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Insight ...

Pillar 2 :
Transitional provisions and reporting
requirements

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International tax reform (Pillar 2) Global minimum tax: transitional provisions and reporting requirements

The GloBE model rules (Pillar 2) give rise to complex reporting obligations for groups falling within the scope of these rules, which must now put in place a laborious process for collecting and restating qualified income and covered taxes in order to determine the effective tax rate and, where applicable, amount of additional tax per jurisdiction.

The GloBE rules drawn up by the OECD as part of international tax reform, adopted by European Commission under Council Directive (EU) 2022/2523 of 14 December 2022 and transposed into French law through the Finance Act for 2024 of 29 December 2023, introduce a minimum worldwide tax rate of 15% on the profits of multinational and national groups.

These rules come into force for tax periods beginning on or after 1st January 2024. Given the complexity of the rules and the significant work required to implement them, it would be appropriate for the groups concerned to determine whether the transitional provisions and simplification measures provided for in the legislation are applicable to them.

The Pillar 2 rules provide for the following transitional provisions.

Temporary protection measures

The additional tax is not payable by the reporting entity or the group if one of the following conditions is met (CGI art. 223 VZ bis) :

1. The sum of the sales of the constituent entities located in a State or Territory is less than €10m and the sum of the profits and losses of these entities before tax is negative or less than €1m.
2. The simplified effective tax rate of all these constituent entities located in the State or territory is equal to or higher than the minimum transitional tax rate.

The simplified effective tax rate is equal to the ratio between the sum of the simplified covered taxes and the sum of the pre-tax profits and losses of all the constituent entities located in that State or territory reported in the return.

The simplified covered taxes of all constituent entities located in a state or territory correspond to the sum of their deferred tax charge in the consolidated financial statements, after deduction of uncovered taxes and uncertain tax positions.

The minimum transitional tax rate is set at 15% for financial years running from 31 December 2023 to 31 December 2024, at 16% for financial years running from 1st January to 31 December 2025 and at 16% for financial years running from 1st January to 31 December 2025.

17% for financial years running from 1 January to 31 December 2026.

3. The sum of the profits and losses before income tax of the constituent entities that are carried forward in the return is less than the amount of the deduction based on the substance of these same entities.

These temporary protection measures apply to financial years beginning no later than 31 December 2026 and ending no later than 30 June 2028. Where the reporting entity has not applied these protective measures, even though the conditions were met in respect of a financial year, it loses the right to do so for any subsequent financial year.

Option for *minimis* exclusion

Sur l'option de l'entité constitutive déclarante, l'impôt complémentaire dû à raison des entités constitutives situées dans un État ou territoire est nul si les conditions cumulatives suivantes sont réunies (CGI art. 223 WD) :

1. The average combined adjusted turnover of all the constituent entities located in that State or territory for that financial year and the two preceding financial years is less than €10 millions; *and*
2. The average of the net qualifying profits or net qualifying losses of that State or territory, in respect of that financial year and the two preceding financial years, is a loss or profit of less than €1m.

The option is made on the tax return filed for the first financial year for which it applies and is tacitly renewed for subsequent financial years.

Recognition and presentation additional tax in the financial statements

The amendments to IAS 12 published by the IASB on 23 May 2023, endorsed by the European Commission and published in the OJEU on 9 November 2023, specify the expected impact of the implementation of the Pillar 2 rules on the financial statements. For financial years beginning on or after 1st January 2023, these amendments provide for :

- An exemption from the recognition of deferred tax resulting from Pillar 2 rules. The entity must disclose in the notes to the financial statements that it has applied this exception;

- **Information in the notes to the financial statements on the current tax charge relating to additional tax payable under Pillar 2 rules;**

- In the transitional period during which the Pillar 2 rules are adopted but not yet effective, qualitative and quantitative information is disclosed in the notes to the financial statements about entity's exposure to additional taxes as a result of these rules, to the extent that this information is known or reasonably estimable.

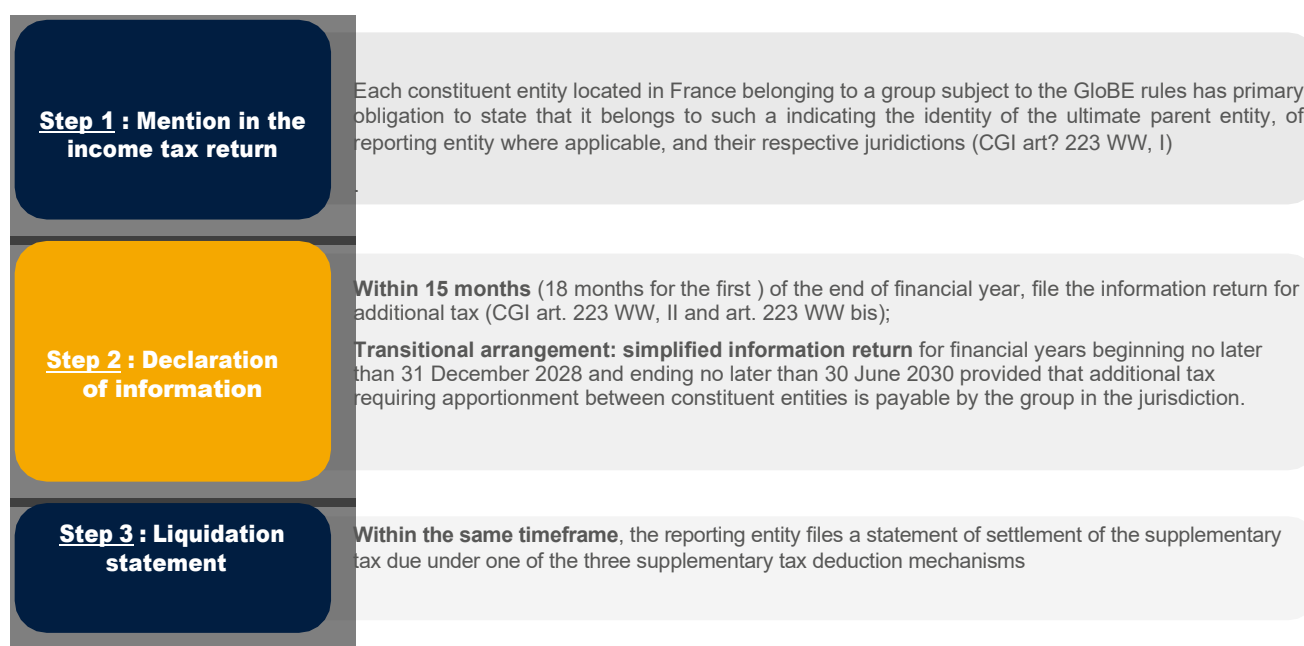
For its part, the French Accounting Standards Authority (ANC) has also introduced an exception to the recognition of deferred tax assets and liabilities linked to application of Pillar 2 rules in its regulations on consolidated financial statements prepared in accordance with French accounting standards.

For financial years beginning on or after 1 January 2024, the notes to the financial statements must disclose separately, in addition to the breakdown between current tax and deferred tax, the tax charge recognised in respect of the GloBE scheme (ANC Regulation 2020-01, art. 282-27).

Reporting obligations

Decree no. 2024-1126 of 4 December 2024 specifies the reporting obligations to be met by the constituent entities established in France of a group subject to Pillar 2 rules. These reporting obligations are set out in three stages (see figure 1).

Figure 1 : Global minimum tax - reporting obligations



In principle, each entity making up the group must indicate that it belongs to a group in its **income tax return**, and then file a **GloBE information return and a settlement statement**.

However, the group's constituent entities are exempt from filing the information when it is carried out by the ultimate parent entity or an entity specially designated to do so. Similarly, the constituent entities established in France may be exempted from filing the winding-up statement where they have designated a single entity in France to fulfil this obligation and to pay the entire additional tax on their behalf.

Information return in respect of additional tax must be filed in electronic form within fifteen months of the end of the financial year or eighteen months in respect of the first financial year during which the group or the constituent entity falls within the scope of the GloBE system for the first time.

The information return is the document containing all the information required to calculate the effective tax rate and, where applicable, additional tax, as well as information relating to the transitional protective measures and the simplified reporting option. This information return therefore requires the complex collection and reprocessing of data to determine the qualified result and the tax covered adjusted by jurisdiction.

The reporting entity may opt for the transitional simplified information declaration system if the following two conditions are met :

- The financial year concerned by the option began no later than 31 December 2028 and ended no later than 30 June 2030 ;
- additional tax requiring apportionment between constituent entities is payable by the Group in the jurisdiction concerned.

This simplified declaration reduces the information to be provided and therefore the administrative burden of complying with the regulations.

In particular, it enables the reporting entity to present aggregated information on the qualified result, the adjusted amount of tax covered and the total amount of the adjustment for deferred tax at the level of the jurisdiction concerned.

Lastly, an order of the Minister responsible for the budget sets out the list of States or territories that have adopted a qualified additional tax and that have entered into an agreement with France enabling the automatic exchange of information returns in respect of these taxes (CGI art. 46 quater-0 ZZG).



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