KPMG

TaxNewsFlash

Barbados

Update on BEPS 2.0: Global Minimum Tax

November 7, 2023

WHY THIS MATTERS

The Government of Barbados has announced its proposed rules in respect of Pillar Two of the OECD Base Erosion and Profit Shifting directive.

Background

The Prime Minister of Barbados, the Hon. Mia Amor Mottley, S.C., M.P. delivered a Ministerial Statement on November 7, 2023.The statement outlines proposals to address Pillar Two of the Organization for Economic Cooperation and Development's (OECD) Global Anti-Base Erosion (GloBE) model rules. A Policy Document was also released which provides additional details.

Draft legislation is expected shortly to ensure that multinational enterprises (MNEs) with consolidated revenues above €750 million pay a minimum 15% tax in each jurisdiction in which they operate. Certain other domestic tax changes were also announced.

Who does it affect?

The proposed new rules affect any MNEs which are headquartered in Barbados, but primarily impact Barbadian constituent entities of foreign-based MNEs, as the rules contain a qualified domestic minimum top-up tax (QDMTT).

Many corporate taxpayers will be impacted, as other domestic tax changes were also announced.

Effective Date

The proposals indicate an effective date from Income Year 2024, with effect from January 1, 2024.

KPMG Observation – *Many countries which are members of the OECD Inclusive Framework are also planning to implement the Pillar Two rules in 2024. To ensure consistency with other countries and to account for off-calendar fiscal periods, we understand that the draft legislation will clarify the effective date for in-scope entities subject to the QDMTT. This will provide for Pillar Two taking effect for income years that begin on or after January 1, 2024.*

Domestic tax rate

Effective January 1, 2024, the general corporation tax rate will be 9%.

KPMG Observation – *The current corporate tax rates are contained in the table below and represent a sliding scale from 5.5% to 1%. The new flat tax rate will represent a significant increase for some taxpayers, although they will be eligible for several new refundable credits described below.*

Taxable income bracket	**Rate (%)**
Taxable income up to 1 million BBD	5.5
Taxable income exceeding BBD 1 million but not exceeding BBD 20 million	3.0
Taxable income exceeding BBD 20 million but not exceeding BBD 30 million	2.5
Taxable income exceeding BBD 30 million	1.0

The new domestic tax rate of 9% addresses the potential application of the Pillar Two Subject to Tax Rules (STTR). The STTR is a tax treaty-based rule which allows for the imposition of additional tax on several types of connected party payments. This permits some countries, particularly developing Inclusive Framework members to apply their domestic law taxing provisions to bring the nominal corporate income tax rate up to a minimum of 9%.For more information on STTR click here.

Exception for small businesses

Effective January 1, 2024, a company whose gross revenue is BBD 2M or below shall be subject to a corporation tax rate of 5.5%. To qualify the company must be registered as a Small Business under the *Small Business Development Act Cap. 318C.*

KPMG Observation – *The current top tax rate of 5.5% will be applied to small businesses, marginally increasing their tax liability, as the current sliding scale in the table above will no longer be applicable.*

Exception for insurance companies

The corporation tax rate applicable to insurance business of 0% for class 1 insurance business and 2% for class 2 insurance and class 3 business shall remain unchanged.

KPMG Observation – *The nature of insurance companies to which this exception applies comprises the following:*

- *Class 1 insurance companies which underwrite related party risks.*
- *Class 2 insurance companies which underwrite risks of third parties.*
- *Class 3 which includes Insurance intermediaries such as brokers, agents and salespersons, holding and management companies, loss adjusters and assessors.*

This measure will particularly benefit the domestic insurance market, while in-scope MNEs will be subject to the top up tax under the QDMTT rules described below.

Exception for international shipping

For income year 2024, with effect from January 1, 2024, international shipping business will remain taxed under the current tax regime (i.e., the current sliding scale in the table above).

KPMG Observation – *The international shipping industry is out-of-scope for the GloBE Rules. The Ministry of Finance will advise on whether Barbados should adopt a new regime for international shipping companies for 2025 and beyond after consultation with the sector.*

Exception for companies in countries not enacting Pillar Two in 2024

For income year 2024 with effect from January 1, 2024, for an MNE otherwise in scope whose Ultimate Parent Entity (UPE) is in a jurisdiction which has not implemented an Income Inclusion Rule (IIR) or whose Constituent Entities are not subject to an IIR or an Undertaxed Profits Rule (UTPR), the current tax regime shall be maintained and applied accordingly.

For such entities, there will be no application of the Qualifying Domestic Minimum Top-Up Tax until 2025. They will be subject to the current sliding scale in the table above.

KPMG Observation – *Under this exception, it is intended that companies in countries not implementing the QDMTT will continue to benefit (for 2024 only) from the current sliding scale in the tax rate table above. In this regard, when the legislation is drafted, it should ensure that all treaty obligations are observed.*

QDMTT

For income year 2024, with effect from January 1, 2024, a Qualified Domestic Minimum Top-up Tax (QDMTT) will be introduced consistent with the GloBE Rules for in-scope companies. The QDMTT will apply to subsidiaries or permanent establishments of in-scope MNEs (Constituent Entities) with an Ultimate Parent Entity in a jurisdiction that has introduced an Income Inclusion Rule or an Under Taxed Profit Rule.

This means that a top up tax will be imposed on such Constituent Entities to ensure that they are subject to an effective tax rate of 15%, as per the GloBE Rules.

KPMG Observation – *In its simplest form, with a domestic tax rate of 9%, the QDMTT will result in a 6% top up tax for in-scope MNEs. As noted above, the draft legislation will clarify the effective date for in-scope entities being subject to the QDMTT, ensuring that Pillar Two takes effect for income years that begin on or after January 1, 2024. As the clear intention is to be wholly compliant with the GloBE rules, it is anticipated that the top up tax will be computed on a combined entity basis within this jurisdiction.*

Barbados will also participate in the planned peer review mechanisms to ensure the top up taxes and refundable tax credits are qualified.

Administration

The Barbados Revenue Authority shall be responsible for the administration of the QDMTT. This will include the calculation of the tax base, control, determination, collection and recovery of the top-up tax.

Payment schedule

To align on international best practices, the corporate income tax payment schedule moves to a monthly basis from Income Year 2024.

Effective January 1, 2024, companies in scope for the GloBE Rules shall be required to pay corporation tax on a monthly basis. Accordingly, the first payment will take place at the end of January 2024. All other companies with the exception of small business companies registered under the *Small Business Development Act Cap. 318C* will be required to prepay in monthly installments with effect from Income Year 2025 as of January 1, 2025.

Monthly instalments for the fiscal year are calculated based on the previous year tax base multiplied by the new applicable rate, net of the impact of the tax credits mentioned in the following section where relevant.

KPMG Observation – *Barbados is implementing monthly tax prepayments, aligned with many other countries in the world, with a one-year deferral for out-of-scope entities. We understand that the draft legislation will clarify the taxable income base on which payments will be made and the rate of tax to be applied (9% domestic rate vs. 15% QDMTT) consistent with the effective date of the QDMTT implementation.*

Qualified Refundable Tax Credits

In addition to existing allowances (such as capital allowances), which remain, tax credits that meet the requirements of a Qualified Refundable Tax Credit (QRTC) under the GloBE Rules will be introduced. These credits, which shall be offset against corporation tax (and any other tax liability) are intended to encourage economic growth, development and employment in strategic sectors.

QRTCs will be available to companies taxed at the rate of 9% and to companies subject to the QDMTT of 15%.

KPMG Observation – *Under the OECD Model Rules, a QRTC is a refundable tax credit paid as cash or available as cash equivalents within four years from the date when a Constituent Entity satisfies the conditions for receiving the credit.*

In order to be refundable, any amount of the tax credit that has not been used to reduce Covered Taxes (e.g., corporate income tax) is either payable as cash or cash equivalent. Cash equivalent includes the ability to use the credit to discharge other liabilities.

Qualified Jobs Credit

A refundable payroll tax credit on eligible payroll costs is introduced in respect of full-time employees engaged in designated activities.

Eligible payroll costs mean expenditures for salaries and wages, as well as other employee benefits or remuneration including medical insurance, National Insurance contributions, payments to a pension fund or other retirement benefits, bonuses and allowances payable to eligible employees.

Designated activities mean:

- Fintech;
- Wholesale distribution and trading (without physical inventory or storage in Barbados);
- Research and development (as prescribed below).

Research and Development activities include carrying out basic research, applied research or experimental research to innovate and introduce new products and services (approved by Ministerial Order from the Ministry of Finance) in the following sectors:

- medicine;
- science and technology;
- finance
- information technology including artificial intelligence;
- distillery/refinery; or
- any other industry added by Ministerial Order.

For the purposes of the Qualified Jobs Credit, the credit will be calculated on the average payroll cost as follows (with the maximum effective payroll credit not exceeding 300%):

- For the first 50 employees a credit of 75%
- For 51 employees to 100 employees a credit of 175%
- For 101 employees to 150 employees a credit of 300%
- For 151 employees to 200 employees a credit of 400%
- Over 200 employees a credit of 475%

The Qualified Jobs Credit shall not be granted for eligible payroll costs that can reasonably be considered excessive and unreasonable in relation to the company's economic operations. Eligible payroll costs shall not be deemed excessive and unreasonable provided they are ordinary and necessary business expenses incurred primarily for bona fide business purposes other than to obtain the payroll tax credit.

Research and Development Credit

A credit of 50% of qualifying expenses incurred for qualifying research and development activities is introduced (in addition to the Qualified Jobs Credit outlined above).

This credit may be made available to any company in Barbados, which carries out basic research, applied research or experimental research to innovate and introduce new products and services approved by Ministerial Order from the Ministry of Finance in the following sectors:

- medicine;
- science and technology;
- finance;
- information technology including artificial intelligence;
- distillery /refinery; or
- any other industry added by Ministerial Order.

Qualifying expenses include expenses for plant, equipment, materials and assets used in qualified research and development activities, outsourcing expenses and local overhead expenses that support these activities.

KPMG Observation – *the refundable credits being introduced will help reduce the tax burden of taxpayers and are targeted toward strategic sectors. This should not only benefit companies currently operating in Barbados but potentially also attract new foreign direct investment.*

National Development Credit

A credit will be developed for investment in national development projects for low-income housing, historic buildings, public medical facilities including hospitals and polyclinics, hospices and schools up to a tertiary level. This will be designed with extensive consultation with the country.

Other Credits

Barbados continues to refine the areas of activities in the blue and green economies that will help the world in building resilience to the existential climate crisis, and it is anticipated that fulsome credit mechanisms in this regard will be announced in the 2024-25 Financial Statement by the Minister of Finance, allowing for deliberations to take place to outline and refine these credits.

A working group will also be established to recommend improvements in the area of international shipping and aviation.

KPMG Observation – *The additional credits under consideration should further incentivize companies currently operating in Barbados as well as encourage new investment. Some of the new credits may be structured as marketable transferable tax credits (MTTCs). These are tax credits that can be used by the holder of the tax credit to reduce its covered tax balance in the issuing jurisdiction while meeting the legal transferability and marketability standards in the hands of the holder. For further guidance on MTTCs click here.*

IFRS 17 – Insurance Contracts

IFRS 17 requires a company to measure insurance contracts using updated estimates and assumptions that reflect the timing of cash flows and any uncertainty relating to insurance contracts.

The government proposals note that in order to align the GloBE Rules with IFRS 17 a Life insurer's new Contribution Service Margin (CSM) should be taxed on an accounting basis for corporation tax purposes.

This requires a change to the current corporation tax proposals where the taxation of CSM is otherwise accelerated.

To avoid double taxation, tax rulings will be provided to ensure that the old CSM or other income from non-insurance activities is treated in the manner proposed under the GloBE rules.

KPMG Observation – *the Barbados Revenue Authority previously issued Policy Note 03/2023 on January 28, 2023 in respect of IFRS 17 and the taxation of the CSM. It is anticipated that further guidance will be provided to avoid double taxation under the Pillar Two rules. Click here to refer to Policy Note 03/2023.*

Bank Asset Tax

The Government will review tax revenue over the course of the next year to make a determination as to the future of the Bank Asset Tax.

KPMG Observation – *Currently a tax is charged on the average domestic assets of a bank at a rate of 0.35% per annum, payable quarterly. As the tax liability of in-scope banks may increase significantly under the QDMT rules, the government is considering alternatives to ensure banks operating in Barbados remain competitive.*

Safe Harbours

The Policy Document notes that as a result of the complexity of the new rules and in order to provide for tax certainty, a number of temporary Safe harbours have been introduced by the OECD. These include:

- QDMTT Safe Harbour
- UTPR Safe Harbour
- Transitional Safe Harbours

For further details refer to the Policy Document; for the OECD Implementation Framework click here.

Conclusion

To paraphrase the Prime Minister's words in her Ministerial Statement, with the implementation of this new corporate tax regime, Barbados is fully embracing global competitiveness. Furthermore, Barbados can be a global destination of excellence by ensuring that policy and legal frameworks are met. Global excellence with Barbadian values, that is and must always be, the Barbadian way.

How KPMG can help

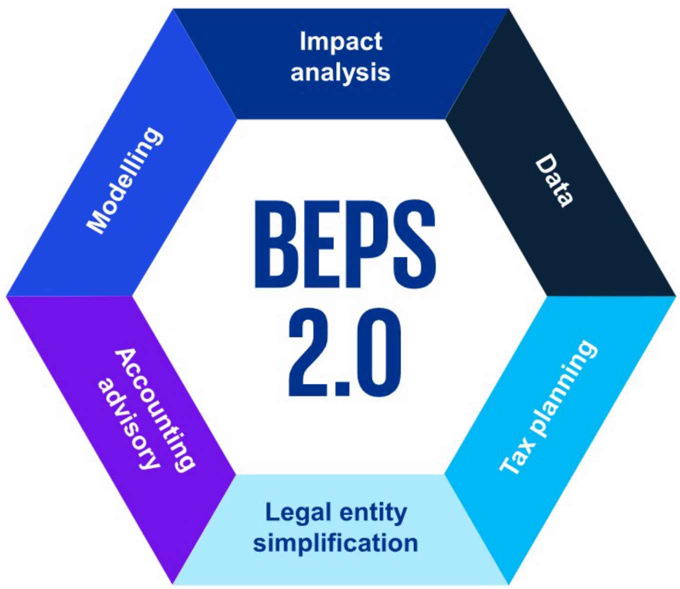
KPMG can help assess the effect of Pillar Two proposals on your business. To review the current state of Pillar Two initiatives around the world, please click here (current to October 31, 2023).

Our solution portfolio provides an end-to-end service across the many disciplines that can help support as you navigate planning, implementation and compliance.

BEPS 2.0 Modelling
High-level modelling to help estimate numerical outcomes based on financial data and map out the impact on the effective tax rate (ETR) and cash taxes under various scenarios.

Accounting advisory services
Coordinated approach to address systems and data related issues, including planning based on a choice of accounting treatments.

Legal entity simplification
Assist with restructuring in cases where the group structure and value chain are no longer appropriate.



Impact analysis
Review the group structure to identify the scope of the group for Pillar One and Pillar Two purposes. Further identify required market disclosure statements.

Data, systems & compliance
Critical understanding of data sources, systems and maintenance to support implementation and production of tax sensitized information in standard and adaptable forms.

Tax planning
Identify planning opportunities to manage the impact of BEPS 2.0 rules and new measures adopted in relevant countries.

For additional information or assistance, please contact one of the following professionals at KPMG in Barbados.

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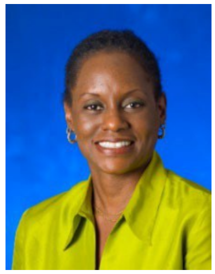

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