictional profit before tax is equal to or less than its 'substance-based income exclusion amount'.

The effect of applying this safe harbour is that the jurisdictional top-up tax is taken to be zero. However, safe harbour status does not automatically exempt an entity from filing obligations.

## What is a qualified CbC report and financial statements?

Where the safe harbour provisions are relied upon, it is important that a thorough assessment be undertaken to confirm that a MNE group's CbC Report and Financial Statements are "Qualified".

- A 'qualifying' CbCR is a CbCR compiled with data drawn either from the group consolidated statement or from the individual entity accounts that are prepared using an acceptable financial standard, as defined in the GloBE rules.
- The OECD's Agreed Administrative Guidance provides clarity on the meaning of 'Qualified Financial Statements'. Broadly this includes financial statements prepared in accordance with an Acceptable Financial Accounting Standard or an Authorized Financial Accounting Standard.

# The Details: Pillar Two in Australia

## Who do the Rules apply to?

The GloBE Rules applies to Constituent Entities that are members of MNE Groups which have annual revenue exceeding 750 million euros (EUR) in the consolidated financial statements of the ultimate parent entity (UPE).

Translation of amounts to EUR is to be completed using the average of the quoted daily rates of exchange for the month of December included in the fiscal year immediately preceding the particular fiscal year being tested.

Constituent Entities (CEs) are entities of MNE Groups which are not classified as 'Excluded Entities' under the GloBE Rules.

An MNE Group is a group, in most cases determined under accounting consolidation principles, for which there is at least one entity or permanent establishment in a jurisdiction that is not the jurisdiction of the UPE.

If the UPE's annual revenue in at least 2 of the 4 fiscal years preceding the test year meet or exceed the threshold, then the MNE Group is in-scope.

As noted, certain entities of an MNE Group are excluded from the operation of the GloBE Rules (known as Excluded Entities).

Example of Excluded Entities include: government entities, international organisations, non-profit organisations and pension funds, as well as UPEs which are either an investment fund or a real estate investment fund. The definitions for excluded entities in the primary legislation are based on the GloBE rules.

## What are the filing requirements in Australia?

Three new returns will be required to be filed by all Australian entities that are part of an in-scope MNE group, including nil returns these include:

1. the GloBE Information Return (GIR);
2. the Australian IIR / UTPR Tax Return; and
3. the Australian DMT Return.

The first return for an in-scope entity will be lodged 18 months after its year-end and thereafter 15 months post year-end, aligning with the payment of tax.

Deferrals of lodgement dates are not allowed and the review period for returns is 4 years post lodgement.

Allowance is made for a 'designated' entity to file on behalf of all Australian located entities, and in the case of a GIR filed with a foreign agency, international agreements (likely in the form of a multilateral agreement) may discharge this obligation.

The form of the final GIR was published by the OECD in July 2023 and may be subject to further guidance at the OECD level. The GIR includes abbreviated disclosures where a jurisdiction satisfies a safe harbour and allows for aggregated reporting for tax consolidated groups.

As at the date of this publication, the approved form and format of the returns to be filed in Australia have not been released. The ATO notes that it is currently developing the forms and expect that these will be available to taxpayers in advance of the first lodgments, due by 30 June 2026.

## What are administrative penalties for failure to comply?

The existing uniform penalty provisions contained in the *Taxation Administration Act* can apply, with base penalty amounts similar to those imposed for significant global entities for failure to comply with the GloBE Act. This means, for example:

- penalties for failure to lodge on time, which can apply to entities that do not lodge an approved form by the due date. The base penalty amount is multiplied by 500.
- penalties for false and misleading statements or for taking a position that is not reasonably arguable. The base penalty amount is multiplied by 2 times the base penalty amount.

In addition, an administrative penalty can apply for failing to keep records about the minimum tax law. The ATO are currently considering feedback received on the application of penalties to the global and domestic minimum tax and may release further guidance on the penalty regime.

 

# The Details: Pillar Two in Australia

## How is the ETR determined under the Rules?

The objective of the Rules is to ensure MNE groups pay a minimum level of tax on the income arising in each of the jurisdictions where they operate.

This objective is achieved by imposing a top-up tax on profits in a jurisdiction where the ETR is below the minimum 15% rate.

The determination of a jurisdiction's ETR is a complex computation that transforms the accounting ETR into the Pillar Two ETR. Broadly this calculation involves:

1. Determining the "Adjusted Covered Taxes" of the Constituent Entities in the relevant jurisdiction. This amount is calculated by reference to the current tax expense at the jurisdictional level adjusted for various items including, *inter alia*: deferred taxes, qualified and non-qualified refundable tax credits, taxes paid in relation to an uncertain tax position.
2. Determining the "net GloBE Income" by jurisdiction. This amount is determined by taking the financial accounting net income or loss for the CEs for the fiscal year, this amount may be subject to prescribed allocations and adjustments to derived the GloBE Income or Loss.

The "Adjusted Covered Taxes" divided by the "net GloBE Income" of the Constituent Entities in the jurisdiction in a fiscal year broadly would represent the jurisdictional ETR.

Where a jurisdiction's ETR is below 15%, the IIR, DMT or UTPR may then impose a top-up tax on the relevant profits.

## How does the Rules impact existing tax laws?

The Consequential Bill to the GloBE rules included amendments to provisions in the Australian Income Tax Acts to clarify their interaction with the Pillar Two rules and their impact. Some of these amendments are summarised below.

Hybrid mismatch rules:

- The list of foreign taxes to be disregarded for the purposes of the Hybrid Mismatch Rules is extended to include foreign DMT tax, foreign IIR tax and foreign UTPR tax.

Foreign hybrid entity rules:

- The definition of 'foreign income tax' for the purpose of Australia's foreign hybrid rules do not include foreign GloBE tax and other foreign minimum tax.

Foreign income tax offsets (FITO):

- A FITO can only be claimed in respect of a foreign DMT tax (and not in respect of a foreign IIR tax or foreign UPTR tax).

Controlled foreign company (CFC):

- A notional allowable deduction will only be allowed under the CFC rules for foreign DMT tax, not for foreign IIR tax, foreign UTPR tax or a tax specified in the Regulations.

Franking credits:

- The payment of Australian DMT tax will give rise to franking credits in the entity's franking account. Foreign GloBE tax will not give rise to franking credits.

## How should Australian inbound entities prepare for Pillar Two?

For Australian inbound organisations, local teams should: evaluate the implications of a domestic minimum tax rules in Australia, compile and analyse the comprehensive data required for Pillar Two calculations, and address the associated financial statement disclosure and compliance obligations specific to the Australian rules.

These responsibilities may extend further if the ultimate parent entity (UPE) or other intermediate parent entities are situated in jurisdictions that have not yet adopted the Pillar Two rules or are implementing them with an effective date later than Australia's commencement timeline.

It is important to determine who within the multinational enterprise (MNE) group is responsible for Pillar Two readiness. This includes assessing whether the ultimate parent entity (UPE) will oversee this role or if local teams will need to independently establish systems and processes to manage Pillar Two compliance.

# Preparing for Pillar Two in Australia

### Scoping and exemptions

- Review and determine if you are a MNE group that meets the revenue threshold (€750 million or equivalent in consolidated group revenue);
- Determine which entity is the Ultimate Parent company and the constituent entities ("CE") in Australia and other related entities for the purpose of Effective Tax Rate and Top-up Tax calculation;
- Determine if you are an Exclude Entity or whether the transitional Safe Harbour provisions apply to exempt the CE in Australia from the Pillar Two rules.

### Data capture readiness

- Understand regulation on the information and data needed for calculation;
- Determine data sources and data appropriateness as required by regulation;
- Develop procedures for data collection that is suitable with the scale and internal control of the group;
- Upgrade systems ensure financial and tax reporting systems can cater to complex calculations and detailed disclosures required under Pillar Two;
- Maintain clear documentation to support the calculations of ETR and any adjustments.

### Modelling and structuring

- Prepare calculation of the effective tax rate in the jurisdictions of operation;
- Determine whether any DMT top up tax is required in the local jurisdiction and if not whether the UPE is subject to IIR or an alternate group entity;
- Model scenarios using forecasting tools to understand the financial impact of the GloBE rules;
- Consider accounting provision and financial disclosure under the Financial Statement ("FS") (if required) regarding the impact of the GloBE rules on individual CEs and the Group.

### Filing and compliance

- Understand administrative requirements for filing purposes (notification and registration, appointment of the filing CE, supporting documents);
- Prepare for resources (specialised staff, professional consultants, technology solutions, etc.) to best support for the compliance process.
- Be ready to adjust policies as local interpretations and guidance evolve.
- Follow how jurisdictions are implementing Pillar Two and any deviations from the OECD framework.

## How can we assist you with your Pillar Two reporting?

Grant Thornton Australia is here to help you manage and prepare for the complexities of the OECD's Pillar Two rules in Australia. Our experienced team offers tailored guidance to help your business meet the Australian legislative requirements while ensuring seamless alignment with global reporting obligations.

Leveraging the strength of our global Grant Thornton network, we provide a comprehensive approach, combining local expertise with international insight. Whether it's assessing your current tax position, implementing compliance strategies, or managing reporting across multiple jurisdictions, we can help tailor and deliver practical, actionable solutions to help you stay ahead. Let us simplify the complexities of Pillar Two compliance, so you can focus on driving your business forward.

For further inquiries or to explore how we can assist you in navigating the Pillar Two rules and meeting your global compliance obligations, please don't hesitate to reach out to the contacts listed in this publication.

## Contacts

**Sandie Boswell**
National Managing Partner – Tax
+61 2 8297 2410
Sandie.Boswell@au.gt.com

**Murat Cihanger**
Partner | Corporate Tax | Melbourne
+61 3 8663 6258
Murat.Cihanger@au.gt.com

**Joseph Phan**
Director | Corporate & International Tax | Melbourne
+61 3 8663 6773
Joseph.Phan@au.gt.com

**Vince Tropiano**
Partner | Corporate Tax | Sydney
+61 2 9286 5491
Vince.Tropiano@au.gt.com

Grant Thornton

**grantthornton.com.au**