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Pillar 2: Where are we at? – Tax Institute 2023 Tax Summit

Deputy Commissioner Hector Thompson delivers a speech to The Tax Institute's 2023 Tax Summit.

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(Check against delivery)*

Good morning, it is a pleasure to be here at the 2023 Tax Summit – my first in person Tax Summit for some time. I would like to start by respectfully acknowledging the traditional owners and custodians of the land on which we meet today, and pay my respects to their elders, past and present. Today I am on Wurundjeri land. I would also like to extend that respect to other Aboriginal and Torres Strait Islander people here today.

The Summit is an invaluable opportunity to share observations about significant developments with other officials, corporate tax experts and advisors from around the country. I would like to thank the Tax Institute for the invitation to speak and am pleased to have the opportunity to provide an update on the Global Anti-Base Erosion (GloBE) rules implementation. This is a topic I know is of broad interest to many, and specific interest to those of you likely to be in-scope of the new rules.

To quickly recap, earlier this year the Government announced that it will introduce rules from 1 January 2024 (for the Income Inclusion rule and a Domestic Minimum Tax) and 1 January 2025 for the UTPR. I use the term UTPR reluctantly – I am someone who has battled the proliferation of acronyms across the public sector for many years.

Unfortunately, there seems to be some debate about whether the 'P' stands for 'payment' or 'profit', a question the acronym rather conveniently glosses over. The 'U' definitely stands for 'undertaxed' though, while the 'R' makes it clear that it is a rule. The measure is not yet law in Australia and new legislation will be introduced to implement it.

As set out in the May Federal Budget, it is estimated that revenue generated from the measure in 2025–26 will be \$160 million and \$210 million in 2026–27.⁽¹⁾ Given Australia's headline corporate income tax rate of 30%, the revenue impact in Australia is small relative to other countries. You may have heard the objective of the GloBE rules (Pillar 2) is to put a floor on the 'race to the bottom' on corporate tax rates by establishing a global minimum corporate tax rate of 15%. So the measure of success of Pillar 2 will not be the impact in jurisdictions such as Australia, but in jurisdictions with low headline rates, or that offer generous concessions to multinational groups.

Overview of the GloBE rules (Pillar 2)

I always like to make the point that the GloBE rules have not crept up on us. They have loomed large on the international tax horizon for some time. The genesis of the rules can be traced back to Action Item 1 of the 2015 Base Erosion and Profit Shifting (BEPS) project. That action item sought to address the tax challenges of the digital economy. While it made some useful contributions, such as encouraging the development of GST/VAT measures to capture digital products, it would be fair to say that Action 1 was a tougher nut to crack than some of the other changes proposed as part of the original BEPS project. Around 5 years ago the increasing proliferation of proposals for digital services taxes created renewed pressure to return to Action 1, and we have ended up with 2 pillars – the GloBE rules being the second of those.

From early on it has also been widely known that Pillar 2 would draw on information from an entities' financial accounts and, as such, would require a separate return for administration purposes. The rules are conceptually and technically challenging and represent a new way of thinking about the global tax system, so are a high priority for tax administrations and business.

The other thing I always emphasise is that the GloBE rules build on the original BEPS work which asks tax administrations to look 'beyond the

border'. This requires a greater degree of cooperation and coordination, with a strong reliance on our confidential exchange of information mechanisms.

Many jurisdictions have now announced they intend to implement the GloBE rules. While a small number of countries, such as Hong Kong, Singapore and Thailand have plans for the GloBE Rules to take effect from 2025, most countries have proposed starting in 2024, including Japan, South Korea, Canada, New Zealand, Switzerland, Vietnam and the UK.⁽²⁾ Many EU member states, in line with the December 2022 EU Directive requiring its transposition into domestic legislation by 31 December 2023, have also adopted a 2024 start date, including the Czech Republic, Denmark, Finland, Germany, Ireland, Norway, Sweden and Spain.

We are also seeing an increase in legislative activity around the world as more and more jurisdictions implement the rules. Korea and Japan have passed legislation, while draft law has been released in Canada, Czech Republic, Denmark, Finland, Germany, Ireland, Liechtenstein, Luxembourg, Netherlands, Norway, Slovakia, Sweden and Switzerland. In May, New Zealand also published draft law, which if passed will see the OECD's Model Rules and associated material passed into their domestic legislation. The US has implemented a Corporate Alternative Minimum Tax which is generally understood not to be an equivalent to the GloBE rules, with no further indication of intentions to adopt the GloBE rules in the near term.

So, for multinational groups with operations in multiple jurisdictions, there is now the ability to compare domestic legislation in multiple jurisdictions to deal with any variations in reporting obligations. While such variations are expected to be kept to a minimum, they may arise at the margin.

The GloBE rules and the ATO

The ATO has already established a dedicated project team for the implementation of the GloBE rules, including developing our compliance approach, providing guidance to in scope taxpayers and advisors, developing systems to allow for lodgment and exchange of the GloBE information return and to develop data and analytics capabilities. The team reports to Assistant Commissioner Louise Andolfatto, who is with us today in case you ask me any particularly tricky questions! The team can be contacted via the Pillar 2 Project

mailbox Pillar2Project@ato.gov.au, which will be available in the transcript of my remarks on the ATO website.

At the core of the GloBE rules is a requirement for in-scope entities to lodge a [GloBE Information Return \(GIR\) \(PDF, 1.35MB\)](#) in the form of an OECD developed schema. The GIR is intended to be an information document only. It details the corporate structure, high level information about the multinational group as well as the jurisdictional effective tax rate and top-up tax and related detailed calculations.

The GIR is expected to be lodged with the tax administration of the ultimate parent entity or designated filing entity (such that Australian headquartered multinationals will likely file their GIR with the ATO) and is the only form that is expected to be subject to international exchange of information (both inbound and outbound).

Given the GIR is only an information form, separate tax returns will need to be developed by the ATO to enable the assessment of any top-up tax liability for GloBE or Domestic Minimum Tax attributable to Australia. We will seek to minimise the compliance burden where we can in designing the tax returns, given the information elements of the GloBE computations will be contained in the GIR.

Incorporating the GloBE requirements also means new systems to support lodgment, assurance and compliance. We are looking to identify the most appropriate technology infrastructure for efficient and secure information exchange. We need to ensure data security and the necessary data and analytics capabilities to process and analyse the information. It is expected that the first returns will be due for filing by 30 June 2026 for multinationals with fiscal years ending 31 December 2024.

Modifications or adaptations to existing systems which currently facilitate Common Reporting Standards and Country-by-Country Reporting may be required to make it fit for purpose for information exchanged under the GloBE rules. We also expect new tax software to be introduced into the market for multinational enterprises, although this software is unlikely to be global or standardised.

Due to the role that financial statements and accounting concepts play in the GloBE rules, we will need to get into the detail of tax effect accounting a bit more. This includes an understanding of the extent to which existing accounting systems used by multinational enterprises will be utilised versus bespoke systems to automate GloBE calculations (or manual calculations), as well as key differences in the accounting

standards across different jurisdictions. We will need to recruit and/or redeploy staff with relevant capability and experience with analysing statutory accounts in accordance with accounting standards.

We are also developing tailored capability programs that can support our existing staff to develop expertise to undertake this work. In terms of internal resourcing, the ATO has taken a hybrid approach. There is a specialist group and the dedicated project team that will work with pre-existing case teams to support clients with implementation of the new rules. This is a similar approach we have used for other BEPS projects.

Engagement with clients and other tax administrations

Whilst building internal capability is important, we are also considering how we can best support the Australian market in adapting to the new rules.

In terms of the ATO's client engagement approach, our initial focus is providing education and assistance to help clients meet their reporting requirements obligations. We acknowledge that the rules are complex and that while every country is working to a GloBE template, there will be variations as those rules get translated into domestic law. With such a complex new global tax we know mistakes may be made and our approach will recognise this.

Of course, we will be seeking to ensure that we have a reasonable level of comfort or confidence that the Australian in-scope population is meeting their reporting, lodgment, payment and compliance obligations. But given the early status of the global implementation, at this stage, we do not propose to follow a traditional justified trust methodology for the initial years of GloBE to obtain assurance that taxpayers have paid the correct amount of tax.

We are also considering how we can best support clients in understanding their obligations through public advice and guidance products dealing with technical and administrative matters. We anticipate technical issues associated with the GloBE Rules will continue to be addressed through the ongoing administrative guidance process at the OECD level to ensure consistency between jurisdictions. In this regard, the ATO continues to support Treasury and the OECD in respect of ongoing development of further guidance.

We expect that multinational firms will want certainty on whether they are in-scope of the GloBE rules prior to the first returns being due. As such, we are currently developing preliminary communications with large businesses (and their advisors) potentially within scope of the GloBE rules with the intention of raising awareness of the new rules being introduced and to encourage engagement with the ATO in advance to clarify any issues.

We are already undertaking targeted consultation with in-scope taxpayers and their advisors, utilising industry groups and existing ATO stakeholder groups such as the Key Agent Program. If you think that your firm may be in-scope I encourage you to engage with us and raise any administrative concerns around implementation and the new rules, including lodgment obligations and reporting requirements, noting that we will continue with consultation, including on Australian specific forms once these have been developed.

The overarching theme of the consultation is the compliance burden associated with the GloBE rules as well as the challenges in capturing the data points in the GIR. We have observed a broad spectrum in the degree of preparation undertaken by in-scope taxpayers, with some investing heavily, whilst others are only commencing initial discussions around resourcing requirements and system updates required to capture the GIR data.

Whilst our overall administrative approach will be guided by the OECD's implementation framework and domestic legislation (once released), we are already consulting broadly to better understand the likely resourcing needs and develop a compliance program tailored to the Australian market.

An important part of our consultation has included discussions with other tax administrations to better understand the implementation processes in other jurisdictions and to share knowledge. To this end the ATO has joined the Pillars Knowledge Sharing Network led by the His Majesty's Revenue and Customs (UK) via the Forum on Tax Administration, which is a network intended to enable discussion of the administrative aspects of the 2-Pillar Solution and to build international capability.

We will be presenting to the Pillars Knowledge Sharing Network later in the year on accounting aspects of the GloBE Rules. We are also working closely with several tax administrations bilaterally to share

best practice on the administrative aspects of the rules to seek to co-ordinate approaches, where possible.

Conclusion

As mentioned earlier, the need to look ‘beyond the border’ in administering the GloBE rules is another step in the journey towards a corporate tax system that requires a global approach to tax administration.

In addition to the Exchange of Information protocols that are developed and implemented, we are also waiting to see the OECD’s proposals for the peer review process which will determine whether each country’s domestic Pillar 2 legislation are ‘qualifying’, which will be critical to the success of the exercise.

What I am excited about as an administrator is the opportunity this provides the ATO to develop stronger ties with tax administrators globally and to take a leading role in knowledge sharing, education and developing best practice compliance approaches. Given the ATO’s position as a leading tax administrator globally, we are well placed to take on these challenges.

In conclusion, we are now moving to the implementation phase of the GloBE Rules. As such the ATO is ramping up its investment and engagement, with a strong focus on consultation and engagement with in-scope multinationals and professional services firms as we develop the human capital and technology platforms necessary for effective administration of the new rules. Thank you for the opportunity to speak with you today and I welcome your questions.

1. Department of the Treasury, 2023, Budget Strategy and Outlook, [Budget Paper No.1](#) ; Department of the Treasury, 2023, Budget Measures, [Budget Paper No. 2](#) .
2. KPMG Global Tax & Legal, 2023, BEPS 2.0: state of play – August 2023, [BEPS 2.0: state of play](#) .

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