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7. Oktober 2025

Bundesministerium der Finanzen
10117 Berlin

per E-Mail

Stellungnahme zum Simplified ETR Safe Harbour und zu weiteren Vereinfachungen

Sehr geehrte Damen und Herren,

laut der Gemeinschaftsdiagnose der führenden deutschen Wirtschaftsinstitute steht die deutsche Wirtschaft Ende September 2025 auf „wackeligen Beinen“. Hohe Energie- und Lohnstückkosten, Fachkräftemangel, Überregulierung und eine überbordende Bürokratie belasten die Wettbewerbsfähigkeit und die Wachstumsaussichten der deutschen Wirtschaft so stark, dass sie im OECD-Vergleich dieses Jahr das Schlusslicht bildet.

Das internationale Steuerrecht sorgt für eine Verstärkung dieser schwierigen Situation: Unverhältnismäßig hohe Compliance-Anforderungen sowie das Risiko neuer Belastungen – sei es durch Androhung von Vergeltungssteuern seitens der USA oder Ankündigungen der EU wie

CORE – senden die falschen Signale im internationalen Wettbewerb. Zwar hat die G7-Verständigung zur globalen Mindestbesteuerung vom Juni 2025 die unmittelbare Gefahr von US-Gegenmaßnahmen vorübergehend entschärft – dies wird jedoch nur Bestand haben, wenn sie weltweit breite Akzeptanz findet und einheitlich umgesetzt wird. Nationale Überlegungen zu einer Digitalsteuer sind in diesem Zusammenhang kontraproduktiv.

Die deutsche Wirtschaft hat die globale Mindeststeuer stets unter zwei Bedingungen konstruktiv begleitet:

- Globaler Konsens für ein level playing field und
- ein praktikables System, das verhältnismäßige und administrierbare Regeln gewährleistet.

Beide Voraussetzungen sind nicht erfüllt. Somit droht Europa zur einzigen großen Region zu werden, die die Kosten von Säule Zwei vollständig trägt. Deren ausufernde Komplexität stellt bekanntermaßen eine große Herausforderung für Wirtschaft und Finanzverwaltung dar. Die ohnehin bestehenden umfangreichen Meldepflichten und die administrative Komplexität des EU-Steuerrechts verschärfen diese Belastung zusätzlich. Es ist daher dringend erforderlich, dass Deutschland seinen Ansatz grundsätzlich überprüft und sich auf europäischer Ebene für eine vorübergehende **Aussetzung der Mindeststeuer** sowie für entschlossene Maßnahmen einsetzt, um die Wettbewerbsfähigkeit deutscher Unternehmen zu stärken. Ein **tiefgreifendes Decluttering und substanzielle Vereinfachungen** sind unabdingbar, um **spürbare Entlastungen für Unternehmen** schaffen.

In diesem Zusammenhang werden die laufenden Bemühungen um praktikable Vereinfachungen bei der Umsetzung von Säule Zwei im Sinne der G7-Verständigung ausdrücklich begrüßt. Neben Vereinfachungen bei der Vollberechnung, die noch erhebliches Potenzial zur Entlastung bereithält (vgl. Anlage), sind auch dauerhafte Safe Harbour-Regelungen, die den Prozess spürbar vereinfachen, entscheidend für die wirksame Anwendung der Mindeststeuerregelung. Sie ermöglichen es der Wirtschaft ebenso wie den Steuerbehörden, ihre Ressourcen gezielt auf tatsächlich niedrigbesteuerte Sachverhalte zu konzentrieren, während für Hochsteuerjurisdiktionen ein vereinfachter Ansatz Anwendung findet.

Wir regen an, die Erfahrungen mit dem **Transitional CbCR Safe Harbour** zunächst systematisch auszuwerten und auf dieser Grundlage dauerhafte, entlastende Vereinfachungen zu

schaffen, bevor das Inclusive Framework einen komplexeren permanenten Safe Harbour vorantreibt. Bis dahin sollte der Transitional Safe Harbour verlängert werden. Der permanente Safe Harbour sollte näher an den Regelungen des Transitional CbCR Safe Harbour bleiben. Die Unternehmen haben bereits erhebliche Ressourcen in die Anpassung ihrer CbCR-Berichterstattung investiert, um den Rahmen des Transitional Safe Harbours einzuhalten. Unserer Ansicht nach wäre es daher effektiver, diese Regelungen als Grundlage beizubehalten und gezielt weiterzuentwickeln, zumal die Datenqualität massiv zugenommen hat. Die praktische Erfahrung zeigt, dass relevante Jurisdiktionen bereits ausreichend unter dem Transitional CbCR Safe Harbour identifiziert sind. Der aktuell diskutierte Entwurf eines Simplified ETR Safe Harbour enthält zwar wichtige Elemente, reduziert den Gesamtaufwand jedoch nur um geschätzte 15-20 % gegenüber der Anwendung der Vollberechnungsregeln. Ein „echter“ Safe Harbour hat dagegen das Potential, spürbare Entlastungen ohne Effektivitätseinbußen zu bringen. Um eine bessere Vergleichbarkeit mit dem amerikanischen System herzustellen, sollte auch ein Safe Harbour auf Basis eines Global-Blending-Ansatzes geprüft werden.

Die detaillierten Ausführungen zu den einzelnen Regelungen des ETR Safe Harbour-Vorschlags finden Sie in unseren nachfolgenden Ausführungen. Ergänzende Anmerkungen zu weiteren Vereinfachungen im Rahmen der Vollberechnung haben wir in der beigefügten Anlage zusammengestellt. Bitte gestatten Sie uns zudem den Hinweis, dass wir unsere Anmerkungen zu den jeweiligen Regelungen aus Praktikabilitätsgründen in der Sprache der zugrunde liegenden Regelungen formuliert haben.

Für Rückfragen stehen wir Ihnen gerne zur Verfügung.

Mit freundlichen Grüßen

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Inhaltsverzeichnis

I. Geeignete Safe Harbour

1. CBCR-Safe Harbour als Basis mit wenigen Anpassungen

Die Komplexität der Model Rules ergibt sich nicht nur aus einzelnen komplizierten Anpassungen, sondern vor allem aus der Vielzahl vergleichsweise einfacher Anpassungen. Ein wirksamer Safe Harbour muss daher echte Vereinfachungen ermöglichen, sodass Unternehmen auf bestehende Daten zurückgreifen können, ohne zahlreiche zusätzliche Anpassungen vornehmen zu müssen.

Der Safe Harbour sollte auf bereits etablierten Berichtssystemen aufbauen, um Compliance-Kosten zu minimieren und Arbitrage zwischen unterschiedlichen Rechnungslegungsstandards zu vermeiden. Unternehmen haben bereits erhebliche Ressourcen investiert, um ihre CbCR-Berichterstattung an die OECD-Anforderungen des Transitional Safe Harbour anzupassen. Aus unserer Sicht wäre es daher am effektivsten, die bestehenden Regelungen als Grundlage beizubehalten und nur an einigen wenigen Stellen weiterzuentwickeln.

Bevor weitere administrative Belastungen eingeführt werden, muss sichergestellt werden, dass die Vorteile eines neuen Ansatzes tatsächlich die des bestehenden Systems überwiegen. Die praktische Erfahrung zeigt, dass relevante Jurisdiktionen bereits ausreichend unter dem Transitional CbCR Safe Harbour identifiziert werden. Die zugrunde liegenden Daten aus den Qualified Financial Statements sind zuverlässig, und die Datenqualität hat sich in den letzten Jahren kontinuierlich verbessert, unter anderem durch zusätzliche OECD-Guidance. Dies wird zudem durch eine Umfrage unter 25 multinationalen Unternehmen aus drei OECD-Mitgliedsländern gestützt, an der auch Mitglieder des BDI teilgenommen haben.

Die im Simplified ETR-SH-Entwurf vorgesehenen Anpassungen zur Berechnung des Zählers („Simplified Taxes“) sind weiterhin zahlreich und können im Vergleich zu den temporären CbCR Safe Harbours zu erheblichem Mehraufwand führen.

Petitum

Der permanente Safe Harbour sollte näher an den Regelungen des **Transitional CbCR Safe Harbour** bleiben. Helfen würde zudem, bestimmte Länder vom Anwendungsbereich der Säule Zwei auszunehmen (*outscoping* bzw. White List). Zudem schlagen wir folgende gezielte Anpassungen vor, um Verzerrungen der ETR zu vermeiden:

- Bereinigung um Beteiligungserträge wie Dividenden und Veräußerungsgewinne (wie im Entwurf vorgesehen).
- Eliminierung von Bewertungs- und Ansatzabweichungen bei latenten Steuern (wie im Entwurf vorgesehen) sowie von latenten Steuern auf Steuergutschriften.
- Gegebenenfalls **Recast**.

2. Weitere Safe Harbour

Um eine bessere Vergleichbarkeit mit dem amerikanischen System herzustellen, sollte auch ein Safe Harbour auf Basis eines Global-Blending-Ansatzes geprüft werden. Die ETR würde dabei mit einem Sicherheitsaufschlag oberhalb von 15 % festgelegt. Als Datenquelle sollten die Konzernabschlüsse dienen. Jurisdiktionen mit einem gesetzlichen Steuersatz unterhalb eines bestimmten Schwellenwerts (z. B. 9 %, was der Subject-to-Tax-Rule entspricht) könnten von diesem Ansatz ausgenommen werden. Stattdessen könnten sie anhand des jurisdiktionalen Safe Harbours beurteilt werden.

Wir sprechen uns zudem ausdrücklich dafür aus, dass der Routine Profits Test sowie die De Minimis Safe Harbours weiterhin neben dem ETR Safe Harbour bestehen bleiben. Der Routine Profit Test wurde eingeführt, um den Verwaltungs- und Erfüllungsaufwand für Jurisdiktionen zu reduzieren, in denen das Risiko einer Nachsteuer (Top-up Tax) aufgrund hoher Substanz sehr gering ist. MNE-Gruppen, die signifikante wirtschaftliche Substanz in einer Jurisdiktion haben (gemessen an den Sachanlagen und Lohnkosten), werden von der aufwendigen vollständigen GloBE-Berechnung befreit. Dies ist eine direkte Anerkennung und Belohnung für die Schaffung und Aufrechterhaltung realer wirtschaftlicher Aktivitäten. Der Routine Profit Test spiegelt dies gut wider. Das Fehlen dieses Tests würde bedeuten, dass MNE-Gruppen auch in Jurisdiktionen mit erheblicher Substanz die detaillierte ETR-Berechnung durchführen müssten, was eine unnötige Belastung darstellt. Der Routine Profit Test mindert diese Belastungen direkt ohne das Risiko einer entgangenen Top-up Tax.

Petitum:

Die Einführung des Routine Profit Tests und des De Minimis Safe Harbours in die permanenten Safe Harbour-Regeln wäre daher eine folgerichtige Fortsetzung der ursprünglichen Philosophie, die hinter den temporären Safe Harbours stand. Sie würde den Verwaltungsaufwand für MNE-Gruppen und Steuerverwaltungen gleichermaßen verringern, die Compliance-Kosten senken und sicherstellen, dass die Regeln auf Jurisdiktionen mit einem hohen Risiko für Nachsteuern fokussiert bleiben.

Zudem sollte ein ETR Safe Harbour auf Basis eines Global-Blending-Ansatzes geprüft werden, um eine bessere Vergleichbarkeit mit dem amerikanischen System herzustellen.

II. Specific Recommendations on the draft ETR SH proposal

We **appreciate the following features** of the proposed ETR SH:

- *Limited Adjustments to Simplified Income*: The proposal's restriction of adjustments to a narrow set of items, such as excluding dividends and equity gains, delivers meaningful simplification compared to the full GloBE rules.
- *Deferred Tax Treatment Improvements*: The disregard of valuation allowances, are helpful steps toward reducing volatility in comparison to the existing CbCR transitional Safe Harbour.
- *Removal of "Once Out, Always Out" Rule* to qualify for the ETR SH: The elimination of this rigid rule was broadly supported, as it allows MNEs to re-enter the ETR SH notwithstanding failure of the ETR SH in a previous year.
- *Optional Elections and Flexibility*: The availability of elections (e.g., for asymmetric FX adjustments or M&A simplifications) is appreciated for allowing tailored compliance based on each MNE's industry and geographical profile. However, these optional elections should not lead to increased complexity (e.g. data collection).

However, the proposal does not deliver meaningful simplification unless the following **key matters** are addressed:

1. Transition Year Rules (Avoiding Divergence from Financial Accounting Book Values) – Elimination or Significant Simplification Needed

The most pressing concern relates to the transitional rules governing intra-group asset transfers prior to the effectiveness of the GloBE Rules. Under the current guidance (Section 9.1.3 and related commentary), there is a requirement to retroactively track all intra-group asset transfers, assess each transaction individually, and potentially make adjustments to avoid divergence between GloBE and financial accounting book values.

This rule, as drafted, would require entities to review potentially hundreds of asset transfers per entity every year over a multi-year period – for instance, from 30 November 2021 through 31 December 2026, if the transitional year is 2027. The practical burden of this tracking, record-keeping, and individual analysis is extremely high and, in many cases, disproportionate to the policy intent.

Request

We strongly encourage the removal – or at minimum, substantial simplification – of this requirement. Eliminating the need to separately track pre-effective-date intra-group asset transfers and maintain GloBE-specific asset values for these purposes would reduce complexity and unnecessary administrative effort, without undermining the overall integrity of the ETR computation. One possible simplification would be an exemption for asset transfers that arise in the course of regular business operations.

2. M&A Simplification

The M&A Simplification is useful in principle but would be limited if MNE would have to keep a "shadow accounting" to track GloBE values in case the full GloBE rules become applicable in a certain jurisdiction in a future period.

Request

The M&A simplification should be integrated into the full GloBE rules.

3. Simplifications for Non-Material Constituent Entities

Of particular importance are simplifications for non-material Constituent Entities (i.e., Constituent Entities that are not consolidated due size or materiality grounds). In addition to the Simplified Calculations (Commentary, Annex A, Chapter 2, Section 2), relying on data from Qualified Financial Statements, as mandated under the Transitional CbCR Safe Harbour rules would provide a significant simplification and suitable and reliable starting point for further adjustments. This simplification should be applied not only to the permanent Safe Harbour but also to the full calculation rules.

4. Simplifications for Investments entities

We propose introducing a simplification that would allow MNEs to include mark-to-market movements in the simplified income of the constituent entity-owner(s) where Article 7.5 is unavailable. This situation arises in cases where the entity-owner is resident in a jurisdiction that does not have a mark-to-market taxation regime. Under this simplification, the constituent en-

tity-owner should be permitted to opt to include both the mark-to-market movements in its simplified income as well as the taxes of the investment entity in its amount of simplified taxes. This option should be available irrespective of whether the accounting standard applied by the MNE requires the inclusion of such mark-to-market movements. Where the entity-owner includes these mark-to-market movements in its simplified income, the treatment mirrors that of investment entities regarded as transparent entities: the investment income becomes subject to current ETR testing, and no separate income calculations are required at the level of the investment entity. For the sake of simplification, the top-up tax could be deemed zero with respect to the income allocated to the constituent entity-owner.

5. Mandate UPE GAAP for the Safe Harbour calculations at all levels (incl. QDMTT)

Para. 3 in the grey box on page 14 provides for a certain degree of flexibility with regard to the accounting standard for QDMTT purposes, but the wording is too weak. The issue arises when a jurisdiction requires the use of a local accounting standard for its QDMTT. According to the current wording, the jurisdiction *should* allow the use of IFRS or US GAAP for the calculations under the permanent Safe Harbour for QDMTT purposes. Other recognized accounting standards *may* be permitted.

If a jurisdiction does not comply with this, the problem remains that the application of different accounting standards leads to a significant compliance burden. Simplified calculations cannot then be carried out centrally.

Petitum:
It should be stipulated that the accounting standard of the consolidated financial statements must be used. The terms “should” and “may” should be replaced by “must.”

6. ETR Threshold Rate

We strongly support that the ETR threshold rate is set at 15% should the rules remain as conservative as they are foreseen in the draft. We don’t see any major divergences in the simplified numbers compared to the full GloBE calculations, so any higher rate would potentially produce too many false positive results and created unneeded complexity (*e.g.,* tracking

deferred taxes at a different rate for purposes of the Safe Harbour vs. GloBE). A slightly higher rate could only be accepted if the recommended simplifications were substantially adopted.

7. Definition of Simplified Taxes

For the permanent Safe Harbour, all taxes treated as income taxes under the applicable accounting standard should, for simplification purposes, also be considered covered taxes.
In addition, for the purposes of the full calculation rules, a list of non-allowable distribution tax systems and a classification of tax credits should be provided (Qualified Refundable, Non-Qualified Refundable, Marketable Transferable, Non-Marketable Transferable and other types). This would save each MNE group from having to track this information separately, which can be very time-consuming. This is also relevant for the permanent Safe Harbour if the recommendation to treat all income taxes under accounting rules as covered taxes is not followed.

Furthermore, clarification is needed as to whether the tax on the widely encountered 5% flat non-deductible operating expense in corporate tax dividend exemption systems should be considered a tax reducible under § 48 No. 1 MinStG. This clarification is also relevant for the application of the permanent Safe Harbour.

8. Deferred Taxes

Limiting the use of DTL to those that are part of the recapture exception list, relieves MNE from having to track whether DTL reverse within 5 years. However, MNE would still have to track whether a DTL has arisen in connection with a temporary difference in respect of items mentioned in the recapture exception list. This is still burdensome. Also, it is detrimental since short-term DTL cannot be utlised.

Request:
Instead of limiting usable DTL to the recapture exception list, all DTL should in principle be accepted as simplified tax expense. Exceptions can be made for certain high risk DTL explicitly mentioned in a negative list. Only these DTL should be excluded from the numerator.

9. Conditional adjustments for equity-reported Items

Revaluation Method Gains or Losses (Article 3.2.1(d)) and changes in opening equity due to prior year errors and accounting principle changes are proposed to be removed, as they are expected to be relevant only for a very limited number of entities while creating additional work in tracking their applicability.

10. Eligibility criteria and applicable date

We note that the eligibility criteria refer to the requirement that the "matching principle" must be satisfied. While we understand that, in general, the use of either Local GAAP or the UPE's group accounting standards would meet this requirement, there may be immaterial exceptions in practice. We would therefore welcome further clarification in the guidance on the background and intended scope of this criterion – in particular, whether minor deviations between Local GAAP and group GAAP would still be acceptable for eligibility purposes.

Also, we would welcome if the Permanent Safe Harbour could be made available for fiscal years before 2027 so that an MNE can use it as a fall back if it fails the CbCR-Safe Harbour tests.

11. Transparent Entities – Tax Groups (Organschaften)

Regarding 6.2 the current working document does not take into account the specific tax characteristics of German tax groups (*Organschaften*). In particular, the attribution of taxes at the level of the controlling company (*Organträger*) rather than directly at the level of the controlled companies (*Organgesellschaften*) leads to incorrect results and subsequently causes problems in further calculations.

Request:
To ensure an appropriate application of the Simplified ETR Safe Harbour and to avoid unnecessary full calculations, it should be explicitly clarified that *Organgesellschaften* are to be treated in the same way as transparent entities. This clarification should also apply for the purposes of the full calculation. Alternatively, this clarification could be included in the German implementation.

12. Formal comments

While introductory explanations and overviews are generally welcome, it becomes counterproductive when, for example, the calculation of the *simplified income* is described several times in different ways (e.g. on p. 10 para. 4 in the chart, on p. 11 paras. 12–14, on p. 14 in the box para. 4 ff., and again in Chapter 3). Moreover, certain definitions appear in different sections, and it is often unclear which source a reference relates to.

Request:
Unnecessary and repetitive lists that are subsequently expanded by individual items should be avoided. Instead, a clear and concise presentation followed by a detailed explanation is preferable. In addition, all definitions should be consolidated in a separate section to improve accessibility. References to the GloBE Model Rules should always be explicitly identified in order to distinguish them from internal cross-references within the working paper.

Inhaltsverzeichnis

I. Simplifications of the GloBE Full Calculation

1. Comprehensive Recognition of Deferred Taxes Based on Financial Accounting (Instead of Limited to 15 % and Five-Year Reversals for Temporary Differences)

Under the current Pillar 2 rules, deferred tax liabilities (DTLs) are only recognized at a capped rate of 15 % (instead of, for example, the actual 30% effective tax rate in Germany), and only if they reverse within five years. This is problematic for several reasons:

- First, a portion of the actual related future tax burden is not taken into account.
- Second, it causes significant administrative effort, as it does not allow for direct reliance on financial accounting where deferred taxes are automatically recorded. Instead, a separate and complex calculation must be performed under Pillar 2.

The transitional CbCR Safe Harbour (specifically, the simplified Effective Tax Rate test) addresses this issue by allowing deferred taxes as recorded in financial accounts to be considered. This approach should be incorporated into the full GloBE calculation. Adjustments should be limited to disallowing deferred tax assets (DTAs) that are not considered recoverable. These corrections be applied consistently both under the Safe Harbour and the full calculation.

2. No DTL recapture rule

In general, we appreciate the recent guidance regarding DTL recapture (e.g., June 2024) and the clarifications provided around the five-year reversal test. However, these rules remain extremely complex to operate. The DTL recapture rule creates a significant compliance burden due to the need to track DTLs. The DTL recapture rule does not consider how deferred taxes are determined in practice. Deferred taxes are usually not determined on an asset-by-asset basis or at account level, but on a broader level.

Moreover, the five-year reversal period is too short. For example, the Unclaimed Accrual Election can only be made at the specific level at which DTLs are tracked, meaning maximum benefit from the election is restricted to entities that have granular DTL tracking system—a capability many MNEs do not currently possess. Unless simplified, this requirement risks compounding the Pillar Two compliance burden. In our view, DTL recapture requirements should not drive the need for additional tracking frameworks or be imposed as part of the permanent Safe Harbour (which is intended to reduce compliance burden, not increase it).

Request

The current DTL recapture rule should be abolished. Monitoring the reversal of deferred tax liabilities presents significant challenges for companies. Since the recognition of deferred taxes merely represents a timing difference between financial years and the deferred tax expense is already capped at a maximum of 15%, the compliance effort and risk of errors outweigh the benefits. Therefore, in our view, recapture should be eliminated.

If a complete repeal is not achievable, a narrowing of its scope to cases with significant timing mismatches between financial and tax expense recognition would be a pragmatic alternative. Simplifying or eliminating this adjustment would be both practical and consistent with the underlying purpose of the rules. Against this backdrop, we advocate for replacing the current list of exceptions with a positive application catalogue for recapture. Such a catalogue would clearly define which deferred tax liabilities fall within the scope of the recapture rule, for example those related to certain intangible assets. This would enable companies to adjust processes in a targeted manner while reducing legal uncertainty arising from information gaps.

3. Abolish or Significantly Simplify the Special Regime for Investment Entities

The special regime for Investment Entities as defined under Section 10.1.1 of the OECD Model Rules complicates minimum tax calculations and yields questionable tax results. Specifically, it undermines well-balanced national investment taxation systems (e. g., in Germany), which allocates taxes between the fund and investor levels.

One major issue is the restriction on retained investment income. When the election under Section 7.6 of the OECD Model Rules (election for taxable distributions by investment entities) is exercised, a four-year period applies. If this is exceeded, minimum taxation applies to the retained income (Section 7.6.2. (c), 7.6.5 of the OECD Model Rules). However, these minimum taxes cannot be credited at the investor level, even though the minimum tax system acknowledges the tax neutrality of funds.

Four-Year Period for Retained Investment Income Is Too Short

In the context of the German insurance industry, the maximum period for tax-free retention of investment income (Section 7.6.5) is too short. Insurers rely on retained income in funds to stabilize returns to meet long-term obligations to policyholders, such as lifelong pensions in occupational pension schemes. Due to the mandatory 15 % final minimum tax under Section 7.6 of the OECD Model Rules after four years, retaining in the best interests of policyholders

would become nearly impossible. This would make special investment funds significantly less attractive to insurers, as they would no longer serve effectively to build risk buffers. This issue could be resolved by extending the four-year retention period to at least ten years.

Simplification in Determining GloBE Income for Investment Entities

In practice, due to the complexity and administrative burden involved, fund financials are not always translated into group financial statements (IFRS, HGB) as separate consolidation entries. Instead, the fund is included in the consolidated financial statements via its Net Asset Value (NAV) under simplified reporting. This does not impair the meaningfulness of the consolidated financials. However, data required for GloBE Income determination — such as identifying dividend income from substantial shareholdings — are often not available, especially for funds with third-party investors.

If the Section 7.6 of the OECD Model Rules election is made, the non-distributed GloBE income must be calculated. This requires determining and tracking over many years. The group investor's share of annual investment income and how long these amounts are retained under Section 7.6.3 of the OECD Model Rules. Entry and exit of third-party investors cause fluctuations in the group investor's ownership share.

In this context, an additional simplifying option should be provided. For example, allowing the group investor to include the NAV of its fund interest in its GloBE Income. This figure is readily available and would result in retained earnings being captured on an ongoing basis for GloBE purposes.

Simplification of minimum tax requirement in Art. 7.5.1. and 7.6.1. GloBE Model Rules

Further simplification could also be achieved in relation to the minimum 15 % tax requirement under both the transparency election in Article 7.5 and the taxable distribution method election in Article 7.6. Instead of requiring an effective tax rate test, the nominal tax rate in a jurisdiction could serve as a guardrail. To provide a margin of safety, the threshold could be set at a level above the 15 % minimum tax rate.

Request:
The special regime for Investment Entities should be abolished or at least significantly simplified.

4. Flexibility for the Equity Investment Inclusion Election

According to Section 39 para. 3 German Minimum Tax Act, the election under para. 1 must be made uniformly for all equity interests held by constituent entities within a jurisdiction. This implements para. 97.4 of Article 3.1 of the GloBE Model Rules. Currently, the election can only be exercised uniformly for an entire jurisdiction. However, the relevant conditions differ between blending groups. For example, the rules for investment entities differ significantly from those for "normal" constituent entities. Therefore, the election should be allowed separately for each blending group within a jurisdiction.

Request:
Within a jurisdiction, the election for the inclusion of gains and losses on equity investments should be permitted separately for each blending group. Any clarification that NOLs coming from impairment or losses for liquidation of affiliates in the transitional period could be also triggered as qualified losses if a group goes for the election in first FY in which full P2 calculations apply.

5. Data Quality Relief for So-Called non-material Entities

Non-material constituent entities should be excluded from the scope of the GloBE rules. Alternatively, meaningful simplifications should be made available, allowing available data—such as profit before tax and income tax expense reported in CbCR—to be used for ETR calculation purposes.

The GloBE Loss Election pursuant to Art. 4.5. of the GloBE Model Rules (§ 51 German Minimum Tax Act) could also serve as a simplification. Therefore, the election should be made available for non-material entities only rather than requiring that the election is made for an entire jurisdiction.

6. Avoiding Divergent GloBE Values from Financial Accounting Book Values

In several cases, the rules require the use of asset values for GloBE purposes that differ from financial accounting values. For example, the Minimum Tax Act mandates separate GloBE book values in restructuring scenarios or transfer pricing adjustments.

Developing and maintaining separate accounting values solely for GloBE purposes causes significant additional administrative burden. Due to the numerous applicable cases, maintaining a separate GloBE ledger currently appears unavoidable. This not only requires maintaining separate values, but also recalculating deferred taxes based on the adjusted values.

However, recording separate GloBE book values is unjustified, especially since differences between tax and financial book values are typically subject to deferred taxes and thus do not affect the Effective Tax Rate (ETR). The simplification concept for GloBE-to-book differences foreseen for the ETR Safe Harbour should be moved to the GloBE rules. This would avoid having to keep track of the GloBE values while using the Safe Harbour merely because of the possibility that the full GloBe rules have to be applied in future periods.

Request:
Rules should avoid instances of divergent asset valuations.

7. Allocation of the Top-up Tax to the Responsible Constituent Entities

Currently, there are no provisions regarding tax allocations. If the Ultimate Parent Entity (UPE) makes a payment, it may seek recourse from the constituent entities generating the top-up tax. This raises questions about the tax treatment of the entities involved.

Request:
Having rules on a global allocation mechanism would be helpful to allow intra-group charges without further tax consequences.

8. Integration of Jurisdiction-Specific Tax Incentives into the Minimum Tax Framework

Where incentives are structured as non-refundable tax credits, the ETR decreases more rapidly, and top-up taxes become more likely than with qualified refundable tax credits. The result is that incentive instruments with the same economic substance are treated unequally – in particular, investment and production incentives in the areas of transformation (energy, climate, innovation), as well as for research, risk being devalued.

According to Section 3.2.4 of the GloBE Model Rules, Qualified Refundable Tax Credits (QRTCs) must be treated as income when calculating a Constituent Entity's GloBE income or loss. A QRTC is defined as a credit that is structured to be made available to the Constituent Entity as a cash payment or equivalent within four years of satisfying the eligibility requirements. To be considered "qualified" any unused portion of the credit must be refunded in cash or cash-equivalent.

Non-Qualified Refundable Tax Credits (non-QRTCs), however, are not treated as income but instead reduce the Covered Taxes of the Constituent Entity. If tax credits are not regularly paid out in cash, but realized only via tax liability reduction, a strict interpretation of the Model Rules may classify such credits as non-refundable. This could significantly affect a jurisdiction's Effective Tax Rate (ETR). The current categorization of tax credits is overly simplistic and leads to unintended consequences.

Request:

One possible solution would be an OECD white list that treats certain "good" tax credits – for example, for research, investment in tangible assets, production activities, or employment – as qualified refundable, regardless of their legal form. While this approach would be clear and legally certain, it appears politically difficult to implement.

A more realistic approach is a principles-based definition: all R&D and tax credits and all tax credits directly linked to substance-based factors such as production, investment, or ongoing operating expenses and wages would be considered "qualified refundable." In contrast, purely profit-based tax relief would not fall under this rule. This protects substance-based incentives, reduces the risk of top-up taxes in transformation areas, and preserves member states' flexibility in designing their support policies.

The EU should therefore advocate for a principles-based solution and propose an explanatory white list as supplementary guidance, without making it legally binding. This way, national incentive instruments can remain effective without undermining the credibility of Pillar Two.

9. Treatment of Adjustments

- Retrospective Adjustments and Top-Up Tax Recalculation

The cross-jurisdictional mechanics of Pillar Two — particularly the operation of the IIR and UTPR — mean that a retrospective settlement or adjustment in one country can, in theory, require recalculation of top-up tax liabilities across several other jurisdictions for prior periods

multiple times. We believe such retrospective recalculations should be required only for significant changes in a jurisdiction's top-up tax position, not for minor amounts or adjustments that do not materially alter the overall group top-up tax liability. We fully support the objectives of Pillar 2 in promoting tax fairness and addressing base erosion among large multinational groups. However, we believe that the current € 1 million threshold may be disproportionately low for companies of significant scale. In practice, this threshold often captures entities that are immaterial to the group's overall tax position, resulting in significant compliance efforts with limited policy impact. To improve proportionality and administrative efficiency, we propose considering a scalable or tiered approach—where the threshold adjusts based on the size of the multinational group or jurisdictional revenues. Such an approach would better align compliance obligations with economic substance, without compromising the integrity or intent of the GloBE rules.

- Tax rate changes

According to Article 4.6.2 and 4.6.3 of the OECD Model Rules, certain adjustments are required in case of changes to the applicable domestic tax rate. In many countries (e.g. Germany, US, Switzerland) an average tax rate is used to calculate the tax figures for the financial statements due to multiple applicable local tax rates. These average tax rates change constantly as they are often based on a certain allocation key causing tax effects from tax rate changes which are not directly caused by increases or decreases of the individual domestic tax rate by the government.

According to Art. 4.6.3. deferred tax expense from the increase in tax rates when such amount was originally recorded at a rate less than the Minimum Rate is disregarded in the year it is recorded and deferred until payment of the tax. Based on the example in the commentary to Art. 4.6.3 the tax is paid when the full deferred tax reverses. This rule creates a significant compliance burden due to the need to individually track DTAs and DTLs. In practice, deferred taxes are typically calculated based on B/S positions, but not on a line-by-line basis.

Request:
Confirm that Art. 4.6.2 and 4.6.3 of the Model Rules only cover tax rate changes that are directly linked to increases and decreases of the individual domestic tax rate initiated by the government. The rule in 4.6.3 should be abolished. Alternatively, a simplification should be foreseen e.g. by stretching the deferred tax expense from the increase to the applicable domestic tax rate when such amount was originally recorded at a rate less than the Minimum Rate over a period of 5 years.

10. Consideration of the Tax Classification of Financing Instruments in GloBE Calculations

The strict link between GloBE rules and financial accounting can lead to systematic distortions and unintended top-up tax implications when financing instruments are classified differently.

- **Different classification of debt and equity:**

Under the OECD Transfer Pricing Guidelines (Chapter 10.4 et seq.), financing structured as a loan under civil law may be treated as equity for tax purposes. If such a financing is tax-classified as equity, it does not change its accounting treatment. Consequently, payments on such instruments – treated as debt under accounting rules but as equity for tax – are considered interest expenses in financial accounts but non-deductible distributions for tax purposes. These interest payments may be tax-exempt for the recipient as deemed dividends, while being non-deductible for the payer. However, due to the lack of an “Ownership Interest” as defined under Article 3.1 of the GloBE Model Rules, Article 10.1 (Excluded Dividends) in conjunction with Article 3.2.1(b) does not apply, and the income is not excluded. As a result, the GloBE income exceeds the taxable income, which could trigger a top-up tax.

Conversely, the payer's GloBE income is reduced by an expense that is not deductible for tax purposes. There is also a risk of inappropriate inclusion under Article 3.2.7 of the Model Rules. Similar issues arise in the treatment of profit participation rights (Genussrechte); see the BMF letter of April 11, 2023, on the income tax treatment of such instruments.

- **Impairments or write-offs of shareholder loans**

If a shareholder loan is impaired, the resulting expense is typically non-deductible for corporate tax purposes in Germany (Section 8b Paragraph 3 sentence 4 KStG), while it is recognized in the profit and loss account under accounting standards and thus reduces the GloBE income. Conversely, write-ups are included in accounting income but not taxable due to Section 8b Paragraph 3 sentence 9 KStG. This can lead to under-taxation and thereby trigger a top-up tax. Similar effects may arise with common restructuring tools, such as debt waivers with recovery rights. The root cause is an inadequate definition of “Ownership Interest” in Article 3.2.1(c) of the Model Rules.

Request:

For GloBE purposes, it should be clarified that the **tax classification** of financing instruments must be decisive - **independent of their accounting treatment**. One possible solution would be to adjust the definition of “Ownership Interest.”

11. Treatment of Joint Ventures and Joint Venture Groups

According to Article 6.4.1 of the OECD Model Rules, the top-up tax for joint ventures and joint venture groups must be calculated as if they were separate groups. This requires JV entities to provide data to the Constituent Entity responsible for filing (e.g., Section 95 para 1 sentence 7 German Minimum Taxation Act explicitly mandates this data provision). However, since joint ventures are not controlled by the UPE, enforcing data provision and ensuring the calculation of the top-up tax is often not feasible. Joint venture agreements frequently prohibit sharing the data required for GloBE purposes.

Request:
Joint ventures and joint venture groups (as defined in Section 10.1.1 OECD Model Rules) should be excluded from the scope of the GloBE rules, as the required data cannot reliably be obtained from the JV entities.

12. Refund Mechanisms

We would also like to recommend establishing a robust and practical refund mechanism for top-up tax overpayments under Pillar Two. As currently framed, the Model Rules require taxpayers to retrospectively recompute Pillar Two liabilities for prior years when adjustments decrease a tax liability. However, when adjustments increase liability, those amounts are simply reflected in the year they are recorded in the financial accounts. This asymmetrical treatment may give rise to double or multiple taxation. Without a clear and enforceable refund process in the jurisdiction where the initial top-up tax was paid, taxpayers may be exposed to economic double taxation, despite full global compliance. To ensure the consistent application and fairness of the GloBE rules, we encourage the OECD to explore guidance or coordination mechanisms that allow for timely and effective recovery of overpaid top-up taxes.

II. Further effective implementation

As implementation proceeds across jurisdictions, we respectfully offer the following recommendations to promote consistency, reduce fragmentation, and support efficient compliance.

- **Coordination Among Tax Authorities**: There is a pressing need for better coordination, both globally and within key jurisdictions, on matters such as information requests, registration, filings, payments, refunds, and audits under Pillar Two. Clear and consistent global standards should be established regarding registration and initial compliance timelines, and these should be harmonized across countries to minimize unnecessary duplication and various deadlines tracking for MNEs. To support this coordination, we recommend the development of standardized guidance on registration, notifications, compliance requirements, and timing.

- **Estimated Payments**: Given that Pillar Two calculates top-up taxes based on finalized annual accounts, estimated payments should not be required prior to a group's annual GIR due date. Because key variables are often unknown and cannot be finalized until after the close of the taxpayer's annual financial books and records.

- **Exchange of Information**: To prevent redundant or duplicative filings, the timely ratification and implementation of robust Pillar Two exchange of information frameworks is essential. In addition, a secondary jurisdiction designation mechanism should be available, allowing companies to fulfill filing obligations in countries without exchange agreements – mirroring best practices recently advanced by the EU's DAC9 proposal. Although DAC9 represents a significant improvement for intra-EU compliance, additional mechanisms are needed to address situations outside the EU to ensure true global consistency.

- **Consistent Application of Guidance**: A major risk to multinational is inconsistent implementation and interpretation of Pillar Two rules and administrative guidance across countries. Variations create the need for multiple sets of GloBE calculations, and various financial statements with different accounting standards-each with its own incremental audit and reconciliation requirements. We strongly recommend the push of using the UPE's consolidated financial statement standard for all the pillar two calculations and Safe Harbours. This will facilitate transparency for taxpayers and assist with global compliance monitoring.

- **Consistency in Pillar Two Implementation**: The consistent and timely implementation of Pillar Two administrative guidance across all Inclusive Framework members is critical to prevent fragmentation of the rules. While we appreciate the OECD's continued efforts to stabilize the framework and acknowledge the legal constraints some jurisdictions face regarding retroactive application, inconsistencies in how guidance is adopted can lead to variations in top-up tax outcomes. This may force companies to prepare multiple versions of GloBE calculations, creating substantial cost and complexity. To reduce this risk, we propose the OECD maintain a public tracker showing which jurisdictions have implemented each set of administrative guidance to support greater transparency and alignment.

- **Introducing Intention-Based Testing for Certain Relevant Adjustments**: We recommend that the OECD consider incorporating intention-based testing into the Pillar Two framework. For example, under anti-arbitrage arrangement adjustments, it is not feasible for guidance to capture every possible scenario, and it is not possible for corporations to analyze every transaction within the organization. The current rules lack clarity on whether certain transactions fall within scope. Introducing intention-based testing in these areas would help distinguish between legitimate business activities and potentially abusive arrangements. This approach would protect regular commercial transactions from being unintentionally penalized, while still supporting the broader goal of preventing profit shifting.