



# Hot Topics Across the GLOBE

June 11, 2024

**Ahead**  
of the **wave**

2024 U.S. Cross-Border Tax Conference



# Notices

The following information is not intended to be “written advice concerning one or more Federal tax matters” subject to the requirements of section 10.37(a)(2) of Treasury Department Circular 230.

The information contained herein is of a general nature and based on authorities that are subject to change. Applicability of the information to specific situations should be determined through consultation with your tax adviser.

# With you today

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# Pillar Two: GLoBE-al view



# Pillar two: GloBE-al view

## Legislation passed / approved

- Austria (Dec 2023)
- Belgium (Dec 2023)
- Bulgaria (Dec 2023)
- Croatia (Dec 2023)
- Czech Republic (Dec 2023)
- Denmark (Dec 2023)
- EU Directive (Dec 2022)
- Finland (Dec 2023)
- France (Dec 2023)
- Germany (Dec 2023)
- Hungary (Nov 2023)
- Ireland (Dec 2023)
- Italy (Dec 2023)
- Japan – IIR (March 2023)
- Liechtenstein (Dec 2023)
- Luxembourg (Dec 2023)
- Malaysia (Dec 2023)
- Malta (Feb 2024)
- Netherlands (Dec 2023)
- New Zealand (March 2024)
- Norway (Jan 2024)
- Romania (Dec 2023)
- Slovakia (Dec 2023)
- Slovenia (Dec 2023)
- South Korea (Dec 2022)
- Sweden (Dec 2023)
- Switzerland – DMTT (Dec 2023)
- United Kingdom (June 2023)
- Vietnam (Dec 2023)
- Zimbabwe (Dec 2023)

## IIR (2024)

- Australia
- Canada
- EU – potential deferrals where few UPEs
- Japan
- Liechtenstein
- Norway
- South Africa
- South Korea
- United Kingdom
- Vietnam

## UTPR (2025)

- Australia
- Canada
- EU – potential deferrals where few UPEs
- Hong Kong (SAR), China
- Liechtenstein (?)
- New Zealand
- Norway (?)
- South Korea
- Thailand
- United Kingdom

## QDMTT (2024)

- Austria
- Australia
- Barbados
- Belgium
- Bulgaria
- Canada
- Croatia
- Czech Republic
- Denmark
- Finland
- France
- Germany
- Gibraltar
- Greece
- Hungary
- Ireland
- Italy
- Liechtenstein
- Luxembourg
- Netherlands
- Norway
- Qatar (?)
- Romania
- Slovakia
- Slovenia
- South Africa
- Spain
- Sweden
- Switzerland
- United Kingdom
- Vietnam
- Zimbabwe

## Other related announcements

- Bahrain – Considering the introduction of a CIT as part of its commitment to the OECD minimum tax
- Barbados – Plans to introduce a 9% CIT
- Bermuda – CIT (15%) introduced in response to the OECD Pillar Two initiative
- Colombia 2022 tax reform – 15% minimum tax
- Curacao – Policy measures to address impact of Pillar Two under consideration
- Gibraltar – Policy measures to address impact of Pillar Two under consideration
- Isle of Man – Temporary increase of CIT rate to 15% for certain Pillar Two impacted businesses
- Kenya – Plans to review DST and to adopt two-pillar solution
- Kuwait – Plans to introduce a 15% business profit tax
- Nigeria – Policy measures to address impact of Pillar Two under consideration
- Puerto Rico - Draft legislation aiming to introduce an election to pay 15% minimum tax
- UAE new corporate tax 9%
- U.S. corporate alternative minimum tax enacted 15% (not Pillar Two compliant)
- U.S. Republican Committee introduced two bills with UTPR defensive measure

# Pillar two: GloBE-al view (cont'd)

## Draft legislation released

- Australia (March 24)
- Canada (Aug 23)
- Cyprus (Oct 23)
- Estonia (Dec 23)
- Greece (Feb 24)
- Latvia (Dec 23)
- Lithuania (Oct 23)
- Qatar (Feb 24)
- S. Africa (Feb 24)
- Spain (Dec 23)
- Thailand (March 24)

## IIR (2025)

- Channel Islands (Guernsey and Jersey) and Isle of Man
- Hong Kong (SAR), China
- Malaysia
- New Zealand
- Singapore
- Thailand

## QDMTT (2025)

- Cyprus
- Channel Islands and Isle of Man
- Hong Kong (SAR), China
- Lithuania
- Malaysia
- Singapore
- Thailand

## Intention to apply IIR and UTPR (timing uncertain/deferred)

- Estonia (deferral 2030)
- Gibraltar
- Indonesia
- Japan (UTPR)
- Latvia (deferral 2030)
- Lithuania (deferral)
- Malaysia (UTPR)
- Malta (deferral 2030)
- Mexico
- Singapore (UTPR)
- Slovakia (deferral)
- Switzerland
- UAE

## Intention to apply QDMTT (timing uncertain)

- Bahamas
- EU (optional)
- Indonesia
- Jamaica
- Japan
- Mauritius
- UAE
- Ukraine



02

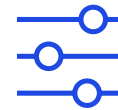
# **Intercompany Funding, Hybrid Arbitrage Arrangements under the Transitional CbCR Safe Harbour, and Model Rule 3.2.7**

# Treatment of hybrid arbitrage arrangements

The December 2023 AG introduced rules that are designed to counteract three types of hybrid arbitrage arrangements where groups could otherwise have benefited from the Transitional CbCR Safe Harbour



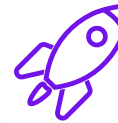
Targeted at specific arrangements



Require re-computation



Broader than Article 3.2.7



Coming to the GloBE Rules



# Three types of hybrid arbitrage arrangements

01

## Deduction/Non-Inclusion

CE1 provides credit/makes an investment in CE2 that results in an expense or loss in the financial statements of CE2 where there is no commensurate increase in CE1 **financial statement** revenue or gain or no commensurate increase in CE1 **taxable income** is reasonably expected over the life of the arrangement.

**Example 1:** CE1 makes a loan to CE2 that results in an expense in the financial statements of CE2 and where the taxable income of CE1 is not increased because the income is offset against a carry forward loss that was subject to a valuation allowance.

**Example 2:** US1's foreign disregarded entity, CE2, borrows from US3, such that CE's interest payment gives rise to a US tax deduction.

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## Duplicate Loss

Expense or loss included in financial statements of one CE is also included in financial statements of another CE or the arrangement gives rise to a duplicate amount that is deductible for purposes of determining the taxable income of another CE in another jurisdiction.

Not a duplicate loss arrangement to the extent that the amount of relevant expense is offset against revenue / income included in both:

- FS of CE including expense / loss in its FS; and
- TI of CE claiming the deduction for expense / loss

**Example:** Disregarded service providers (regarded expense of DRE included in financial statements of DRE and taxable income of US owner)

- Role of grandfathering
- Paragraph 74.30(f)

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## Duplicate Tax Recognition

More than one CE includes part or all of the same income tax expense in its Adjusted Covered Taxes or Simplified ETR test, unless the income subject to tax is included in the relevant financial statements of both CEs or the arrangement arises because the Simplified ETR test does not require an adjustment (e.g., for CFC taxes).

**Example:** Unclear

# Comparing the deduction / non-inclusion rule to Article 3.2.7

## Article 3.2.7 of the Model Rules

- Applicable for purposes of “regular” ETR calculation
- No grandfathering (i.e., applicable to transactions entered into before December 15, 2022)
- Disallows expenses attributable to Intragroup Financing Arrangement in calculating GloBE Income / Loss of **Low-Tax Entity** when there is **no commensurate increase in taxable income of High-Tax Counterparty**:
  - High-Tax Counterparty – CE located in non-Low-Tax Jurisdiction or a jurisdiction that would not be a LTJ if its ETR were determined w/o regard to income / expense accrued in respect of an Intragroup Financing Arrangement
  - Low-Tax Entity – CE located in Low-Tax Jurisdiction or one that would a Low-Tax jurisdiction if ETR determined w/o regard to income / expense accrued in respect of an Intragroup Financing Arrangement

## Deduction / Non-Inclusion (D/NI) Rule

- Currently only applicable for calculating Simplified ETR purposes for purposes of the Transitional CbCR Safe Harbor (Article 3.2.7 applies in the “regular” GloBE calculation)
- Grandfathering – only applies to D/NI arrangements entered into after December 15, 2022
- No “low-tax”/ “high-tax” ETR test and therefore may be applicable to arrangements that are not caught by Article 3.2.7
- **Applies to same country instruments**
- Income recipient’s use of NOLs that would otherwise require VAs is equivalent to non-inclusion

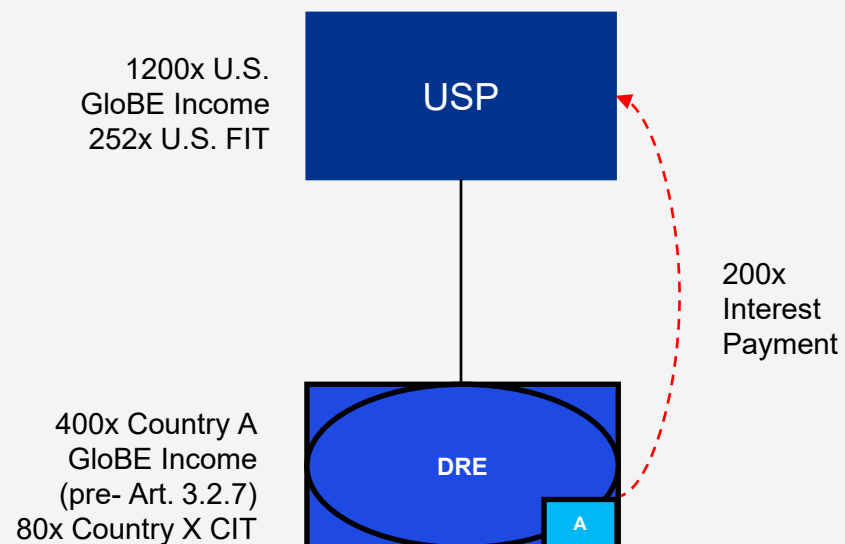
# Model rule 3.2.7 – intragroup financial arrangements

## Facts

- DRE pays USP 200x interest income in respect of an outstanding intercompany loan on an annual basis.
- USP has 1200x GloBE Income and 252x Adjusted Covered Taxes (excluding any taxes allocated to other CEs)
- DRE has 400x GloBE Income (taking into account the \$200x interest payment) and 80x Covered Taxes

## Analysis

- Before applying Article 3.2.7, Country A ETR would be 20% ( $80x / 400x$ )
- **Is Country A a Low-Tax Jurisdiction?**
  - ETR without considering the expense accrued in respect of an Intragroup Financing Arrangement is 13.33% ( $80x / 600x$ ). Without the intercompany interest payment, DRE would have paid 120x in CIT.
- **Is USP a High Tax Counterparty?**
  - Yes ( $252x / 1200x = 21\%$ ).
- **Commensurate increase in taxable income?**
  - USP does not include the interest payment, but it includes DRE's income without the benefit of a deduction for the interest payment.

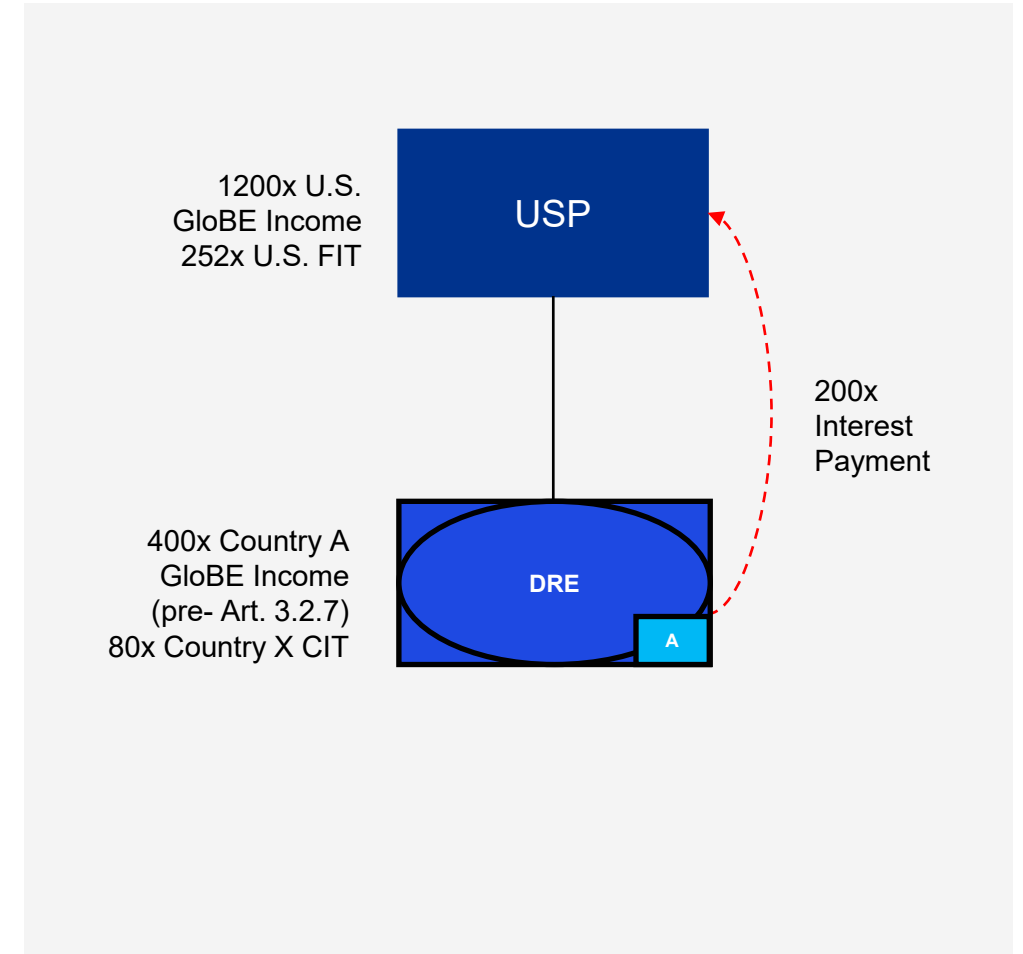




# Model rule 3.2.7 – intragroup financial arrangements (cont'd.)

## Considerations under the D/NI Hybrid Arbitrage Arrangement Rule

- Analysis is generally the same except (i) that “high-tax” and “low-tax” considerations are not relevant and (ii) cut-off date
- Includes additional guidance on meaning of “no commensurate increase in taxable income”
- If DRE were instead a CFC and the instrument treated as equity for USFIT purposes, such that the interest payments were treated as PTEP, are CFC inclusions commensurate increases in taxable income? Same result under both rules?



# Duplicate loss arrangement – overview

- **Duplicate Loss Arrangement (DLA)** - an arrangement entered into **after December 15, 2022** that gives rise to an expense or loss included in the **financial statement** of a Constituent Entity (**Entity 1**) to the extent that the expense or loss is also either:
  - (a) included as an expense or loss in another Constituent Entity's (**Entity 2's**) **financial statement**; or
  - (b) duplicated as a deduction for purposes of determining **taxable income** of another Constituent Entity (**Entity 2**) in another jurisdiction. (para. 74.28)
- **Consequence:** Relevant jurisdiction's safe harbor calculation must be adjusted by excluding from its GloBE income any expense or loss arising as a result of the DLA.
- **Exceptions:**
  - **Grandfathered?** Per para. 74.30(c), grandfathering does not apply if after December 15, 2022:
    - the arrangement is amended or transferred;
    - the performance of any rights or obligations under the arrangement differs from the performance prior to 15 December 2022 (including where payments are reduced or ceased with the effect of increasing the balance of a liability); or
    - there is a change in the accounting treatment with respect to the arrangement.

# Duplicate loss arrangement – overview (cont'd)

- **Para. 74.30(e):** an arrangement will not be a DLA under para. 74.28(a) to the extent that the amount of the relevant expense is offset against revenue which is included in the financial statements of both Entity 1 and 2.
- **Para. 74.30(f):** An arrangement will not be a DLA under para. 74.28(b) to the extent that the relevant expense is offset against revenue or income included in both (i) the financial statement of Entity 1; and (ii) the taxable income of Entity 2.

**Takeaway:** As illustrated in the following slides, many ordinary course transactions may be DLAs. Having a DLA may cause a taxpayer to fail the Transitional CbCR Safe Harbor for a given jurisdiction. However, because this rule has not yet been incorporated into the Model Rules, the consequence of a taxpayer having entered into a DLA may be limited to having to undertake the full GloBE calculation for the impacted jurisdiction if the jurisdiction is not low-taxed.



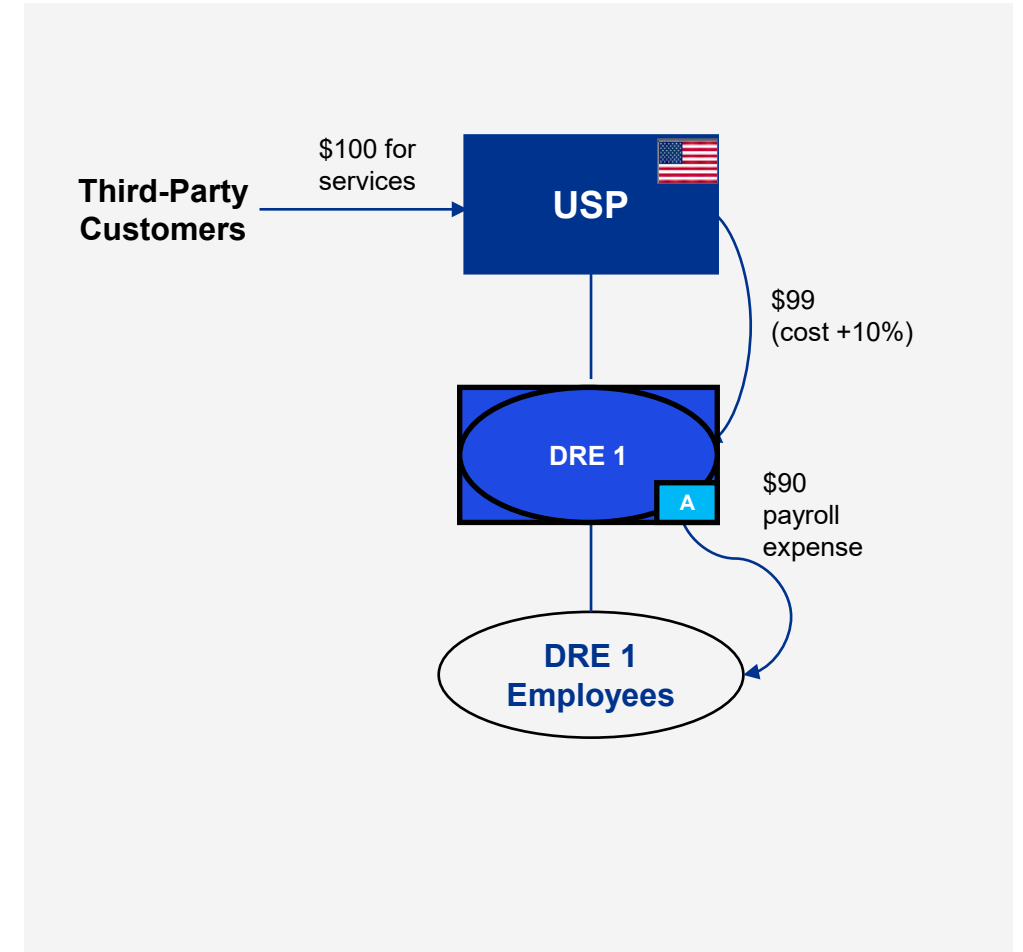
# Example: duplicate loss arrangement

## Facts

- USP owns 100% of DRE1, a corporation formed in Country A that is treated as a disregarded entity for US federal income tax (“**USFIT**”) purposes and part of the USP MNE Group that is subject to the GloBE Rules.
- The USP uses the financial accounts of its CEs utilized in preparing its CFS in preparing its otherwise Qualified CbCR.
- USP receives \$100 in exchange for services provided to its Third-Party Customers.
- Pursuant to an arrangement entered into after December 15, 2022, DRE 1, through its employees, provides services related to USP’s 3<sup>rd</sup> party customers on behalf of USP in exchange for payments equal to its costs incurred plus a 10% mark-up.
- The financial accounts of DRE 1 include \$99 of cost-plus services revenue and \$90 of payroll expense.
- For USFIT purposes, USP includes \$100 of services income and deducts the \$90 of payroll expense attributable to DRE1’s employees. The \$99 cost plus payment to DRE 1 is disregarded.

## Analysis

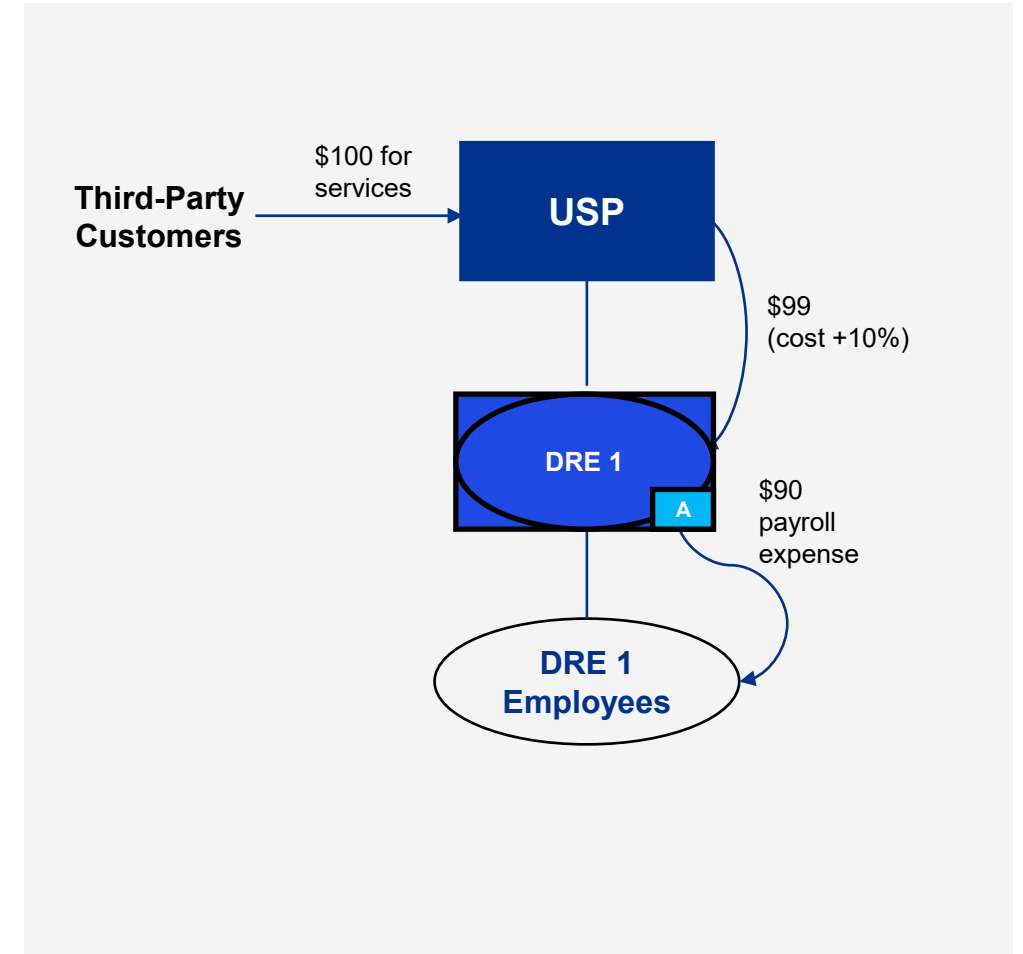
- The \$90 of expense is both included in the financial statements of DRE 1 and deductible for purposes of determining USP’s US taxable income and is therefore described in para 74.28(b) unless an exception applies.



# Example: duplicate loss arrangement (cont'd.)

## Analysis

- The \$90 payroll expense partially offsets the \$99 of revenue received from US Co on DRE1's financial statements. This \$99 of revenue is disregarded for USFIT purposes and instead the \$90 payroll expense partially offsets US Co's \$100 regarded 3rd party services revenue in determining US Co's taxable income.
- Para. 74.30(f) requires the duplicated expense/deduction offset the same revenue/income at each entity
  - No potential for a "double dip" under this arrangement





03

# Post-Year Transfer Pricing Adjustments



# Adjusting data in QFS

The December 2023 AG did not clarify how certain items held in consolidation accounts should be allocated between Tested Jurisdictions for the purposes of the Transitional CbCR Safe Harbor but reemphasized that adjustments from financial accounts should not be made for the purpose of preparing a group's CbC Report:

**“The Transitional CbCR Safe Harbour does not generally require or permit adjustments to the amounts reported in financial accounts or separate financial statements in order for them to be considered Qualified Financial Statements.”**

**“Making adjustments to the data drawn from Qualified Financial Statements in a CbC Report for a jurisdiction would disqualify a Tested Jurisdiction from the Transitional CbCR Safe Harbour, regardless of whether such adjustments were intended to make CbCR data more consistent with the GloBE Rules. Similarly, making such adjustment to any other data in the Qualified Financial Statements used in the simplified computations would disqualify those computations under the Transitional CbCR Safe Harbour.”**

**How should amounts held in consolidation accounts be treated? (e.g., stock based compensation)**

What if all booked at the UPE?

**How should incorrect entries be dealt with?**

# Transfer pricing true-ups—adjustment of GloBE Income/Loss

The December 2023 AG clarified that Transfer Pricing Adjustments cannot be taken into account for purposes of the Transitional CbCR SH prior to the year in which they are booked in the QFS used for preparing the Qualified CbC Report (e.g., if a TP adjustment related to Y1 is booked in the financial accounts in Y2, the TP adjustment is reflected in the Simplified ETR test for Y2).

In contrast, MR 3.2.3 requires transactions between Constituent Entities in different jurisdictions to be priced consistently with the arm's-length principle and recorded at the same price for GloBE purposes for all entities.

## **Bilateral (two-sided) Transfer Pricing Adjustment:**

Where parties to a controlled transaction in different countries each adjust a transfer price to the same price, the GloBE rules require both entities to adjust their GloBE income or loss based on that price.

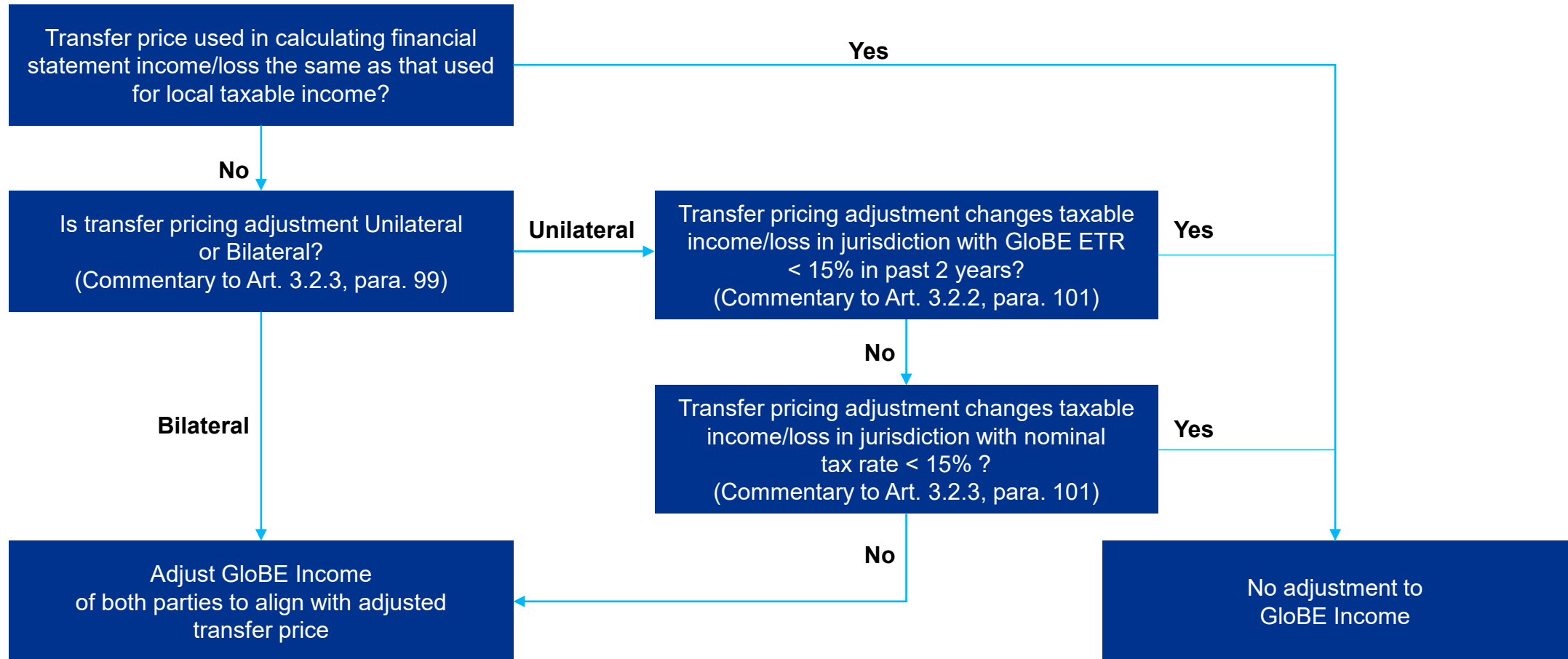
## **Unilateral (one-sided) Transfer Pricing Adjustments**

- The GloBE rules presume that the adjusted transfer price is arm's-length and *generally* require the GloBE income or loss of both parties to be adjusted based on the amount of the unilateral transfer pricing adjustment.

However, adjustments to GloBE income or loss for unilateral transfer pricing adjustments are not permitted if the transfer pricing adjustment increases or decreases the taxable income in a country that has:

- A nominal tax rate below 15%; or
- A GloBE ETR less than 15% in each of the two fiscal years before the year of the unilateral transfer pricing adjustment.

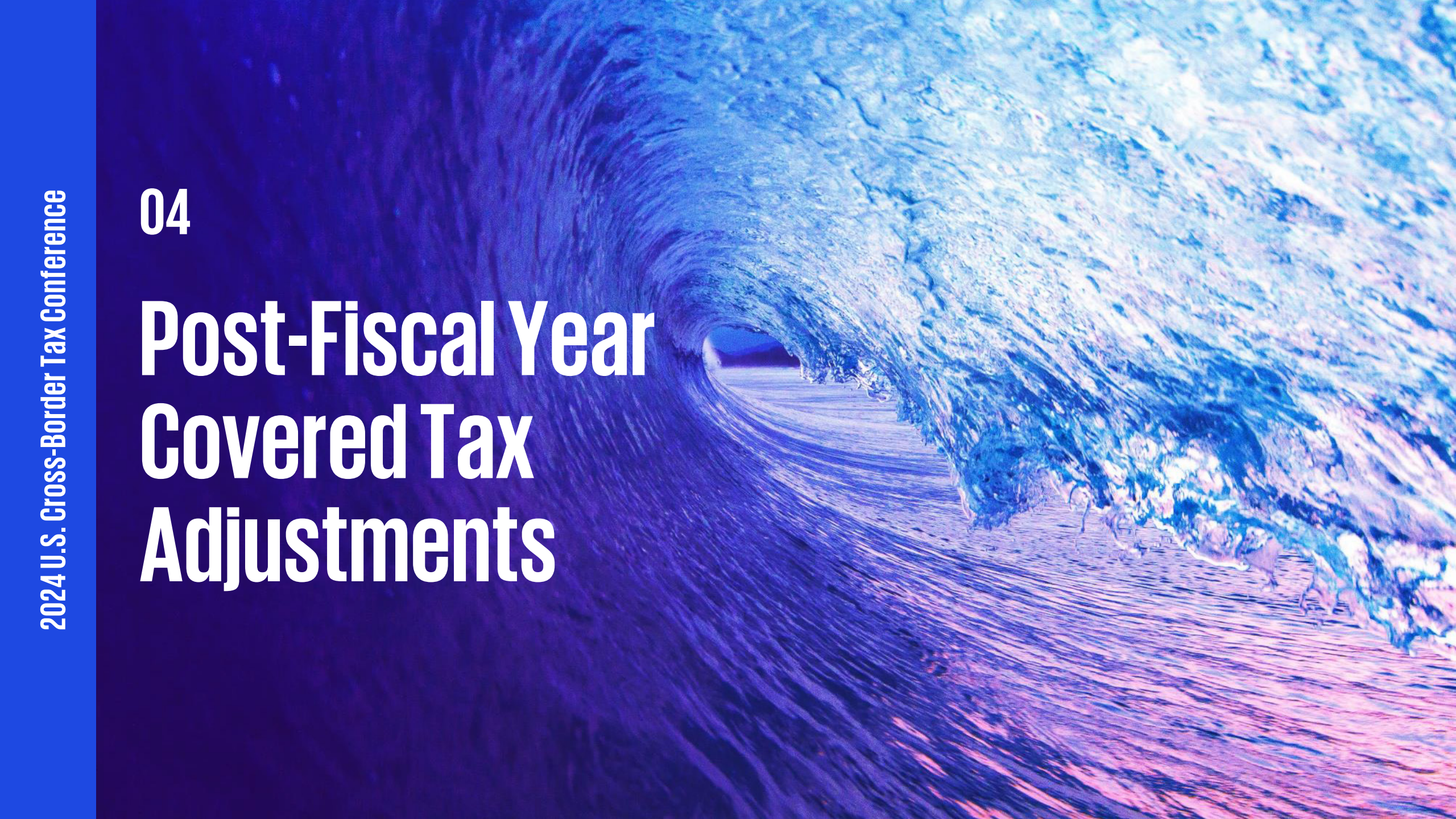
# Transfer pricing true-ups—adjustment of GloBE Income/Loss (continued)





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# Post-Fiscal Year Covered Tax Adjustments





# Post-fiscal year covered tax adjustments

**Book Income Tax Expense is generally recorded in the year of the adjustment with respect to tax expenses relating to prior years in connection with:**

- Post-Year transfer pricing adjustments
- Return to provision adjustments (RTPs)
- Audit settlements
- Carryback of NOLs/FTCs

**For purposes of the Transitional Safe Harbor, income tax expense is included in the year booked, irrespective of the year it relates to (December 2023 AG: “Under this definition, Simplified Covered Taxes will include adjustments to the income tax expense provision of prior years (other than those related to uncertain tax positions)”).**

**MR 4.6.1 provides a specific rule for certain adjustments occurring after the relevant GIR is filed (but not before).**

# Model rule 4.6.1 - post-filing adjustments

- By its terms applies when Adjusted Covered Taxes of a prior fiscal year are adjusted after the relevant GIR is filed
- Increases to Adjusted Covered Taxes in respect of a prior fiscal year are taken into account in the year booked, as may be immaterial\* decreases (by election)
- Material decreases in Adjusted Covered Taxes for a previous fiscal year require recalculation of the ETR and top-up tax for the relevant prior fiscal year (and can lead to additional current top-up tax in year of re-calculation)
  - Recalculations also required in other circumstances, such as in connection with DTL recapture, current tax expense remaining unpaid after 3 years, certain deferred tax expense movement related to tax rate changes

\* **Less than EUR 1 million in the Adjusted Covered Taxes determined for the jurisdiction for the Fiscal Year.**

# Prior year adjustments – adjusting current tax pre GIR filing

GIR not filed yet

	Previous year (2024)		Current year (2025)			2024 (GIR filed in 2026)	2025 (GIR filed in 2027)
	Financials	Tax return	Financials	Tax return		GloBE	GloBE
Profit before tax	100	100	100	100	FANIL	88	72
Permanent difference	-40	0	0	0	Tax	12	28
Taxable income	60	100	100	100	GloBE Income	100	100
Current year tax	12		20	20	Current tax	12	28
Prior Year Adjustment			8		Apply 4.6.1?	8	-8
Total tax	12		28		Adjusted Covered tax	20	20
Financials ETR	12%		28%		GloBE ETR	20%	20%
Tax rate	20%						

## Article 4.6.1

- An adjustment to a CE's liability for covered taxes for a previous fiscal year recorded in the financial accounts shall be treated as an adjustment to covered taxes in the fiscal year in which the adjustment is made, unless the adjustment relates to a fiscal year in which there is a decrease in covered taxes for the jurisdiction (i.e. >1M EUR).
- Commentary to article 4.6.1 permits the MNE Group to treat increases to tax liabilities for Covered taxes in previous fiscal years as a current year tax increases for purposes of the GloBE rules



# Prior year adjustments – adjusting current tax post GIR filing

## GIR already filed

	Previous year (2024)		Current year (20xx)	
	Financials	Tax return	Financials	Tax return
<b>Profit before tax</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>
Permanent difference	-40	0	0	0
<b>Taxable income</b>	<b>60</b>	<b>100</b>	<b>100</b>	<b>100</b>
Current year tax	12		20	20
Prior Year Adjustment			8	
<b>Total tax</b>	<b>12</b>		<b>28</b>	
<b>Financials ETR</b>	<b>12%</b>		<b>28%</b>	
<b>Tax rate</b>	<b>20%</b>			



	2024 (GIR filed in 2026)	Current year (GIR filed in 20xx)
	GloBE	GloBE
<b>FANIL</b>	<b>88</b>	<b>72</b>
Tax	12	28
<b>GloBE Income</b>	<b>100</b>	<b>100</b>
Current tax	12	28
Apply 4.6.1	0	0
<b>Adjusted Covered tax</b>	<b>12</b>	<b>28</b>
<b>GloBE ETR</b>	<b>12%</b>	<b>28%</b>

### Article 4.6.1

- An adjustment to a CE's liability for covered taxes for a previous fiscal year recorded in the financial accounts shall be treated as an adjustment to covered taxes in the fiscal year in which the adjustment is made, unless the adjustment relates to a fiscal year in which there is a decrease in covered taxes for the jurisdiction (i.e. >1M EUR).
- Commentary to article 4.6.1 permits the MNE Group to treat increases to tax liabilities for Covered taxes in previous fiscal years as a current year tax increases for purposes of the GloBE rules

# Treatment of different tax expenses GloBE vs TSH

Topic	GloBE ETR effect?	TSH Simplified ETR effect?	Different outcome?
Deferred tax expense/benefit	@15%	@stat rate	Different treatment
Tax credits for WHT	No (exclude)	Yes (include)	Different treatment
UTPs	No (exclude)	No (exclude)	Same treatment
VAs	No (exclude)	Yes (include)	Different treatment
Tax rate changes (deferred tax)	No (exclude)	Yes (include)	Different treatment
Dividend WHT from CEs	Yes (@sub)	Yes (@parent)	Different treatment
Dividend WHT from non-CEs (of at least 10% UPE)	No (exclude)	Yes (include)	Different treatment
Deferred tax on undistributed earnings	No (exclude)	Yes (include)	Different treatment
CFC taxation	Yes (@CFC)	Yes (@parent)	Different treatment
Prior Year Adjustment	Before GIR: allocate to prior year? After GIR: 4.6.1	Yes (include)	Different treatment



05

# Purchase Accounting Adjustment Under the GloBE Rules



# Purchase price accounting (“PPA”) adjustments

**There had been uncertainty whether the December 2022 Safe Harbor Guidance required that Purchase Price Accounting (“PPA”) Adjustments be removed when applying the Transitional CbCR Safe Harbor**

**The December 2023 AG clarified that there is no general requirement to remove the effect of PPA adjustments from entity-level accounts (provided they are included in these accounts to start with) used to prepare the CbCR with the following exceptions:**

- **Consistent reporting:** If the MNE group has submitted a CbCR for a fiscal year beginning after Dec 31, 2022 that was based on FS without PPA adjustments (n.b., this only applies to CbC Reports for future periods). Except where the Constituent Entity was required by law or regulation to change its reporting package or separate financial statements to include PPA adjustments.
- **Goodwill impairment:** Reduction in a constituent entity’s (CE) income attributable to impairment of goodwill related to transactions entered into after Nov 30, 2021 must be added back for the routine profits test (in all cases) and for the simplified ETR test (unless there was a corresponding change in deferred taxes).

**Where MNE Groups have PPA adjustments that may be beneficial (e.g., a step-up in asset value that increases depreciation/amortization expense and hence reduces profit before tax) they should consider whether the selection of their Qualified Financial Statements may enable them to include the PPA adjustment.**



# Purchase accounting adjustments and exceptions

**Model Rule 6.2.1(c)** requires Target to continue its historic carryover basis in its assets and liabilities when it becomes a member of an MNE Group through an acquisition of its Ownership Interest, subject to exceptions in MR 6.2.2 and 6.3.4 (discussed below)

- Both basis and historic deferred tax expense carries over as it existed on the books and records of Target immediately prior to the acquisition
- **GloBE specific deferred tax expense if GloBE basis differs from book basis?**

**Model Rule 6.2.2:** Certain acquisitions or disposals of a Controlling Interest in a Constituent Entity shall be treated as an acquisition or disposal of the assets and liabilities if the target jurisdiction treats the acquisitions or disposal as such and imposes Covered Tax on the seller based on the difference between basis and FMV/consideration.

- Acquisition of US DRE

**Model Rule 6.3.4:** By election, if a Constituent Entity of an MNE Group is required or permitted to adjust the basis of its assets and the amount of its liabilities to fair value for tax purposes in the jurisdiction in which it is located. The Constituent Entity must include asset gain or loss in computation of its GloBE Income or Loss.

- Section 338 election with respect to US Target (appears acquiring MNE Group includes the asset gain or loss in GloBE Income or Loss)

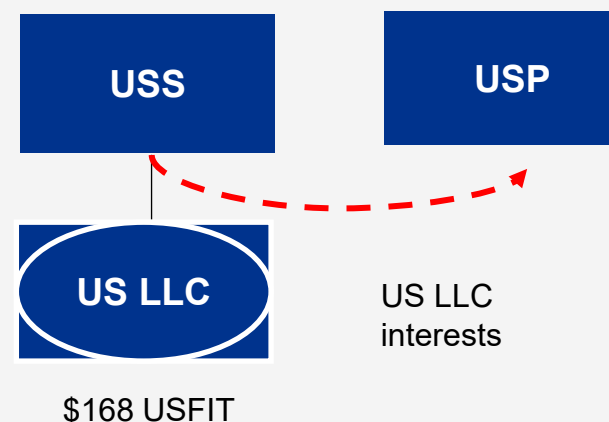
# Model rule 6.2.2: acquisition of controlling interest in US LLC

## Facts

- In FY 2027, the USP MNE Group acquires all of the Ownership Interests of US LLC for 1000x.
- Immediately prior to the sale, US LLC's assets consist of PP&E with a book basis and US tax basis of 200x and FMV of 500x and goodwill with a book basis and US tax basis of 0 and FMV of 500x.
- Seller pays 168x of USFIT (1000x-200x)
- USP has a book (purchase accounting) and US tax basis in each asset of 500x immediately upon acquisition.
- US LLC depreciates its purchase accounting basis in the PPE at 50x per year and does not amortize its basis in the goodwill.
- In year 1, USP amortizes 33 of basis in the goodwill under section 197 and books a DTL for US GAAP of 7.

## Analysis

- MR 6.2.2 applies to the transaction because the acquisition of US LLC is treated as an asset sale in the US, the jurisdiction in which the assets are located, and the US imposes a tax on seller based on the difference between its tax basis and the FMV of the assets.
- USP utilizes a cost basis in the assets for GloBE purposes and is not subject to MR 6.2.1(c) (the requirement to remove the impact of purchase accounting adjustments).
- **As a result, DTL created with respect to US tax amortization of goodwill (recast at 15%) is subject to 5 year DTL recapture under MR 4.4.4 and may cause US to be low-taxed.**



## Pre-Sale

US Tax PPE = \$200  
 US Tax Basis Goodwill = \$0  
 Book basis PPE = \$200  
 FMV PPE = \$500  
 Book Basis Goodwill = \$0  
 FMV Goodwill = \$500



07

# Looking Ahead: Expected Guidance

# Future expected guidance

## Perhaps 3 more 2024 guidance packages

- **MR 4.4.4 – DTL recapture**
  - Tracking and recapture methodologies
- **Allocation of Taxes to Constituent Entities**
  - Complex cases (cross-crediting, impact of losses (e.g., hybrid entities), treatment of U.S. shareholder expenses)
  - Push-down of deferred taxes (CFC taxes, distributions)?
- **GloBE and book basis differences**
  - Purchase accounting adjustments
  - Article 9.1.3 transition rule
- **Treatment of Securitisation Vehicles**
- **MR Article 3.5 and 4.3.2 – Treatment of Flow-through Entities and related Covered Tax allocation**



# Potential future guidance

- Treatment of US R&D credit and other nonrefundable credits?
- Extension of Transitional UTPR Safe Harbour?
- Clarification of MR 3.2.7?
- Anti-Abuse Rule guidance under the Model Rules?

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**Q&A**





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