

Pillar Two: Global minimum taxation



Pillar Two establishes a global minimum taxation regime through a series of interlocking rules.



More insights

[Tax Challenges Arising from the Digitalisation of the Economy – Global Anti-Base Erosion Model Rules \(Pillar Two\) \(December 20, 2021\)](#)

[KPMG Report: OECD/G20 Inclusive Framework Agreement on BEPS 2.0 \(October 9, 2021\)](#)

[Inclusive Framework's Statement on a Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalisation of the Economy \(October 8, 2021\)](#)



Leveling the playing field

On October 8, 2021, the Inclusive Framework (IF) released an updated statement setting forth the key components for an agreement on a two-pillar solution to address the tax challenges arising from the digitalization of the economy. Furthering the work on this statement, on December 20, 2021, the IF released Model Global Anti-Base Erosion (GloBE) rules (Model Rules) under Pillar Two.

Pillar Two has **three new rules granting jurisdictions additional taxing rights**, including:

- Two interlocking domestic rules (the GloBE rules) that are the subject of the Model Rules:
 - (i) an **Income Inclusion Rule (IIR)**, which imposes top-up tax on a parent entity in respect of the income of subsidiaries and permanent establishments that is taxed at less than a **15%** minimum effective tax rate, and
 - (ii) a supporting **Undertaxed Payment Rule (UTPR)**, which denies deductions or requires an equivalent adjustment in the event a parent entity's allocable share of the top-up tax regarding a low-taxed constituent entity is not subject to tax under an IIR
- A **Subject to Tax Rule (STTR)**, which overrides treaty benefits for certain related-party payments (including interest and royalties) that are not subject to a 9% minimum rate of tax in the recipient jurisdiction. The STTR will be creditable as a covered tax under the IIR and UTPR, i.e., the STTR applies first.

IF members are not obliged to adopt the IIR and UTPR but must accept the application of the rules by other IF members.

Exclusions and simplifications

- The Model Rules apply to multinational enterprise (MNE) groups with a total consolidated group **revenue above €750 million in at least two of the four preceding years**.
- The Model Rules contain a substance-based income exclusion that provides top-up tax is not assessed on an amount of low-taxed entity's income equal to 5% of the carrying value of tangible assets and payroll costs, subject to a ten-year transition period. In the first year, those amounts will be 8% of the carrying value of tangible assets and 10% of payroll, with both percentages declining to 5% over the ten-year period.
- Governmental entities and pension funds are generally excluded from the GloBE rules, as are investment funds and real estate investment vehicles that are the ultimate parent of an MNE group. International shipping income and de minimis profits also are excluded. There also is an exclusion from the UTPR for MNEs in the initial phase of their international activity that is limited in scope.
- Coexistence with the **U.S. global intangible low-taxed income (GILTI) regime is under consideration**.
- Safe harbors and/or other mechanisms for avoiding disproportionate compliance costs will be introduced.

What businesses need to know

- The IF aims to bring the Pillar Two rules **into law in 2022, to be effective in 2023**, although the effective date of the UTPR will be delayed for one year.
- Following the December 20, 2021 release of the Model Rules, the European Commission published a proposed EU Directive to incorporate Pillar Two rules into EU law that would expand the scope of the Pillar Two rules to wholly domestic groups located in the European Union, along with certain other modifications to the Model Rules.
- The Model Rules did not include a model STTR treaty provision, which is expected to be developed in early 2022. A multilateral instrument will be developed by mid-2022 to facilitate implementation of the STTR in relevant bilateral treaties, and by the end of 2022, an implementation framework will be developed that facilitates the coordinated implementation of the GloBE rules.
- **A number of uncertainties remain**, but Pillar Two is likely to be a radical shift in the tax landscape.

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