



Tax Seminar Guernsey

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Speakers



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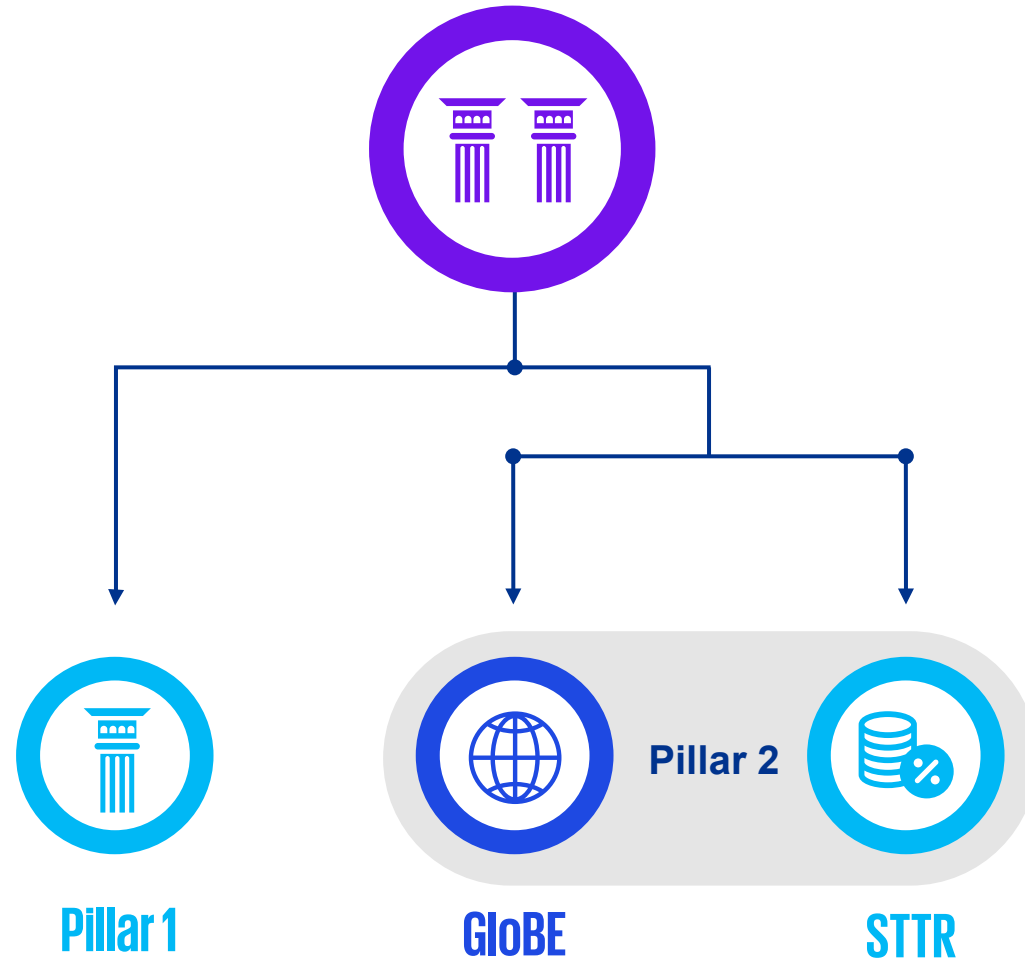
02

OECD Pillar 1 and 2 update

Tony Mancini

Overview

OECD two-pillar initiative



Key:

- Minimum Standards
- Common Approach

Pillar 1: Key aspects



Groups in scope – Turnover EUR20 billion and Profitability above 10%

Exclusions – Extractives and Regulated Financial Services

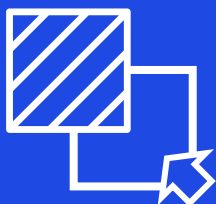
Market profit allocations – 25% of profit above 10% margin

Jurisdictional taxing rights – €1 million (€250,000 if GDP less than €40 billion)

Sourcing – Where goods/services used/consumed - “reliable method”

Paying entities – Those with residual profits

Unilateral Measures – Digital Service Taxes and other relevant measures



Pillar 2: GloBE rules



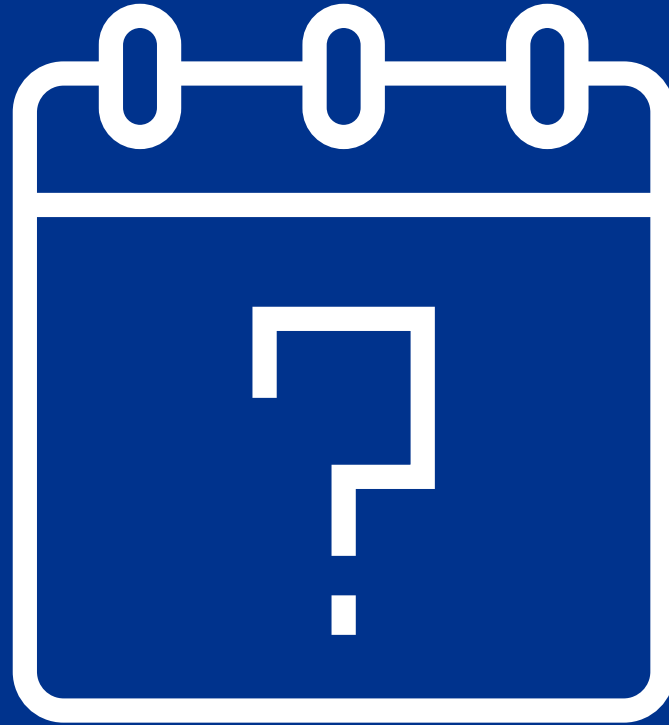
- Groups with €750m consolidated annual revenue
- 15% minimum effective tax rate: jurisdictional basis
- Income Inclusion Rule (IIR)
- Undertaxed Payments Rule = back-up to IIR
- Jurisdictions can introduce domestic top-up tax
- Model Rules and Commentary now published

Pillars 1 and 2: Response of the Crown Dependencies



- CDs have agreed to implement minimum standards
 - Pillar 1
 - Pillar 2 Subject To Tax Rule
- No decisions yet on GLoBE
- Jersey “Tax policy reflections” paper April 2022:
 - no plans to change domestic corporate tax regime for companies outside scope of GLoBE
 - final decision on GLoBE will **not** be taken based on any desire or need to raise revenue
 - it would appear logical to implement a domestic minimum tax in Jersey

Pillars 1 and 2: Timing



03

Dealing with HMRC enquiries and disclosures

Derek Scott

Hot topics

- Nudge letters and CRS related enquiries
- Voluntary disclosures
- Domicile and residence
- Crypto
- International issues
- CJRS
- Cross tax enquiries
- R&D tax credits
- Cases linked to ongoing transactions
- Code of Practice 9 Investigations
- Behavioural challenges- impact on assessments and penalties
- New settlement opportunity



Key stages in enquiry work



Assessing time limits



Changes to assessing time limits – Offshore matters

- RTC legislation provides HMRC with additional time to raise assessments
- Offshore tax subject to RTC (IT, CGT, IHT assessable as at 5 April 2017) could be assessed until 5 April 2021 – essentially extended the time limits by four years

- Finance Bill (No.3) 2018 introduced 12 year assessing time limit for all non-deliberate offshore non-compliance
- Careless – from 2013/14
- Reasonable care – from 2015/16
- Excluding “overseas information” provided where normal time limits apply

Extended offshore assessing time limits

The 12 year time limit will not apply if HMRC received relevant overseas information:

- which reasonably enables HMRC to become aware of and assess the lost tax before the normal time limits expire, and
- it is reasonable to expect HMRC to assess the lost tax before the normal time limits expire
- Tables below show this (exclude deliberate behaviour and FTN cases)

Offshore information provided – post 5 April 2021 time limits

Behaviour	Reasonable care		Careless errors	
	Previous deadline	New deadline	Previous deadline	New deadline
2011/12	Expired	Expired	05/04/2021	Expired
2012/13	Expired	Expired	05/04/2021	Expired
2013/14	05/04/2021	Expired	05/04/2021	Expired
2014/15	05/04/2021	Expired	05/04/2021	Expired
2015/16	05/04/2021	Expired	05/04/2022	Expired
2016/17	05/04/2021	Expired	05/04/2023	05/04/2023
2017/18	05/04/2022	Expired	05/04/2024	05/04/2024
2018/19	05/04/2023	05/04/2023	05/04/2025	05/04/2025

Not provided – post 5 April 2021 time limits

Behaviour	Reasonable care		Careless errors	
	Previous deadline	New deadline	Previous deadline	New deadline
2011/12	Expired	Expired	05/04/2021	Expired
2012/13	Expired	Expired	05/04/2021	Expired
2013/14	Expired	Expired	05/04/2021	05/04/2026
2014/15	Expired	Expired	05/04/2021	05/04/2027
2015/16	05/04/2021	05/04/2028	05/04/2022	05/04/2028
2016/17	05/04/2021	05/04/2029	05/04/2023	05/04/2029
2017/18	05/04/2022	05/04/2030	05/04/2024	05/04/2030
2018/19	05/04/2023	05/04/2031	05/04/2025	05/04/2031

Penalties



- Increasing complexity – particularly around offshore
- RTC penalties still in play for 2015/16 and earlier
- 10% restriction where disclosure more than 3 years old
- Don't forget suspended penalties

Reasonable care

01

Will take individual circumstances into account

02

Expectation that taxpayers will seek advice in relation to complex matters

03

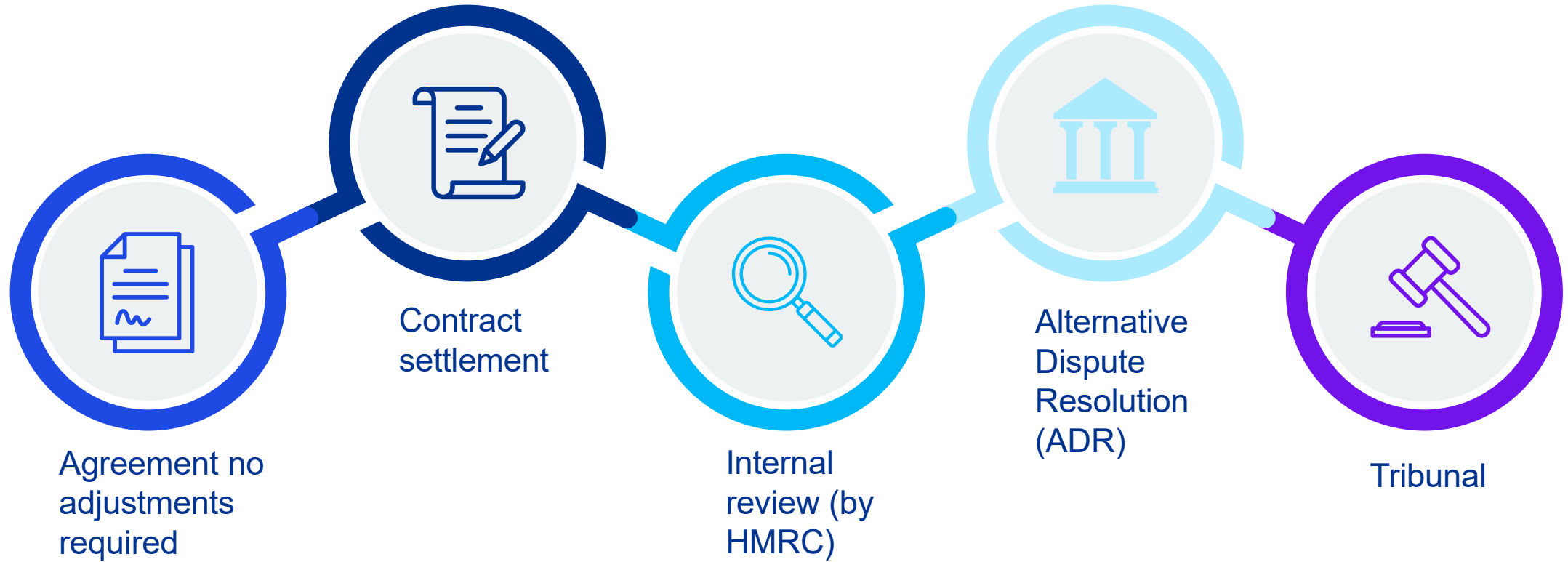
Tax return should draw attention to uncertainty

04

Three steps to reasonable care:

- Engage a competent professional advisor
- Provide all information relevant to the return
- Check the return to the extent you are able

Settlement



04

Update on Local Tax

Tony Mancini

04.1

Economic Substance

What is new and what have we learnt about substance?

Extension of scope

Self-managed funds
Partnerships

Strict enforcement regime

Maximum penalties applied
Zero tolerance of mistakes and errors

Scope for errors

Reporting for FTE numbers
Treatment of outsourcing arrangements
Assessment of adequacy

External pressures

OECD and EU review
Similar experiences in other Crown Dependencies
Expect continued evolution

Consequences of failure to comply

Years 1 & 2 – 2019 and 2020

- Maximum fine - £10,000
- Spontaneous exchange of information with other revenue authorities

Year 3 - 2021

- Maximum fine - £50,000
- Spontaneous exchange of information with other revenue authorities

Year 4 - 2022

- Maximum fine - £100,000
- Spontaneous exchange of information with other revenue authorities
- Strike off the Register of Companies for Guernsey and Alderney registered companies

Exchange of information

- Give notice of failure to meet substance requirements to revenue authority where the immediate parent company, ultimate parent company and/or ultimate beneficial owner is resident.
- Includes UK and EU

04.2

Fiscal Review

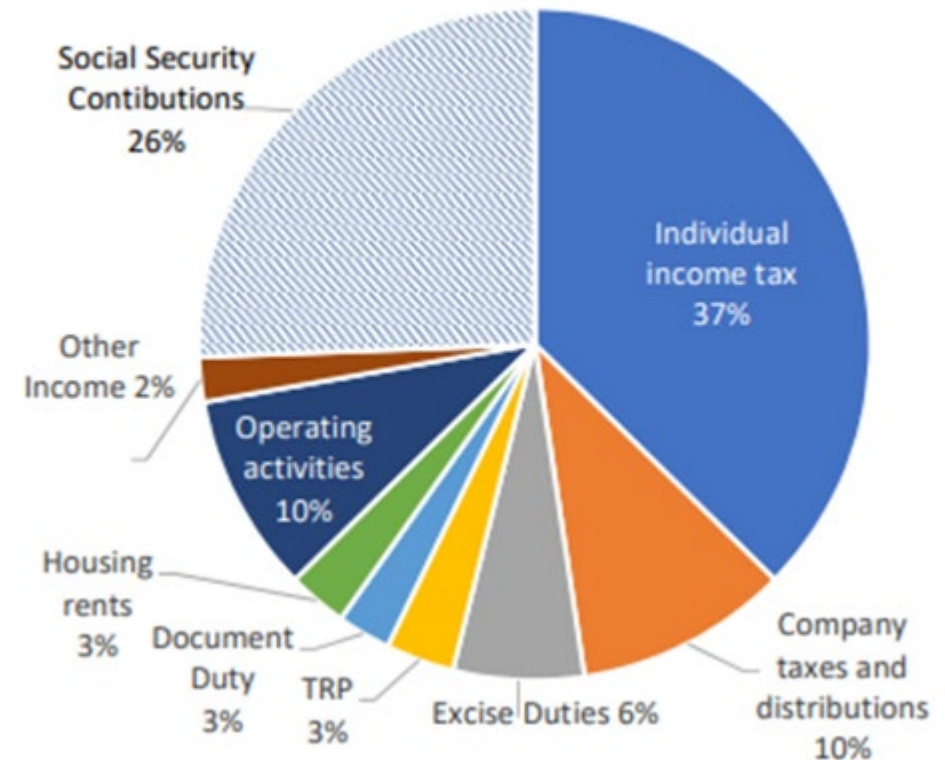
Background

The Tax Review is building a long-term plan for sustainable revenues:

- Within 5 years the structural deficit is estimated at £85m
- Tax review on assumption of need to raise revenues up to 24% of GDP
- Approx. £70-75m

Current revenues of £600m

Source of States' Revenues



Three Options for Fiscal Model

Option 1

- an income-based health tax at 3%
- Change the Social Security contribution system so that it is fairer and more progressive and use this to raise more money
- Average Impact On All Households - 1.5%

Option 2

- Goods and Services Tax (GST) that will gradually increase to up to 8% with mitigating measures to protect low-income households
- Increase the personal Income Tax allowance
- Change the Social Security contribution system so that it is fairer and more progressive but without raising any more money
- Average Impact On All Households - 0.6%

Option 3

- Goods & Services Tax (GST) that will gradually increase to up to 5% with smaller mitigating measures to protect low-income households
- Smaller increase in the personal income tax allowance
- Change the Social Security contribution system so that it is fairer and more progressive and use this to raise more money
- Average Impact On All Households - 0.9%

What about Corporate Income Tax?

States review underway on generating more revenues from corporate income tax, ignoring impact of Pillar 2

Limited opportunities because:

- International competitiveness
- Limitations arising from EU Code of Conduct
- Ignoring wider changes internationally and Pillar 2 misses full picture



05

Q&A

Tony Mancini & Derek Scott

Thank you



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