

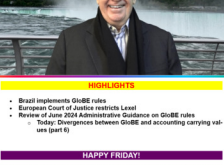
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11 October 2024



HIGHLIGHTS

- **Brazil implements GloBE rules**
- **European Court of Justice restricts Lexel**
- **Review of June 2024 Administrative Guidance on GloBE rules**
 - Today: Divergences between GloBE and accounting carrying values (part 6)

HAPPY FRIDAY!

Microsoft's window is closed, AI wins big at the Nobels, and it pays to be young in Portugal!

Meanwhile, in the (MNE) tax world...

India tries to simplify; New Zealand wants bigger margins; Lexel is restricted; Hungary is a closed shop; and France has a really big hole to fill

But at the end of the week, the most important question is this: "If Microsoft is off the air, can you do any work?"

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. Other global developments
3. June 2024 Administrative Guidance on GloBE rules: Divergences between GloBE and accounting carrying values (part 6)
4. Asia Pacific
 - Australia, India, Malaysia, New Zealand, Singapore, Taiwan
5. Europe
 - Denmark, ECJ, EU, France, Italy, Latvia
6. Middle East & Central Asia
 - UAE
7. Americas
 - US
8. 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, 19 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 Returns** (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, 4 January 2023)
- **GloBE model rules:**
 - **June 2024 Administrative Guidance on GloBE rules: Divergences between GloBE and accounting carrying values (Parts 1 to 6)** (ITB, 23 & 28 August; 6 & 13 September; 4 & 11 October 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, 28 April 2024)
 - **December 2023 Administrative Guidance on GloBE rules: Allocation of blended CFC 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 6)** (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, 18 & 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, 18 & 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; 29 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

Hafiz Choudhury
"The UN Model Tax Treaty's Shift Away From Physical Presence: An Analysis of Draft Article XX," *Tax Notes Today International*, Tax Analysts, 7 October 2024.

Daniela Frescurato and Vito Alessandro Moretti
"Key Transfer Pricing Issues Arising from Remote Working and Employee Mobility in a Post-Covid World"
International Tax Studies, IBFD, 2024 (Vol. 7), No. 7.

Raul-Angelo Papoffi, Umberto Lorenzi, and Rui Hui Hong
"Italian Supreme Court Says Yes to Loss-Making Companies as Comparables"
Tax Notes Today International, Tax Analysts, 8 October 2024.

INTERNATIONAL TAX QUIZ

THIS WEEK'S NEW QUIZ

On 1 January 2021, MNE Group 1 sells all the shares in ACo (a company located in jurisdiction A) to unrelated MNE Group 2 for a price of 300.

ACo owns a single asset and has no liabilities. That asset has accounting and tax carrying values of 120 at the time of sale.

The jurisdiction A corporate income tax (CIT) rate is 15%.

For jurisdiction A CIT purposes, the share sale is treated in the same manner as the sale of ACo's single asset. Thus, MNE Group 1 is subject to tax on 300 - 120 = 180, and MNE Group 2 acquires a tax basis of 300.

The relevant accounting standard permits "push down" accounting. Thus, in ACo's financial statements after the transaction, the asset is recognised with an accounting carrying value of 300.

For both accounting purposes and jurisdiction A CIT purposes, the asset is depreciated on a straight line basis over 10 years.

ACo's Transition Year is the year commencing 1 January 2024.

Based on these limited facts, what is the GloBE carrying value of the asset as at 1 January 2024?

Answer in next ITB email alert!

LAST WEEK'S QUESTION

XCo, a company located in jurisdiction X, is a Constituent Entity in an MNE Group which is "within scope" of the GloBE rules.

During the 202X year, XCo moves its place of effective management to jurisdiction Y. This has the effect of causing XCo to cease to be a resident under jurisdiction X corporate income tax (CIT) law, and it also causes XCo to become a resident under jurisdiction Y CIT law.

Under the jurisdiction X CIT law, XCo is deemed to sell and re-acquire all its assets for fair market value (FMV) at the time of the residence change. Also, under the jurisdiction Y CIT law, XCo is deemed to acquire all its assets for FMV at the time of the residence change.

Please assume that, at the time of the residence change, XCo's assets had:

- FMV of 300
- Accounting carrying value of 220
- GloBE carrying value of 200
- Jurisdiction X tax basis of 180

Please also assume that year 202X is the Transition Year or a later Fiscal Year for both jurisdiction X and jurisdiction Y.

Based on these limited facts, what will be the GloBE impact of the residence change?

LAST WEEK'S ANSWER

(1) GloBE impact of jurisdiction X CIT on residence change

XCo will derive profit of 300 - 180 = 120 for jurisdiction X CIT purposes.

Depending on jurisdiction X CIT law, this will likely increase XCo's Adjusted Covered Taxes in 202X, and reduce its Adjusted Covered Taxes (by virtue of tax depreciation or similar) in future years.

(2) GloBE impact of residence change

XCo will cease to be located in jurisdiction X, and it will commence to be located in jurisdiction Y, effective the year immediately following 202X: Art. 10.3.1 and Art. 10.3.6.

There will be no other GloBE impact, unless an election is made under Art. 6.3.4 ...

(3) GloBE impact if election is made under Art. 6.3.4

The change of residence from jurisdiction X to jurisdiction Y is a situation which is covered by Art. 6.3.4; para. 78 of Comm on Art. 6.3.4.

If the election is made, XCo will include 300 - 220 = 80 in its GloBE income. That amount is either included in GloBE income in 202X, or is included in 5 equal instalments in 202X and in the 4 immediately subsequent years (subject to an acceleration if XCo leaves the MNE Group within this period).

XCo's deferred tax assets and deferred tax liabilities which existed prior to the residence change, must be fully reversed: para. 81.1 of Comm to Art. 6.3.4.

XCo's GloBE carrying value of its assets after the residence change will be 300.

As the jurisdiction Y tax basis and the GloBE carrying value are both 300, XCo will not recognise any deferred tax assets or liabilities (for GloBE purposes) on the residence change.

Do you agree?



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