

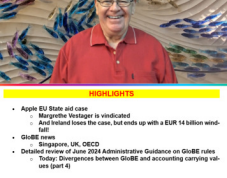
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13 September 2024



**HIGHLIGHTS**

- **Apple EU State aid case**
  - Margrethe Vestager is vindicated
  - And Ireland loses the case, but ends up with a EUR 14 billion wind-fall!
- **GloBE news**
  - Singapore, UK, OECD
- **Detailed review of June 2024 Administrative Guidance on GloBE rules**
  - Today: Divergences between GloBE and accounting carrying values (part 4)

**HAPPY FRIDAY!**

**ABC News** performs one-sided fact-checks; **Wall Street** closes at 5pm; but illegal immigrants are not eating **Springfield's** pets!

Meanwhile, in the tax world...

**Margrethe** wins the **Big Apple**; **Denmark** plays the percentages; the **UK** wants everyone to be involved with **TP compliance**; **Brazil** temporarily increases tax rates; and **CAMT** kills a lot of trees!

But at the end of the week, the most important question is this: "Did **Kamala Harris** wear **Bluetooth** earrings in the presidential debate?"

Have a great weekend!

Steve

**THIS WEEK'S PODCAST**

(For ITB video subscribers, please log in to access the video and documents/reports)

1. GloBE news
2. Apple EU State aid case
3. June 2024 Administrative Guidance on GloBE rules: Divergences between GloBE and accounting carrying values (part 4)
4. Asia Pacific
  - Philippines
5. Europe
  - Denmark, EU, Iceland, UK
6. Americas
  - Brazil, Canada, US
7. Treaty news

**ITB series on Pillar One**

- **Report on Amount B in Pillar One** (ITB, 23 February 2024)
- **Consultation document on Amount B in Pillar One** (ITB, 28 July 2023)
- **Draft MLC provisions for commitments on DSTs and other relevant similar measures** (ITB, 6 January 2023)
- **Consultation document on Amount B in Pillar One** (ITB, 16 December 2022)
- **Progress Report on Amount A in Pillar One** (ITB, 22 July 2022)
- **Draft model rules for Amount A in Pillar One:**
  - Tax certainty (ITB, 10 June 2022)
  - Regulated Financial Services exclusion from scope (ITB, 13 May 2022)
  - Extractives exclusion from scope (ITB, 22 April 2022)
  - Scope (ITB, 8 April 2022)
  - Tax base determinations (ITB, 25 February 2022)
  - Nexus and revenue sourcing (ITB, 11 February 2022)
- **Inclusive Framework's final agreement on Pillars One & Two** (ITB, 15 October 2021)

**ITB series on Pillar Two**

- **GloBE Implementation Framework:**
  - **GloBE Information Return** (ITB, 28 July 2023)
  - **Tax Certainty for the GloBE rules** (ITB, 13 January 2023)
  - **GloBE Information Returns** (ITB, 13 January 2023)
  - **Guidance on Safe Harbours and Penalty Relief** (ITB, 6 January 2023)
- **GloBE model rules:**
  - **June 2024 Administrative Guidance on GloBE rules: Divergences between GloBE and accounting carrying values (Parts 1 to 4)** (ITB, 23 & 30 August; 6 & 13 September 2024)
  - **June 2024 Administrative Guidance on GloBE rules: DTL recapture (Parts 1 to 4)** (ITB, 28 June; 5, 12 & 19 July 2024)
  - **December 2023 Administrative Guidance on GloBE rules: Transitional filing deadlines, and Simplified Calculation Safe Harbour** (ITB, 26 April 2024)
  - **December 2023 Administrative Guidance on GloBE rules: Allocation of blended CPC taxes (Parts 1 & 2)** (ITB, 5 & 12 April 2024)
  - **December 2023 Administrative Guidance on GloBE rules: Additional guidance on application of GloBE rules** (ITB, 22 March 2024)
  - **December 2023 Administrative Guidance on GloBE rules: Transitional CbCR Safe Harbour (Parts 1 to 4)** (ITB, 19 January; 16 February; 1 & 8 March 2024)
  - **GloBE rules commence operation in 2024** (ITB, 12 January 2024)
  - **December 2023 Administrative Guidance on GloBE rules: overview** (ITB, 22 December 2023)
  - **July 2023 Administrative Guidance on GloBE rules: Transitional UTPR Safe Harbour & Summary of Safe Harbours** (ITB, 8 December 2023)
  - **July 2023 Administrative Guidance on GloBE rules: QDMTT Safe Harbour (Parts 1 & 2)** (ITB, 10 & 17 November 2023)
  - **July 2023 Administrative Guidance on GloBE rules: QDMTTs (Parts 1 to 5)** (ITB, 15, 22 & 29 September; 6 & 27 October; 3 November 2023)
  - **July 2023 Administrative Guidance on GloBE rules: Substance-based Income Exclusion (Parts 1 & 2)** (ITB, 16 & 25 August 2023)
  - **July 2023 Administrative Guidance on GloBE rules: Tax credits (Parts 1 to 3)** (ITB, 4, 11 & 18 August 2023)
  - **July 2023 Administrative Guidance on GloBE rules: overview** (ITB, 28 July 2023)
  - **Administrative Guidance on GloBE rules: Transition (Parts 1 to 3)** (ITB, 16 & 23 June; 14 July 2023)
  - **Administrative Guidance on GloBE rules: Income & taxes (Parts 1 to 8)** (ITB, 31 March; 14, 21 & 28 April; 5, 12 May; 2 & 9 June 2023)
  - **Administrative Guidance on GloBE rules: Scope (Parts 1 to 3)** (ITB, 10, 17 & 24 March 2023)
  - **Administrative Guidance on GloBE rules: Allocation of taxes arising under Blended CFC Tax Regimes** (ITB, 3 March 2023)
  - **Administrative Guidance on GloBE rules: QDMTTs (Parts 1 & 2)** (ITB, 10 & 24 February 2023)
  - **Art. 7.4 on ETR computation for Investment Entities** (ITB, 2 December 2022)
  - **Corporate Restructurings and Holding Structures (Parts 1 to 7)** (ITB, 23 & 30 September; 7, 14 & 21 October; 11 & 18 November 2022)
  - **Scope (Parts 1 & 2)** (ITB, 24 June; 1 July 2022)
  - **Charging Provisions (Parts 1 to 5)** (ITB, 6, 13 & 20 May; 10 & 17 June 2022)
  - **Computation of Effective Tax Rate and Top-up Tax (Parts 1 to 6)** (ITB, 16 & 25 March; 1, 8, 22 & 29 April 2022)
  - **Flow-through Entities and Hybrid Entities** (ITB, 4 March 2022)
  - **Computation of Adjusted Covered Taxes (Parts 1 to 8)** (ITB, 11, 18 & 25 February; 28 July; 5, 12, 19 & 26 August; 16 September 2022)
  - **Computation of GloBE Income or Loss (Parts 1 to 4)** (ITB, 7, 14, 21 & 28 January 2022)
- **Subject to Tax Rule (STTR):**
  - **STTR (Part 4)** (ITB, 15 December 2023)
  - **STTR (Parts 1 to 3)** (ITB, 6 & 20 October; 3 November 2023)
  - **Subject to Tax Rule (STTR): overview** (ITB, 28 July 2023)

**WORTH READING**

T.M. Vergouwen  
"The Interaction between Directives and Tax Treaties: Three Case Studies"  
Bulletin for International Taxation, IBFD, 2024 (Vol. 78), No. 9/10.

Robert Goulder  
"Vorian: Turning Gaffes into Gold"  
Tax Notes International, Tax Analysts, 9 September 2024.

Gabriella Erdős and Gergely Csoboly  
"Hungary – Smart Answers to GloBE Challenges Faced by a Small Country"  
European Taxation, IBFD, 2024 (Vol. 64), No. 10.

**INTERNATIONAL TAX QUIZ**

**THIS WEEK'S NEW QUIZ**

MNE Group A owns 100% of the shares in YCo, a Constituent Entity located in jurisdiction Y.

MNE Group A sells 100% of the shares to unrelated MNE Group B for a price of 180.

Both MNE Group A and MNE Group B are "within scope" of the GloBE rules.

For jurisdiction Y corporate income tax purposes:

- The share sale is treated in the same manner as the transfer of YCo's assets.
- A capital gains tax is imposed on the seller based on the difference between the price of 180 and the jurisdiction Y CIT tax basis of YCo's assets (100).

Please assume that the GloBE carrying value of YCo's assets, at the time of the share sale, was also 100.

Based on this limited information, what is the GloBE carrying value of the assets for MNE Group B?

Answer in next ITB email alert on 27 September 2024!

**LAST WEEK'S QUESTION**

XCo, a company located in jurisdiction X, is a 100%-owned Constituent Entity in MNE Group 1, which is "within scope" of the GloBE rules.

XCo owns plant and equipment ("assets") with accounting carrying value, jurisdiction X corporate income tax (CIT) basis, and GloBE carrying value all equal to 100.

MNE Group 1 sells 100% of the shares in XCo to unrelated MNE Group 2, for a price of 250. This price reflects the fact that MNE Group 2 places a market value of 250 on XCo's assets. Jurisdiction X corporate income tax does not treat the sale as a transfer of the assets.

XCo is the only Constituent Entity (in MNE Group 2) located in jurisdiction X.

Based on these limited facts, after the acquisition by MNE Group 2, what is: (i) the GloBE carrying value of XCo's assets?; and (ii) the carrying value of XCo's assets for the purposes of the tangible asset carve-out under the Substance-based Income Exclusion?

**LAST WEEK'S ANSWER**

This question was inspired by Example 6.2.1(e)-1 in the Inclusive Framework's Examples document.

(i)

Art. 6.2.2 does not apply, because jurisdiction X does not treat the sale of shares as a transfer of assets.

The GloBE carrying value of XCo's assets, after the acquisition by MNE Group 2, is 100: Art. 6.2.1(c).

(ii)

The computation of the carrying value of Eligible Tangible Assets for purposes of Art. 5.3.4 must be based on the average of the carrying value (net of depreciation, etc.) at the beginning and end of the Fiscal Year as recorded for the purposes of preparing the UPE's consolidated financial statements: Art. 5.3.5. Also, a proportional reduction in accordance with Art. 6.2.1(e) must be made (see below).

The relevant consolidated financial statements are those of MNE Group 2.

At the beginning of the Fiscal Year, the carrying value is zero.

At the end of the Fiscal Year, the carrying value is 250 (i.e., fair value), less current year depreciation. Fair value (as recorded for purposes of preparing the consolidated financial statements - i.e., after taking into account purchase accounting adjustments) must be used for the purposes of the tangible asset carve-out: para. 49 of Comm to Art. 5.3.5.

The question does not provide information on the depreciation rate used for the assets for financial accounting purposes. For convenience, I will assume that the rate is 10%. Also, the question does not provide information on the timing of the sale. Again, for convenience, I will assume that the sale occurred on 30 September in a Fiscal Year which uses the calendar year.

Based on those assumptions, the end of Fiscal Year carrying value is: 250 - (250 x 10% x 25%) = 243.75. See Notes below.

Thus, the carrying value (for the Fiscal Year in which the sale occurs) for the purposes of the tangible asset carve-out is computed as: (0 + 243.75) x 50% x 25% = 30.47 (see Notes).

Notes:

Note 1: Example 6.2.1(e)-1 does not take current year depreciation into account. I think that is incorrect. What do you think?

Note 2: 50% is used to compute the average between 0 and 243.75.

Note 3: 25% is used to effect the proportional reduction, in accordance with Art. 6.2.1(e).

Do you agree?



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