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18 October 2024



**HIGHLIGHTS**

- **France's 2025 Finance Bill**
  - Corporate tax changes
- **2 international tax cases**
  - Double tax treaty interpretation
  - VAT in toll manufacturing arrangement
- **Review of June 2024 Administrative Guidance on GloBE rules**
  - Today: Divergences between GloBE and accounting carrying values (part 7)

**HAPPY FRIDAY!**

SpaceX learns to use chopsticks; no more pub crawls in Prague; Indiana Jones was looking in the right place; and Thomas Tuchel apologises for having a German passport!

Meanwhile, in the tax world ...

Bahamas is not quite sure when its GloBE rules start; Poland adopts cash accounting; Austria prefers English; Ireland launches Amount B; the UAE has seen enough substance; and the IRS gives US GAAP a new meaning!

But at the end of the week, the most important statement is this: "Fußball kommt nach Hause"

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. June 2024 Administrative Guidance on GloBE rules: Divergences between GloBE and accounting carrying values (part 7)
3. Asia Pacific
  - Malaysia, Nepal, Taiwan
4. Europe
  - Austria, ECJ, France, Greece, Ireland, Italy, Portugal, Slovak Republic
5. Africa
  - Benin
6. Middle East & Central Asia
  - Saudi Arabia, 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, 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 7) (ITB, 23 & 30 August; 6 & 13 September; 4, 11 & 18 October 2024)
  - June 2024 Administrative Guidance on GloBE rules: DTL recapture (Parts 1 to 4) (ITB, 29 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 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, 16, 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; 16 & 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 9) (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**

Jason Yen and Bora Chung  
"Treatment of US Multinational IP Transfers in a Pillar 2 World"  
Tax Notes Today International, Tax Analysts, 10 October 2024.

Charles Garavan  
"The Apple Case: The Right Decision for the Wrong Reasons?"  
European Taxation, IBFD, 2024 (Vol. 64), No. 12.

Kartikaya Singh, Anthony Tulo, Shubhana Sattar, and Marco Fiaccadori  
"Don't Be Left Behind: How Companies Need to Prepare for Amount B"  
Tax Notes Today International, Tax Analysts, 16 October 2024.

Susann Kamath and Hannah Brugger  
"Germany – New Rules on Inbound Intercompany Financing Transactions"  
International Transfer Pricing Journal, 2024 (Vol. 31), No. 6.

**INTERNATIONAL TAX QUIZ**

**THIS WEEK'S NEW QUIZ**

ACo, a company located in jurisdiction X, is a Constituent Entity in an MNE Group which is "within scope" of the GloBE rules. The UPE of the MNE Group is located in jurisdiction U, which implemented an IIR effective 1 January 2024. Please assume that all Fiscal Years are calendar years.

On 1 January 2026, ACo moves its place of effective management to jurisdiction Y. This has the effect of causing ACo to cease to be a resident under jurisdiction X corporate income tax (CIT) law, and it also causes ACo to become a resident under jurisdiction Y CIT law.

Under the jurisdiction X CIT law, ACo 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, ACo 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 500
- Accounting carrying value of 280
- GloBE carrying value of 250
- Jurisdiction X tax basis of 200

Neither jurisdiction X nor jurisdiction Y has implemented a QDMTT.

In regard to both jurisdiction X and jurisdiction Y, the MNE Group qualifies for the Transitional CbCR Safe Harbour in 2024, 2025, and 2026.

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

Answer in next ITB email alert!

**LAST WEEK'S QUESTION**

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?

**LAST WEEK'S ANSWER**

As the sale occurred on 1 January 2021 (i.e., before the Transition Year), Art. 6.2.1(c) applies, and Art. 6.2.2 does not apply; para. 48.1 of Comm to Art. 6.2.

Thus, in accordance with Art. 6.2.1(c), "In the acquisition year [i.e., the year which commenced on 1 January 2021] and each succeeding year, [ACo] shall determine its GloBE Income or Loss and Adjusted Covered Taxes using its historical carrying value of the assets and liabilities".

Prior to the sale, ACo's asset had an historical accounting carrying value of 120. In ACo's financial statements after the sale, the asset is recognised with an accounting carrying value of 300. Under paras. 50 & 51 of Comm to Art. 6.2.1(c), the GloBE carrying value as at 1 January 2021 would be 120, unless "the MNE Group [i.e., MNE Group 2] does not have sufficient records to determine [ACo's FANL] with reasonable accuracy based on the unadjusted carrying values of the acquired assets and liabilities". Based on the limited information, it appears that this exception would not apply.

If, therefore, the asset's GloBE carrying value was 120 as at 1 January 2021, its GloBE carrying value as at 1 January 2024 (i.e., after 3 years of 10% per annum depreciation) would be 120 x 70% = 84.



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