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## Consultation on the Pillar Two GloBE Implementation Framework

Dear Sir/Madam

The Irish Tax Institute welcomes the opportunity to contribute to the OECD Inclusive Framework public consultation on the Pillar Two Global Anti-Base Erosion (GloBE) Implementation Framework. We note that the purpose of the public consultation is not to solicit further comment on the policy choices made in the GloBE Model Rules<sup>1</sup> or the Commentary on the GloBE Rules<sup>2</sup>. Instead, the focus is on putting in place mechanisms that will ensure tax administrations and multinational enterprises (MNEs) can implement and apply the GloBE Rules in a consistent and co-ordinated manner, while minimising compliance costs.

We have outlined below the feedback we have received from our members, who are tax professionals that provide tax services and business expertise to Irish owned and multinational businesses.

### 1. The importance of guidance

The GloBE Rules represent a new set of tax rules for both taxpayers and tax administrations, with novel concepts and terminology. Given the complexity of the GloBE Rules, clear and comprehensive guidance is key to the effective and consistent implementation of the rules by both MNEs and tax authorities and to minimise the potential for disputes.

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<sup>1</sup> OECD (2021), Tax Challenges Arising from the Digitalisation of the Economy – Global Anti-Base Erosion Model Rules (Pillar Two): Inclusive Framework on BEPS, OECD, Paris, <https://www.oecd.org/tax/beps/tax-challenges-arising-from-the-digitalisation-of-the-economy-global-anti-base-erosion-model-rules-pillar-two.htm>.

<sup>2</sup> OECD (2022), Tax Challenges Arising from the Digitalisation of the Economy – Commentary to the Global Anti-Base Erosion Model Rules (Pillar Two), OECD, Paris, <https://www.oecd.org/tax/beps/tax-challenges-arising-from-the-digitalisation-of-the-economy-global-anti-base-erosion-model-rules-pillar-two-commentary.pdf>.



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As with any new set of rules, and in particular given the short timeframe for the implementation of the GloBE Rules, it is expected that issues will arise in practice on implementation, where further clarification will be necessary. In our view, guidance will need to be developed and updated on an evolving basis, as taxpayers and tax authorities seek clarification on the operation of the rules during the initial years of implementation. It would be important that any such updates include detailed examples to demonstrate the practical operation of the rules.

In order to ensure that there is consistency in the application of the rules, it is essential that all Commentary and guidance has the same legal standing across the countries implementing the rules.

## **2. A standardised GloBE Information Return**

Many MNE groups will have a large number of GloBE constituent entities which will form part of jurisdictional top up tax calculations and top up tax obligations for the purposes of the GloBE Rules.

In our view, the OECD should consider developing a standardised GloBE Information Return for countries to adopt. This would provide uniformity of the information required to be included in the return across countries, thus giving certainty to taxpayers as they seek to design and implement the system changes necessary to capture the required information.

Many MNEs which are in scope of the GloBE Rules will also have other global reporting obligations, such as Country-by-Country Reporting (CbCR). With a view to reducing the administrative burden for companies to the greatest extent possible, there should be consistency in terms of the data required to be included in the GloBE Information Return and other transparency filing and exchange obligations, such as CbCR.

## **3. Imposition of penalties**

The implementation of the GloBE Rules within the proposed timeframe will be a significant challenge for MNEs. It is our firm view that in the initial years of implementation, a collaborative and proportionate approach to penalties should be adopted by tax authorities and that the OECD should confirm this in guidance.

Where a MNE is acting in good faith, makes a late, incorrect or incomplete disclosure, no penalties should apply provided the error, when it is brought to the attention of the MNE, is corrected within a reasonable period.

#### **4. Development of safe harbours**

To mitigate against the significant compliance burden and administration costs resulting from the operation of the GloBE Rules, it is critical that the rules regarding safe harbours are clear and unambiguous, so that MNEs have certainty as to when they will apply. Given the short timeframe for the implementation of the GloBE Rules, MNEs are redesigning their systems and processes now to ensure that they capture the data required to comply with the rules. Therefore, MNEs need to understand the scope of any safe harbours at the earliest opportunity if they are to be effective in reducing the compliance burden.

It is important that there is meaningful consultation with stakeholders regarding the design of the safe harbours to ensure that they will be successful in achieving their objective of limiting unnecessary compliance and administrative burdens for MNEs and improving tax certainty.

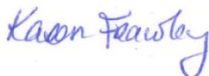
#### **5. Mechanisms to maximise tax certainty and avoid the risk of double taxation**

The OECD Commentary provides that jurisdictions may link the test for a Qualified Income Inclusion Rule (IIR) to the outcomes under their own legislation. While the recent compromise text of the draft EU Pillar Two Minimum Tax Directive proposed by the French EU Presidency in March, grants the authority to the European Council to decide whether a regime constitutes a Qualified IIR and to maintain a list of Pillar Two equivalent jurisdictions.

Rather than allowing each country to maintain their own list, which may not align with the EU list, it would be helpful if the GloBE Implementation Framework could provide clear guidance as to what constitutes a Qualified IIR and include a tracking mechanism for an approved list of Qualified IIRs. Having such a uniform process for assessing an IIR regime would provide more certainty to tax administrations and taxpayers and help to avoid lengthy disputes that are likely to arise and the risk of double taxation. It could also alleviate complexity and reduce administration for businesses.

Please contact Anne Gunnell of this office at [agunnell@taxinstitute.ie](mailto:agunnell@taxinstitute.ie) if you require any further information in relation to the above matters.

Yours sincerely



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Institute President