By NEOH BENG GUAN
and JESSICA YAP

Managing the global minimum tax environment

Run-up to Belanjawan 2025 MALAYSIA MADANI

TAX professionals and multinational enterprises (MNEs) are at the crossroads in an increasingly complex global tax environment.

With more intricate reporting demands and rapid digitalisation, the introduction of Pillar Two under the Organisation for Economic Cooperation and Development's (OECD) Base Erosion and Profit Shifting 2.0 initiative presents new challenges that tax professionals must navigate.

As these global reforms take shape, MNEs are at the forefront of adapting to this evolving environment.

Pillar Two, otherwise known as the Global Anti-Base Erosion (GloBE) rules, applies to MNEs with a global turnover of at least €750mil, ensuring they face a minimum effective tax rate (ETR) of 15% wherever they operate.

In essence, it imposes a top-up tax on profits whenever a jurisdiction's ETR falls below the 15% threshold.

As for Malaysia, the publication of the Finance (No 2) Act 2023 on Dec 29, 2023 marked a significant milestone, with the GloBE rules officially integrated in the local tax legislation.

While the implementation of Pillar Two was expected, many chief financial officers had to juggle this with the demands of other mandates, such as the phased rollout of e-invoicing, which began in August 2024.

Navigating the complexities of the GloBE rules requires early action, starting with an impact assessment – especially for MNEs benefiting from Malaysian tax incentives.

As we look ahead to the tabling of Budget 2025, the following strategies offer a practical starting point for addressing Pillar Two obligations.

Significance of cross function collaboration

Effective collaboration between global and local tax, finance and accounting teams is crucial for addressing the intricacies of Pillar Two.

As the focus shifts to deferred tax accounting and line-by-line consolidation versus equity accounting, MNEs must recognise that GloBE calculations differ from standard corporate income tax computations typically filed with tax authorities.

While the primary data sources for GloBE calculations are an MNE's consolidated financial statements and accounting consolidation package, many relevant data points may not be readily available.

Data collection may therefore be prolonged as tax personnel would still need to develop sufficient technical capacity in this area.

With this in mind, tax teams should work closely with their finance and accounting counterparts to understand and assess the availability, relevance and the materiality of such data.

At the same time, finance teams may find it challenging to fully grasp how the GloBE rules come into play.

In this regard, tax teams would play a pivotal role in bridging the gap and connecting the dots between the technical tax requirements and financial reporting.

Although the GloBE Information Return may initially appear as a standard 28-page template, the data requirements are likely to expand as an MNE operates across multiple tax jurisdictions.

This makes it crucial for MNEs to evaluate and leverage on transitional safe harbours (TSH), which deems a jurisdiction's top-up tax to be nil.

Although some clarifications have been provided by the Inland Revenue Board, we hope that detailed guidelines will be issued in the near future to guide MNEs in the implementation of the GloBE Rules in Malaysia.

Since qualified Country-by-Country Reporting (CbCR) data is a prerequisite to determining TSH eligibility, MNEs must ensure that CbCR is prepared based on qualified financial statement data.

If management accounts are used due to granted audit exemptions, the reporting of unaudited data should align with Pillar Two requirements to prevent potential discrepancies.

Interaction between tax and technology

The inevitable shifts following the implementation of Pillar Two calls for a more strategic and technology-driven approach to tax.

Preparing a GloBE Information Return will not be straightforward, as certain data points may not be readily available and often reside in various source systems, such as accounting, tax and enterprise resource planning systems.

The number of data points increases the likelihood of errors and tax risks, compounded by the potential lack of transparency and/or controls some MNEs may have over certain data and tax processes.

To navigate these challenges, a tailored, practical multi-phase approach is essential to streamline the Pillar Two journey.

MNEs will need to establish an efficient data strategy and consider investing in technology solutions to facilitate the following:

> Enhanced data collection methods.

> Seamless information flow and work process.

> Reliable Pillar Two modelling tools.

> Automated compliance processes.

> Effective governance.

We believe the long-term benefits of deploying tax technology outweighs its initial costs.

MNEs should view Pillar Two as an opportunity to enhance their business processes.

However, like any new technology or action plan, achieving operational readiness will not happen overnight – thorough planning and effective oversight are key to success.

Looking ahead to Budget 2025

While the GloBE Rules has been transposed in the Malaysian tax legislation at the end of 2023, mirroring the Model GloBE Rules issued by the OECD, there are still certain areas which requires further guidance, for instance, operational matters such as registration and notification requirements, or whether top-up tax can be paid by one designated entity in Malaysia on behalf of the MNE group.

Although some clarifications have been provided by the Inland Revenue Board, we hope that detailed guidelines will be issued in the near future to guide MNEs in the implementation of the GloBE Rules in Malaysia.

Given that MNEs benefiting from incentives in Malaysia will be impacted by the GloBE Rules, all eyes are on Budget 2025 to see whether the government will introduce any mitigating measures.

Other jurisdictions have taken steps to cushion the impact. For instance, in Singapore, a Refundable Investment Credit will be introduced while in Thailand and Vietnam, a support pool fund will be set up to support affected MNE groups.

It will be interesting to see whether Malaysia will follow suit to introduce measures to maintain its competitiveness as an attractive investment destination for both foreign and local investors.

One thing is for certain: Pillar Two is here to stay. As we prepare for the tabling of Budget 2025 on Oct 18 and anticipate the Pillar Two implementation in Malaysia next year, it is clear that the coming months will be busy for in-scope MNEs.

Neoh Beng Guan is a partner – corporate tax advisory while Jessica Yap is an associate director – corporate tax advisory at KPMG in Malaysia. The views expressed here are their own.