



OECD BEPS: PILLAR TWO

Global Minimum Tax

What is Pillar Two?

Under the OECD's Inclusive Framework, Pillar Two introduces global minimum taxation by introducing a minimum Effective Tax Rate (ETR) of 15% on income for Multinational Enterprises (MNE) with global revenues exceeding EUR750 million.

The Organisation for Economic Co-operation and Development (OECD) OECD/ G20 Inclusive Framework on Base Erosion Profit Shifting (BEPS) introduces two pillars which are a continuation of the OECD's broader efforts to address transparency, consistency, and fairness in international tax law.

Pillar Two aims to reduce competition among countries offering the lowest corporate tax rates, thereby encouraging fairer distribution of tax revenues from global companies and reducing incentives for profit shifting to tax havens. This is part of the OECD's broader effort to modernise international tax rules for the age of digitisation and globalisation.

Other terms used when referring to Pillar Two include Global Minimum Tax (GMT) and Model Global Anti-Base Erosion Rules (GloBE Rules or Model Rules). These terms, as well as "Pillar Two" are used interchangeably.



What are the rules and how do they work?

The core rules which make up Pillar Two include:

Income Inclusion Rule (IIR)

Top-up tax obligation payable by the Ultimate Parent Entity (UPE) of an MNE group where constituent entities' effective tax rate falls below 15%. Top-up tax is paid by the UPE in its tax jurisdiction to address this shortfall.

Under-Taxed Payment Rule (UTPR)

Applying after the IIR, the UTPR allows a tax jurisdiction to collect residual top-up tax liabilities not captured by an IIR. This may be achieved by denying certain deductions (e.g. limitation on related-party interest deductions), or other equivalent adjustments.

Qualified Domestic Minimum Top-up Tax (QDMTT)

Domestic tax rule allowing a tax jurisdiction to have first right to apply top-up obligations on a MNE member entity's income where their effective tax rate falls below 15%. Once the top-up is applied under a QDMTT, no further top-up liability will apply under the IIR or UTPR.

Additionally, a Subject to Tax Rule (STTR) is proposed as a treaty-based solution available to developing countries which applies in priority over the IIR or UTPR. If applicable, the STTR will operate in a similar fashion to withholding tax obligations and will apply to specific transactions that are not subject to tax of at least a rate of between 7.5% to 9%, as determined under the treaty.

WHICH ENTITIES ARE IN SCOPE?

All controlled entities in an MNE group exceeding the global turnover threshold (i.e. with revenues exceeding EUR750 million) are in scope, as long as at least one jurisdiction in which a group entity is tax resident has adopted Pillar Two.

Special rules apply to joint ventures and split or partially owned entities.

HOW IS THE EFFECTIVE TAX RATE CALCULATED?

The ETR must be calculated separately for every country in which the group operates.

The ETR calculation is based on the GAAP applied for the purposes of the entity's Consolidated Financial Statements. Some adjustments must be performed, which may be different from those for the local tax calculations. Thus, the ETR can be under 15% even in countries where the corporate tax rate is higher.

If the effective tax rate is lower than 15% for any tax jurisdiction, a top-up tax must be calculated for the group entities in that country (subject to application of transitional safe harbour provisions).

WHO PAYS THE TOP-UP TAX?

The entity liable for the top-up tax results from the application of three interlocking rules as follows:

- If the country of the entity applies a QDMTT (e.g. most EU countries), this entity pays it, otherwise,
- the highest parent entity applying Pillar Two pays it using the IIR; or alternatively,
- If no parent entity in the group applies Pillar Two, all the group entities that apply Pillar Two rules pay it (under the undertaxed profits rule (UTPR). The top up tax payment is split among all group entities which are in a country applying Pillar Two rules.

WHAT ARE THE COMPLIANCE OBLIGATIONS ASSOCIATED WITH PILLAR TWO?

Broadly, the specific reporting obligations for a constituent entity in a Pillar Two group will depend on the specific rules implemented by its country and the reporting structure designed by that country to administer compliance.

Where an entity's tax jurisdiction has adopted Pillar Two

If the entity is the Ultimate Parent Entity (UPE) in a jurisdiction which has adopted Pillar Two, it must file a GloBE Information Return (GIR). This includes all calculations for all countries and identifies any top-up tax liabilities.

Upon lodgement, payment of top-up tax may be required by the UPE if its jurisdiction applies a QDMTT and/or IIR.

If the entity is a subsidiary or a permanent establishment in a Pillar Two country, it must:

- communicate the name and the state of the group's filing entity to the local tax authority,
- provide the requested information to the filing entity for their ETR calculation, and
- potentially pay top-up tax following QDMTT and/or IIR and/or UTPR.

Where an entity's tax jurisdiction has not adopted Pillar Two

If the UPE is in a jurisdiction which does not or has not yet adopted Pillar Two, it must designate a declaring entity in a Pillar Two country and assist in providing all relevant group information and data required for ETR calculations.

Usually, the next intermediary entity in the ownership structure which is in a country that does adopt Pillar Two will be the obvious choice as a substitute reporting entity.

If the entity is a subsidiary or a permanent establishment in a country that does not or is yet to adopt Pillar Two, it must provide the requested information to the filing entity for the ETR calculation.

How can Moore help?

Wherever you are on your Pillar Two journey, the Moore team can help you with everything from implementation through to advisory including calculation and data collection, compliance, review and advise on your obligations.

The requirements upon an organisation will vary greatly upon the jurisdictions you operate in, the sophistication of existing tax governance policies and compliance processes.

At Moore, we tailor to your specific requirements. We have a global network of specialist advisors who are well connected and available to assist with all your Pillar Two requirements from end-to-end compliance and advisory, to a targeted and bespoke solution to suit your needs. You can trust us to turn the complexities of Pillar Two into a manageable and strategic advantage.

OUR DATA SOLUTIONS

Moore Global has partnered with Wolters Kluwer and have acquired a global license to their newly developed BEPS Pillar Two corporate tax management module, which is part of their CCH Integrator global corporate tax platform.

This platform provides us with access to the tools necessary to deliver on our proposed services, regardless of tax jurisdiction.

CCH Integrator provides templated schedules and calculations, allowing us to follow the Organisation for Economic Co-operation and Development (OECD) rules and allow for compliance with the local tax jurisdictions.

Moreover, we are also equipped to offer an alternative solution from SAP, which can be implemented on an in-house basis for the clients.

Whatever your need, our advisors will assist in tailoring a solution that fits your business, and provide ongoing guidance through the analysis, implementation, calculation, and compliance process.

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COUNTRIES



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