

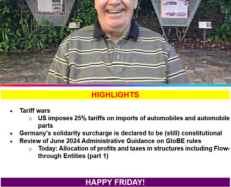
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28 March 2025



**HIGHLIGHTS**

- **Tariff wars**
  - **US imposes 25% tariffs on imports of automobiles and automobile parts**
- **Germany's solidarity surcharge is declared to be (still) constitutional**
- **Review of June 2024 Administrative Guidance on GloBE rules**
  - **Today: Allocation of profits and taxes in structures including Flow-through Entities (part 1)**

**HAPPY FRIDAY!**

**Waltz sends the wrong Signal; BYD keeps driving forward (but not in the US); and Putin gives a green light on Greenland!**

Meanwhile, in the tax world...

**Trump drives a hard bargain; India stops equalising; Germany retains solidarity; Canada goes back to the future; and the US retains anonymity!**

But at the end of a week in which the US gives away national security secrets, the last word goes to Hilary Clinton: "You have got to be kidding me!"

**Have a great weekend!**

Steve

**THIS WEEK'S PODCAST**

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

1. Tariff wars
2. GloBE news
3. June 2024 Administrative Guidance on GloBE rules: Allocation of profits and taxes in structures including Flow-through Entities (part 1)
4. Asia Pacific
  - Australia, India, Malaysia, Singapore, Vietnam
5. Europe
  - Austria, Germany, UK
6. Africa
  - South Africa, Tunisia
7. Middle East & Central Asia
  - Saudi Arabia
8. Americas
  - Canada, US
9. 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 Return (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: Allocation of profits and taxes in structures including Flow-through Entities (Part 1) (ITB, 28 March 2025)**
  - **June 2024 Administrative Guidance on GloBE rules: Allocation of Cross-border Deferred Taxes (Parts 1 to 3) (ITB, 24 January; 14 & 21 February 2025)**
  - **June 2024 Administrative Guidance on GloBE rules: Allocation of Cross-border Current Taxes (Parts 1 to 5) (ITB, 15 & 22 November; 6, 13 & 20 December 2024)**
  - **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, 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 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 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**

Thomas D. Betge, Mark R. Martin, and Hans Gerling  
 "Does Transfer Pricing Have a Lower Bright Problem?"  
 Tax Notes Today International, Tax Analysts, 25 March 2025.

Georg Koller  
 "The 'Decoupling' of EU Direct Tax Law"  
 EC Tax Review, Kluwer, 2025-1.

Franklin Cachia  
 "Harmonizing Tax Frontiers: OECD's Soft Law in International Taxation and its Effect on the EU Legal Order"  
 Tax Notes Today International, Tax Analysts, 26 March 2025.

**INTERNATIONAL TAX QUIZ**

**THIS WEEK'S NEW QUIZ**

P<sub>Co</sub> (formed in Juris. P) is treated as opaque for Juris. P tax purposes.

P<sub>Co</sub> owns 100% of X<sub>Co</sub> (formed in Juris. X). X<sub>Co</sub> is treated as: (1) transparent for Juris. P tax purposes, and as (2) opaque for Juris. X tax purposes.

X<sub>Co</sub> owns 100% of Y<sub>Co</sub> (formed in Juris. Y). Y<sub>Co</sub> is treated as transparent for tax purposes in each of (1) Juris. P; (2) Juris. X, and (3) Juris. Y.

Y<sub>Co</sub> owns 100% of Z<sub>Co</sub> (formed in Juris. Z). Z<sub>Co</sub> is treated as transparent for tax purposes in each of (1) Juris. P; (2) Juris. X, and (3) Juris. Z. However, Z<sub>Co</sub> is treated as opaque for Juris. Y tax purposes.

Z<sub>Co</sub> has a Financial Accounting Net Income or Loss of \$1 million. For GloBE purposes, to which entity will that FANIL of \$1 million be allocated?

**Answer in next ITB email alert!**

**LAST WEEK'S QUESTION**

An MNE Group which is "within scope" of the GloBE rules, includes 2 subsidiaries, ACo and BCo.

Situation 1: (a) ACo is incorporated and tax-resident in China (i.e., Mainland China); (b) BCo is incorporated in Hong Kong.

Situation 2: (a) ACo is incorporated in State A of Country X, a federation of states; ACo is tax-resident in State A for State A CIT purposes; (b) BCo is incorporated in State B of Country X; BCo is tax-resident in State B for State B CIT purposes. The federal government of Country X does not levy CIT.

Situation 3: Same as Situation 2, except that the federal government of Country X does levy CIT. However, both ACo and BCo are exempt from federal CIT.

Situation 4: Same as Situation 3, except that ACo and BCo both pay federal CIT (in addition to state CIT).

In each of these 4 situations, what is the relevant jurisdiction for the purposes of determining the Jurisdictional Top-up Tax?

**LAST WEEK'S ANSWER**

Comment on Art. 10.3: "The term 'jurisdiction' is not defined in Article 10.1 or any other provision in the GloBE Rules. The approach that has been taken is to follow the definition of 'Tax Jurisdiction' used for CbCR, and thus a jurisdiction for purposes of the GloBE Rules means a State as well as a non-State jurisdiction which has fiscal autonomy."

Although "jurisdiction" is not defined, location of an Entity in a jurisdiction is defined in Art. 10.3. To determine the Jurisdictional Top-up Tax in Art. 5.2, you need to identify the location of each Entity. [Cf.: the references to "implementing-jurisdiction" in the IIR and UTPR charging provisions (Arts. 2.1 & 2.4) – this is the jurisdiction enacting the GloBE rules.]

Situation 1: (a) ACo is located in China; Art. 10.3.1(a); (b) BCo is located in Hong Kong; Art. 10.3.1(b).

Situation 2: (a) ACo is located in State A of Country X; Art. 10.3.1(a); (b) BCo is located in State B of Country X; Art. 10.3.1(a).

Situation 3: (a) Based on Art. 10.3.1, ACo is located in both Country X, and State A of Country X. Under Art. 10.3.4(b)(i), ACo should be located in State A of Country X only. (b) Similar analysis for BCo: it should be located in State B of Country X only.

Situation 4: (a) & (b) Application of the tie-breaker tests in Art. 10.3.4(b) is required. The question does not provide sufficient information to determine the answer.

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