3 February 2023

To: International Cooperation and Tax Administration Division, OECD/CTPA
Organisation for Economic Cooperation and Development
Centre for Tax Policy and Administration
75775, Paris, Cedex 16, France
Submitted by email: taxpublicconsultation@oecd.org

Re: OECD's Public Consultation on the GloBE Information Return

Dear Secretariat Team,

PwC International Ltd on behalf of its network of member firms (PwC) welcomes the opportunity to share its views on the Pillar Two GloBE Information Return of the project Addressing Tax Challenges of the Digitalisation of the Economy. In view of our understanding of the nature and urgency of the request, as well as the limited turnaround, we set out below our comments on several important design features of the GloBE Information Return, which we believe the Inclusive Framework (IF) should address as part of its program of work.

Executive Summary

The IF is developing a standardised GloBE Information Return (GIR) that will provide information on the tax calculations made by the MNE or large-scale domestic group and contains the information a tax administration needs to evaluate the correctness of a Constituent Entity's GloBE tax liability and to perform an appropriate risk assessment. The consultation document notes that in doing so, an appropriate balance must be struck between administrative requirements and compliance concerns. The consultation document also states that the IF has sought to avoid imposing unnecessary information collection, computation and reporting requirements on in-scope taxpayers or exposing taxpayers to multiple, uncoordinated requests for further information in each implementing jurisdiction. We fully support these objectives.

While we understand that the comprehensive set of data points and the explanatory guidance outlined in the consultation document is a work in progress, we have significant concerns that the proposal in its current form will not achieve the GIR's intended objectives.

Our detailed comments, outlined in the attached Appendix, largely focus on limiting the complexity and administrative burden for MNEs and tax administrations. In short, we suggest:

- A jurisdictional-level approach to reporting would be both consistent with the application of Pillar Two on a jurisdiction by jurisdiction basis, as well as being in line with the objective of not imposing unnecessary information collection. It would also mitigate significant privacy

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concerns due to the commercially sensitive nature of the proposed level of Constituent Entity reporting for all entities within a group.
- Reporting the information via a GloBE tax return format would be preferable to reporting a detailed GIR via the designated filer.

Our comments also outline several additional simplification proposals for the IF to consider.

With this letter we thank you for the opportunity to comment and kindly invite you to take our observations into consideration during further development of the Pillar Two rules. We stand ready to discuss the issues raised in this letter in more detail, if that would be helpful at any point - please do not hesitate to contact me or one of the individuals set out below.

Yours sincerely,

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Appendix

We highlight at the outset that the "GloBE" rules will likely be construed differently from country to country as countries and regions implement the OECD GloBE Model Rules. In referring to the "GloBE rules" below, we refer to the OECD GloBE Model Rules published on 20 December 2021 (including the associated commentary and guidance documents published to date) and the EU minimum tax Directive agreed on 16 December 2022. It is not possible for us to refer individually to other country-specific GloBE rules but we note that variances are possible in the computation of the taxes under what is collectively referred to as "GloBE rules".

We have divided our comments into four key areas:

1. Adopting a jurisdictional-level approach to reporting is preferable

We recommend that the data be collected on a jurisdictional basis rather than a constituent entity basis. Top-up Tax computations are ultimately determined at the jurisdictional-level and will likely include multiple constituent entities within a given jurisdiction. The information requirements would be simplified by requiring taxpayers to provide a less detailed listing of GloBE factors that are ultimately included in the jurisdictional calculation.

If the safe harbours do not apply, then the jurisdictional GloBE income or loss, jurisdictional adjusted covered taxes, jurisdictional substance based income exclusion and jurisdictional based excess profits should be reported (we comment further below in situations where the safe harbour tests do apply). Similarly, if the UTPR applies, the jurisdictional allocation keys should be reportable.

We recognise that tax administrations need to be provided with the necessary information on the calculations made by the MNE to evaluate the correctness of a constituent entity's GloBE tax liability and perform risk assessment under the GloBE Rules, while ensuring no unnecessary reporting requirements are imposed on MNE Groups. Moreover, we recognise the need to ensure that the administrative burden is manageable for the tax authorities and the taxpayers.

Bearing this in mind, we recommend simplifying the GloBE information reporting requirements. While an MNE will be required to obtain and analyse the necessary data points to prepare Top-up Tax determinations, remitting such data (at the detailed level as suggested in Annex I) at the level of a constituent entity may prove burdensome for tax authorities to analyse. Alternatively, requiring certain data points at a more summarised level could assist tax authorities in determining where to focus tax return examination efforts, with an ability to request more detailed calculations and data as part of the examination process, after performing a traditional risk analysis on the underlying data.

2. Tax administrations likely to face increased difficulties with GIR

There will be a significant tax compliance burden imposed on a taxpayer in collecting, organising and documenting the relevant data points. However, as noted above, we also expect that requiring the level of data currently sought via the GIR will result in difficulties for tax administrations.

Currently there is no system for tax administrations to collect and analyse this data. Assuming that the data is reported via the GIR, challenges will arise for tax administrations to analyse all datapoints disclosed. Given the volume of data required to be reported by even a mid-size MNE, even the most sophisticated tax administrations may not have the capacity to efficiently review and risk assess the

filed returns. As such, a new risk assessment system will presumably need to be developed, but costs associated with such a system may outweigh potential benefits. Some tax administrations may not even have the necessary resources to implement these rules. Among other considerations, these concerns further support our proposal for information to be reported on a jurisdictional (summary) basis. Moreover, the current GIR proposal will require significant human resources and we have concerns that not all of the reporting can be systemised.

There are clear examples in the GIR of where reportable data will not assist the tax administration, such as Section 2.2.1.12 - 2.2.1.15 where a taxpayer needs to report details of intermediate parent entities and partially-owned parent entities, even where such entities will not have a collection obligation under the IIR because they qualify for the exception in Article 2.1.3. We suggest that a tax administration should only seek information in terms of MNE structure and computation of the GloBE tax that ultimately have a bearing on the amount of tax payable. Another broader example is the significant UTPR information that is requested, despite the increasing evidence shown to us by MNEs that the UTPR will not need to be utilised as part of the collection of GloBE top-up taxes.

Other parts of the GIR present as insufficiently flexible to reflect the different ways in which tax collection will be carried out. For example, 2.2.1.3 seeks information about the manner in which the Top-up Tax will be collected, but the options provided consist only of a QIIR, QUTPR, and QDMTT. However, in reality there may be other considerations for a tax administration, including how to document entities in jurisdictions that do not introduce the GloBE rules, or indeed, from an EU perspective, how to reflect jurisdictions that opt to defer the rules as provided in Article 50 of the EU minimum tax Directive.

As noted above, it is our expectation that tax administrations will need to significantly increase personnel to administer the GloBE rules, which will include roles such as systems-building, compliance management, auditing, taxpayer education, dispute prevention and resolution. Tax administrations may face challenges with identifying and securing relevant candidates for these roles in time for the first reporting requirements in June 2026. Moreover, budgetary constraints and/or a lack of experienced staff may present further challenges to a tax authority's ability to manage the transition to analysing data under the GloBE rules. Another concern relates to maintaining the data in a secure manner, data destruction, and managing the information outflows to other jurisdictions who seek copies of the GIR.

3. Reporting the information via a GloBE tax return format

As noted above, the GIR requires a level of information that would generally be in excess of what is often contained in traditional corporate income tax (CIT) filing(s). Typically, CIT tax returns comprise a set amount of outputs showing summary level outcomes of the background computations. Such tax returns generally do not require all necessary data points to be included. We suggest that the GIR require enough information to allow a jurisdiction to carry out a reasonable risk assessment of (1) the likelihood of a top-up tax being payable in that jurisdiction and (2) the amount of that tax. As previously noted, this should be summarised on a jurisdictional level basis, rather than a constituent entity basis.

For example, to reduce a tax authority's administrative burden in the examination of the deferred tax adjustments, the information requested could be simplified to the following:

1) A jurisdictional summary of the total tax deferred tax adjustment amount as proposed per 3.3.2.1 (a);

2) The summary of the adjustments as proposed per 3.3.2.1 (b); and

3) The jurisdiction's total deferred tax asset or liability balance per the financial statements (by jurisdiction), as compared to the total balance per the GloBE computation (replacing the information presented in 3.3.2.1 (c) and 3.3.2.2).

Such an approach could provide the tax authorities with a manageable set of data and information to understand the key components of the total deferred tax adjustment and risk assess how the respective adjustments may impact an MNE group's total covered taxes.

The administration of amended tax returns should also be considered. We suggest that rather than preparing a detailed GIR and returning this via the designated filer to the lead tax administration, only the changes (per jurisdiction) would be reportable. This would simplify the data collection and reporting requirements for the taxpayer, and allow the tax administration to focus on the particular amendment and new data provided.

4. Other simplifying options

Our primary concern is the amount of data required in the GIR as a result of the proposed constituent entity approach to reporting. To avoid excessive (and unnecessary) levels of compliance, we suggest restricting the information reporting requirement to a jurisdictional level. This would significantly reduce the data required while also mitigating significant privacy concerns due to the commercially sensitive nature of the proposed level of reporting across all entities within a group.

Additionally, we raise the following points to promote simplification of the GIR:

1. We suggest that the IF seek to ensure that each jurisdiction adopting the GloBE rules utilises the same standardised GIR (as distinct to the CbCR implementation process where nuances were added in process, content and format by each jurisdiction) to avoid increased compliance and administration costs and potential confusion and disputes across jurisdictions.

2. Where possible, the IF might consider avoiding duplication of work by comparing the GIR data against existing data points already disclosed by an MNE - this would help to strike an appropriate balance between administrative requirements and compliance concerns.

3. It is unclear how the GIR will manage logistical issues such as the language, currency, and accounting standards to be used in the GIR. Further guidance would be helpful regarding whether the GIR can be calculated using the parent company qualified accounting regime (e.g., GAAP), and in the parent company currency (e.g. USD), in the parent company's language (e.g., English), and that this is satisfactory for all subsequent jurisdictions that the GIR is shared with (to avoid multiple versions).

4. We request that there not be significant additional local submissions required outside of the GIR. The necessary exchange agreements, mechanics, and security schemas will need to be in place to minimise the work involved in accessing the data for all parties.

5. The GIR needs to be filed 15 months after the last day of the accounting period. For calendar year MNEs, that will be 31 March annually before the GIR data is required. For the transition year, the filing deadline is 18 months (so 30 June 2026 for the first filing deadline). Payment of the GloBE top-up taxes in terms of frequency has not yet been determined, but reasonably it will have to be concurrent to or after the filing of the GIR return to allow tax administrations to assess payments made in the first instance.

Safe harbours

Many taxpayers expect to utilise the transitional safe harbours to reduce their GloBE top-up taxes for certain low-risk jurisdictions (less so with the permanent safe harbours given the lack of clarity associated with these, but we expect that they will ultimately be utilised once the parameters are set).

An open question is how much data will need to be reported when a safe harbour rule applies. We suggest that where a safe harbour applies, a group can "check the-box" and only report information relevant to confirm the operation of the safe harbour.