Office of Anticorruption and Integrity

OECD Pillar Two Framework

Regional Workshop on Tax Expenditure

February 2023

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01

Update on Asia and GLoBE implementation

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Overview of GloBE Implementation in Asia

Likely to be different approaches in Asia-Pacific

GloBE – IIR and UTPR

- Likely to be followed by OECD / G20 Jurisdictions

GloBE – IIR only

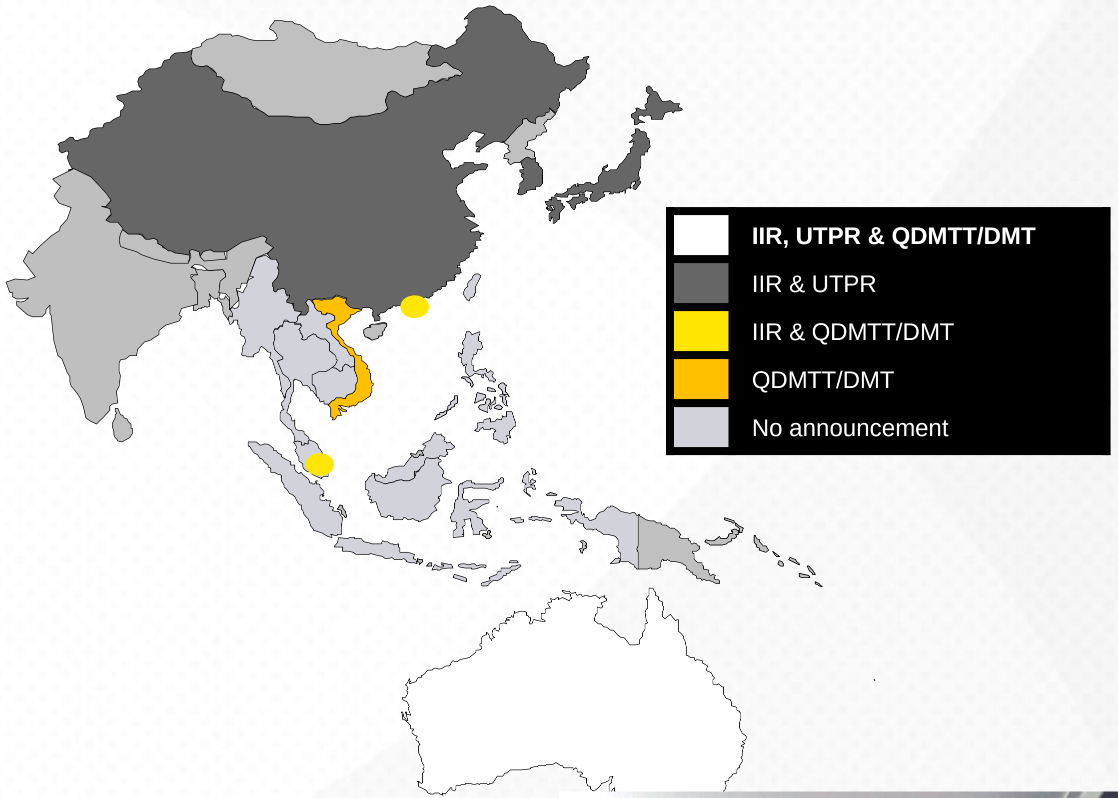
- Implementation of UTPR remains uncertain by international centres and hubs

QDMTT / DMT

- International centres and hubs expected to adopt QDMTTs to protect their taxing rights
- Others may also follow this approach where perceived risks

No adoption

- Implementation of Pillar Two measures remains uncertain by non-Inclusive Framework members (e.g. Philippines, Taiwan, Cambodia, etc.)



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ASEAN member states – Update on GloBE policy approach

As in other regions, GloBE implementation remains at policy development stage in ASEAN

Singapore

- Government has publicly announced to abide by international consensus, but no details yet on IIR, UTPR and STTR
- 2022 Budget announcement – Minimum Effective Tax Rate ("METR") being explored
- METR to apply to large MNEs with global turnover of €750m
- Study group being formed to recommend design of METR – Public consultations to take place before implementation

Malaysia

- Evaluating the technical details of the two pillars the possibility of introducing QDMTT. More details expected in Budget 2023 (expected to be tabled on 28 October 2022)
- No announcements regarding implementation timelines or public consultation

Vietnam

- No announcement regarding Pillar 2 implementation
- 15% DMT under consideration, but technical details under review

Thailand

- No official announcement yet, under consideration

Cambodia, Laos, Myanmar, Philippines

- Not members of the Inclusive Framework
- No announcement on BEPS 2.0

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02

Tax Incentives and Pillar Two

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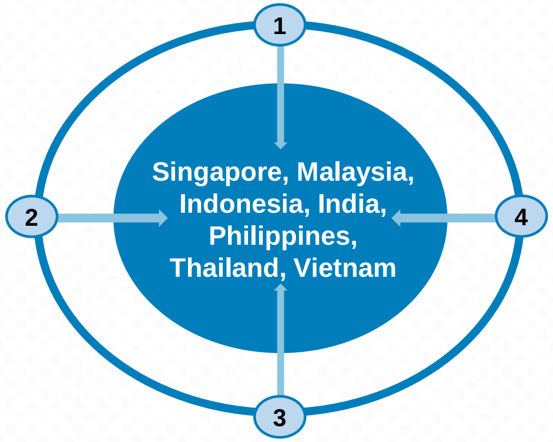
GloBE Rules impact on tax incentives

Pursuant to the BEPS Pillar 2 reforms, the global minimum tax rate would stand at 15%. Various countries in the ASEAN region offer tax exemptions or/and incentive schemes which would eventually push the ETR below the 15% threshold.

Tax holidays, Special Economic Zones

Industry/activity based incentive schemes



Exempt income / tax credits

Accelerated depreciation, immediate expenses and enhanced deductions

Potential neutralisation of tax incentives
➢ Nil/low tax incentives offset at group level by top-up tax under Pillar 2 ➢ Jurisdictional interplay: top-up tax territory vis-à-vis incentive territory ➢ Domestic level minimum tax rules ➢ Revisit effectiveness of incentive schemes: Low tax savings likely to discourage MNEs to meet stringent scheme conditions ➢ Governments to consider immediate policy reforms to address uncertainty faced by MNEs regarding business structuring

Interaction of GloBE rules vis-à-vis domestic tax incentive regimes - effects might be undermined, co exchange for offering more favourable business environment but to the benefit of the tax revenue of

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GloBE Rules impact on tax incentives – Exemption schemes

GloBE Rules will have an impact on income-based taxes and, therefore, exemptions and tax holiday schemes aimed at temporarily “eliminating” income taxes are at risk of being affected by the application of the GloBE and the charging of the Top-up Tax in the UPE jurisdiction

Participation exemption

- Dividends distributed from one Constituent Entity of an MNE Group to another Constituent Entity of the same MNE Group are excluded from the GloBE tax base.
- Participation exemption regimes will therefore not be affected by the application of the GloBE Rules.

Imputation regimes

- GloBE Model Rules differentiate between Qualified Imputation Tax (QIT) and Disqualified Refundable Imputation Tax (DRIT).
- Under QIT, tax refunded is not treated as a reduction in Covered Taxes resulting in higher ETR for the jurisdiction. QIT regimes may not be affected by GloBE Rules.
- DRIT do not qualify as Covered Tax and must be added back in GloBE tax base. This will increase GloBE Income, ultimately reducing the ETR.

Tax holidays, specific exemptions

- Tax holiday regimes are not expressly addressed under the GloBE Rules and may bring the ETR below 15%.
- Exemptions granted to specific sectors, entities or locations (other than out-of-scope situations) are likely to be affected by GloBE as they may bring the ETR below 15%.

Exempt for excluded equity gains

- Equity gains arising from the disposition of qualified ownership interests are excluded from the tax base for the GloBE ETR computation, resulting in little/no impact.

Exempt foreign currency exchange

- Gains or losses that arise due to differences between functional currency for accounting and local tax purposes, are not excluded and are likely to bring the ETR below 15%.

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GloBE Rules impact on tax incentives – Targeted approach

GloBE Rules provide a carve-out for specific entities from Top-up Tax application thus providing an opportunity to explore possibilities to retain benefits given unlikely impact on ETR

Small and Medium Enterprises

De-minimis exclusion: Average revenue <€10 million and Average GloBE Income or Loss <€1 million in current and last 2 years

Excluded entities

Government entities, international organizations, non-profit organizations, pension funds, and investment funds or a real estate investment vehicles that are UPEs of an MNE Group

Excluded income

International shipping income

Incentives targeted to such entities/incomes may be retained as GloBE rules would not affect such entities/income

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GloBE Rules impact on tax incentives: Example - Impact in ASEAN

Factors	Singapore	Malaysia	Philippines
Member of IF and sign OECD agreement	✓	✓	✗
Any policy positions announced?	✓	✗	✗
Actions taken by governments e.g., consultations, studies commissioned etc.	✓	✓	✗
Investment agencies in conversations with our clients?	✓	✓	✗
Incentive regime likely to be terminated?	NO, likely to be maintained.	Likely to be maintained	No signs, as incentive regime recently
Assessing non-tax financial incentives?	✓	✗	

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GloBE Rules impact on tax incentives: Example - Impact in ASEAN

Factors	Thailand	Indonesia	Vietnam
Member of IF and sign OECD agreement	✓	✓	✓
Any policy positions announced?	✗		✗
Actions taken by governments e.g., consultations, studies commissioned	Taskforce set up and in closed door discussions	NO – and not normal practice to have public consultations / discussions	✗
Investment agencies in conversations with our clients?		✗	✗
Incentive regime likely to be terminated?	No specific discussions on the incentive regime yet	Not likely as there remains discussions on tax holiday large manufacturing proje	Not likely as there is no
Assessing non-tax financial incentives?		✗	

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Key takeaways - Perspectives on the future of tax incentives

- Anticipate majority of countries are unlikely to cede revenues to other tax authorities / jurisdictions, and will likely seek to collect the global minimum tax of 15%

- Locations that are heavily focused on manufacturing may be less impacted, given substance carve-outs and incentive regimes typically goes beyond direct tax incentives which will remain important for operations

- Notwithstanding the above, incentives continue to remain relevant jurisdictions, albeit with tweaks to the types / forms of incentives offered

- Alternatives to direct tax incentives would gain prominence and we should increasingly see more of such tools being employed to attract foreign direct investments (FDIs)

- Non-tax advantages e.g., availability of skilled workforce, robust intel regime, physical and digital infrastructures, etc. would become ever more

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QUESTIONS?

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