INLAND REVENUE AUTHORITY OF SINGAPORE

Summary of Responses to Consultation on the Proposed Multinational Enterprise (Minimum Tax) Regulations – GloBE Safe Harbours and Transition Rules

Summary of Responses to Consultation on the Proposed Multinational Enterprise (Minimum Tax) Regulations – GloBE Safe Harbours and Transition Rules

Published by
Inland Revenue Authority of Singapore

Published on 17 February 2025

1. IRAS conducted a public consultation from 4 to 18 October 2024 on the draft regulations on GloBE Safe Harbours and Transition Rules, for the implementation of the Multinational Enterprise Top-up Tax ("MTT") and Domestic Top-up Tax ("DTT") in Singapore. These draft regulations set out details on the calculation of top-up tax, as follows:

    a. GloBE Safe Harbours – The conditions to be eligible for a Transitional Country-by-Country Reporting ("CbCR") Safe Harbour, Qualified Domestic Minimum Top-up Tax ("QDMTT") Safe Harbour or Simplified Calculations Safe Harbour, under which the top-up amount for elected entities of an MNE group in a jurisdiction is treated as nil for a financial year.

    b. Transition Rules – Adjustments in computing adjusted covered taxes under the transition rules. These rules will apply when an MNE group first comes within the scope of the GloBE rules (including MTT in Singapore) or DTT in Singapore.

2. We received over 70 feedback from the public consultation. They included feedback on the policy, technical and administrative aspects of the GloBE Safe Harbours and Transition Rules. We thank all respondents for their feedback.

3. Please refer to IRAS' responses to the key feedback received in the Annex. Relevant feedback has been incorporated into the Multinational Enterprise (Minimum Tax) Regulations 2024 (the "Regulations") which was published on 30 December 2024 and came into operation on 1 January 2025.

Annex - Key feedback		IRAS' response
GloBE Safe Harbours		
1.	Apply adjustments, to address hybrid arbitrage arrangements for the purposes of the Transitional CbCR Safe Harbour, to arrangements entered into after 18 December 2023, instead of 15 December 2022.	The adjustments apply to hybrid arbitrage arrangements entered into after 15 December 2022, in accordance with the "Administrative Guidance on The Global Anti-Base Erosion Model Rules (Pillar Two)" issued by the Inclusive Framework on BEPS in December 2023. The administrative guidance requires a reference date of 15 December 2022 in respect of specified arrangements, unless a jurisdiction is unable to do so based on constitutional grounds or other superior law. As we do not face such legal constraints, we have adopted the reference date of 15 December 2022. Any adjustment (pursuant to such arrangements) applies prospectively in respect of an expense or a loss incurred in financial years beginning on or after 1 January 2025, when the Regulations came into operation.
2.	Make technical changes to the draft regulations for the Transitional CbCR Safe Harbour, including: (a) To correct the references to constituent entities, labelled as A and B, in the description of a deduction/non-inclusion arrangement; (b) To clarify that the financial statements prepared by the main entity for a permanent establishment for financial reporting, regulatory, tax reporting or internal management control purposes may qualify as "qualified financial statements";	The feedback highlighted in paragraphs (a), (b) and (c) has been accepted and respectively incorporated into the Regulations as follows: (a) Regulation 76(6) and (8); (b) Regulation 68(4); and (c) Regulation 74(3). The feedback highlighted in paragraph (d) is noted. As a "qualifying country-by-country report" is defined in relation to a jurisdiction, the definition already allows the qualified financial statements used as the source of data for one jurisdiction to be different from those used as the source of data for another jurisdiction.

Annex - Key feedback		IRAS' response
	(c) To clarify that all of a constituent entity's data for applying a test under the Transitional CbCR Safe Harbour must come from the same qualified financial statements; (d) To clarify that an MNE Group may use different qualified financial statements as the source of data for different tested jurisdictions in a qualified country-by-country report.	
3.	Clarify how and when the safe harbour elections should be submitted.	As required under section 20(1)(b) of the Multinational Enterprise (Minimum Tax) Act 2024, any election for GloBE safe harbour(s) is to be made in the GloBE Information Return ("GIR") of relevant financial year. A GIR has to be filed within 15 months after the last day of each financial year (or 18 months if the financial year is a transition year). For Singapore entities, the MNE group's Designated Local GIR Filing Entity (GFE) is required to file a GIR with IRAS, unless the GIR has been filed in another jurisdiction that has an information exchange agreement with Singapore for GIR. Guidance on the format and requirements of the GIR is provided in the document titled "Tax Challenges Arising from the Digitalisation of the Economy – GloBE Information Return (January 2025)" issued by the Inclusive Framework on BEPS on 15 January 2025, as amended from time to time.

Annex - Key feedback		IRAS' response
Transition Rules		
4.	Clarify how Article 9.1.2 of the GloBE Model Rules apply to deferred tax assets ("DTA") arising from investment allowances granted under Part 8 of the Economic Expansion Incentives (Relief from Income Tax) Act 1967.	Article 9.1.1 of the GloBE Model Rules allows deferred tax attributes that arose prior to the transition year to be taken into account in determining adjusted covered taxes. However, Article 9.1.2 of the GloBE Model Rules excludes DTA arising from items excluded from GloBE income or loss from being taken into account under Article 9.1.1 if the deferred tax assets are generated in a transaction that takes place after 30 November 2021. An investment allowance, which results in a difference between the GloBE income or loss and taxable income, is an item excluded from the GloBE income or loss. Hence, any DTA arising from investment allowances may be subject to the exclusion under Article 9.1.2 (Regulation 91 of the Regulations). As an investment allowance is given in respect of a capital expenditure incurred for an approved project, the relevant transaction for the purposes of applying Article 9.1.2 (Regulation 91 of the Regulations) is the capital expenditure. As such, where an investment allowance gives rise to a DTA, the DTA is excluded from being taken into account under Article 9.1.1 (Regulation 89 of the Regulations) if the DTA is generated from a capital expenditure that is incurred after 30 November 2021. It follows that any deferred tax expense arising from a reversal of such excluded DTA must be subtracted in the computation of adjusted covered taxes for the transition year and each subsequent financial year.
5.	Clarify in the Regulations that Article 9.1.3 of the GloBE Model Rules, which requires the transferee's tax attributes to be based on the	The feedback has been accepted. The clarification is provided in Regulation 92(5) of the Regulations.

	transferor's carrying value in respect of a transferred asset, need not be applied when the transferor has paid tax in respect of the transfer at a rate of 15% or more.	