Guidance paper

A. General overview

The OECD announced in July 2021 the international tax reform framework of a two-pillar solution to tackle the base erosion and profit shifting ("BEPS") risks arising from digitalisation of the economy (commonly known as "BEPS 2.0"). In October 2021, over 130 jurisdictions, members of the OECD/G20 Inclusive Framework on BEPS ("IF") reached an agreement on the two-pillar solution.

Pillar One is focused on the reallocation of (a portion of) the consolidated profit of a multinational enterprise to jurisdictions where sales arise as well as the standardisation of the remuneration of routine marketing and distribution activities.

Pillar Two (GloBE Rules) or the Global Minimum Tax targets MNE Groups with annual consolidated revenue of or above EUR 750 million. Broadly, it ensures that these Multinational Enterprises ("MNE"s) pay a minimum tax of 15% in respect of the Excess Profits derived from every jurisdiction they operate through two interlocking rules, the Income Inclusion Rule ("IIR") and the Under Tax Profits Rule ("UTPR"), which are together referred to as the global anti-base erosion rules or GloBE Rules.

The primary IIR rule applies a top-down approach. In the first instance, it generally requires the Ultimate Parent Entity ("UPE") of the group to collect and pay to its tax authority the total Top-up Tax due by the group across all jurisdictions that have not taxed the profits at a minimum rate of 15%. If the UPE jurisdiction has not implemented a Qualifying IIR, then the next intermediate parent entity down the ownership chain is required to collect the Top-up Tax of the Constituent Entities ("CE"s) of that intermediate parent. This would occur so on down the group chain.

Any Top-up Tax remaining after the application of the IIR is collected by means of the UTPR. The UTPR is levied across the group, based on the proportion of tangible assets and employees in each jurisdiction that has implemented a UTPR.

To preserve its own taxing right, a jurisdiction may also consider imposing a Domestic Minimum Top-up Tax ("DMTT"). If a jurisdiction implements a DMTT that is consistent with the outcomes of the GloBE Rules and does not provide any benefits that are related to the rules, such DMTT will qualify as Qualified Domestic Top-up Tax ("QDMTT") and can be deducted from the Top-up Tax liability under the GloBE Rules in respect of that jurisdiction. This agreed rule order allows a jurisdiction to preserve the primary right of taxation over profits derived from its jurisdiction.

Pillar Two also comprises the Subject to Tax Rule ("STTR"), a treaty-based rule applicable when certain intra-group cross-border payments are subject to taxation below the STTR minimum rate of 9%. As a minimum standard, IF jurisdictions are required to include the STTR into their bilateral tax treaties with developing jurisdictions when requested to do so. As the STTR is a treaty-based rule it is not covered by this Guidance Paper.

To ensure a coordinated implementation of the GloBE Rules with a consistent outcome, the OECD has published the GloBE Model Rules that serve as the model legislation for implementing jurisdictions wishing to have qualified rules. In addition, the OECD published

Commentary which clarifies the agreed interpretation and application of the rules and Agreed Administrative Guidance[1] which modifies the Commentary.

The steps required in determining the Top-up Tax liability for an MNE are as follows:

- Step 1 – Identify whether the MNE is within scope of the GloBE Rules and the location of each CE of the group on a jurisdictional basis.
- Step 2 – Determine the GloBE Income of each CE.
- Step 3 – Determine the amount of Covered Taxes for each CE.
- Step 4 – Calculate the Effective Tax Rate ("ETR") of all CEs located in the same jurisdiction and determine the resulting Top-up Tax.
- Step 5 – Impose Top-up Tax under a IIR or UTPR, after reducing any QDMTT payable from the Top-up Tax liability, in accordance with the agreed rule order.

The GloBE Rules have the status of a common approach. This means that IF jurisdictions are not required to adopt the rules, but the jurisdictions that have chosen to adopt the GloBE Rules, should implement and administer the rules in a way that is consistent with the outcomes provided for under the GloBE Model Rules, its Commentary and Administrative Guidance.

[1] The GloBE Rules, Commentary and Administrative Guidance can be found here: https://www.oecd.org/tax/beps/tax-challenges-arising-from-the-digitalisation-of-the-economy-global-anti-base-erosion-model-rules-pillar-two.htm

B. Scope of the GloBE Rules

An MNE Group must meet the revenue threshold for the GloBE Rules to apply. As stated under the 'General Overview' section, the GloBE Rules are designed to apply to MNE Groups which have a consolidated annual revenue of EUR 750 million or more in at least two of the previous four fiscal years. The revenue threshold is in line with that used for the purposes of Country-by-country Reporting ("CbCR") and is estimated to cover over 90% of the global corporate income tax base.

Some entities, referred to as 'Excluded Entities' under the GloBE Rules, are excluded from the definition of a CE.

There are five types of Excluded Entities which are defined in the GloBE Rules:

- Governmental entities
- International organisations
- Non-profit organisations
- Pension funds
- Investment funds and real estate investment vehicles that are the UPE of the MNE Group.

Further details on the scope and definitions of an MNE Group, Excluded Entities and CEs can be found in Chapter 1 of the GloBE Rules.

C. <u>Charging mechanism</u>

There are two interlocking mechanisms to charge the Top-up Tax under the GloBE Rules, the IIR and the UTPR. These are designed to work together and are also coordinated to ensure the right amount of top-up is collected when multiple IIRs or UTPRs are applied in different jurisdictions.

This chapter sets out how the IIR and UTPR operate. The detailed rules are contained in Chapter 2 of the GloBE Rules.

Income Inclusion Rule (IIR)

The IIR takes the Top-up Tax calculated for a low-taxed CE and then charges this tax on the entity's parent.

Top-down approach

- The IIR is applied by a parent entity which is defined to be an Ultimate Parent Entity ("UPE") that is not an Excluded Entity, an intermediate parent entity or a partially-owned parent entity, in proportion to its ownership interests in those low-taxed CEs.
- The IIR is applied based on a top-down approach at the level of the UPE and works its way down the ownership chain. The UPE jurisdiction will usually have the first priority to collect the Top-up Tax. Other jurisdictions cannot generally apply their IIR to other parent entities in the group when the UPE is subject to a Qualified IIR in the UPE jurisdiction. The only exception to this is when a parent entity holds more than 20% of the ownership interests in a low-taxed CE.
- If the UPE is located in a jurisdiction where it is not required to apply a Qualified IIR, then under the top-down approach, the next intermediate parent entity down the ownership chain is required to apply the IIR. For instance, where two or more intermediate parent entities (part of the same ownership chain) are required to apply the IIR in respect of the same low-taxed CE, the top-down approach will be applied to prevent instances of double taxation, i.e., the IIR applied to the lower-tier intermediate parent entity will be turned off as the entity is controlled by an upper-tier intermediate parent entity subject to a Qualified IIR.
- Situations can also arise where the IIR will not be switched off when the higher intermediate parent entity does not control the lower intermediate parent. In this circumstance, the lower intermediate parent will charge its IIR, and the higher intermediate parent will reduce its share of the Top-up Tax by the tax charged by the lower intermediate parent.
- Further details on the IIR and specifically the top-down approach can be found under Article 2.1 of the GloBE Rules.

Undertaxed profits rule (UTPR)

- The UTPR is the second charging mechanism under the GloBE Rules. The Top-up Tax computation under the UTPR and the IIR is the same to improve coordination between the GloBE Rules in each jurisdiction and reduce implementation and compliance costs and ensure that the rules do not result in over-taxation. This also ensures the UTPR operate as a backstop to the IIR.
- The UTPR will apply when all the UPE´s ownership interests in a low-taxed CE are not held by parent entities which are required to apply a Qualified IIR. However, the UTPR Top-up

Tax will be reduced by the amount of Top-up Tax charged under an IIR for ensuring that the IIR takes priority.

- The GloBE Rules do not prescribe how a jurisdiction should bring the UTPR Top-up Tax allocated to it into charge. This is left to jurisdictions to decide domestically, but the outcome must be to produce an additional cash tax expense in that jurisdiction equal to the top-up allocated to it.
- Two potential approaches as listed below –

  1. *Denial of a Corporation Tax deduction*

     The denial of deduction approach increases the cash tax expense for a CE by denying a deduction that is arrived at by dividing the UTPR Top-up Tax amount allocated to the UAE by the CT rate of the UAE.

  2. *Introduce a new charge on a UAE CE based on the top-up allocated to the UAE*

- The UTPR Top-up Tax amount is allocated among jurisdictions implementing a qualified UTPR based on quantitative factors that are aggregated at the jurisdictional level. The allocation is based on the proportion of the value of tangible assets and the number of employees in each UTPR jurisdiction as they are considered the most appropriate factors for reflecting a consistent measure of substance in jurisdictions.
- Detailed rules on the UTPR are contained in Articles 2.4 to 2.6 of the GloBE Rules.

D. <u>Calculating the ETR</u>

The GloBE Rules operate by charging a Top-up Tax on in-scope MNE Groups which have profits that are taxed below the minimum rate (i.e. 15%). This is achieved by calculating the MNE's ETR for each jurisdiction where they operate, and imposing Top-up Tax for the difference between their ETR per jurisdiction and the minimum rate. In particular cases, however, the ETR is calculated for each CE (e.g., Investment Entities) or separate subgroups (e.g., Joint Ventures ("JV"s)). The calculation of ETR requires –

(i) The calculation of Adjusted Covered Taxes, divided by

(ii) The calculation of GloBE Income.

This chapter explains the different components of the ETR calculation which are contained in Chapters 3 and 4 of the GloBE Rules.

ETR

The ETR for a jurisdiction is calculated by dividing the aggregate tax by the aggregate profit in that jurisdiction. The GloBE Rules provide what taxes are included in this calculation, which are referred to as "Covered Taxes", and how to calculate the profit in the jurisdiction, which is referred to as "GloBE Income".

MNEs must calculate their ETRs for each jurisdiction annually. However, there are specific exceptions to the calculation of the jurisdictional ETR involving the following entities –

- Investment entities (Article 7.4 of the GloBE Rules)
- Stateless entities (each is treated as a single CE located in a separate jurisdiction)
- Joint ventures (Article 6.4 of the GloBE Rules)
- Minority Owned Constituent Entities ("MOCE"s) (Article 5.6 of the GloBE Rules)

For the above mentioned entities, the ETR and Top-up Tax calculation is done separately.

Generally, there are four steps involved in calculating the ETR, as follows –

Step 1 – Identify CEs in a jurisdiction

- Given that the ETR under the GloBE Rules is generally calculated on a jurisdictional basis, the first step is to determine which entities are included in the jurisdictional ETR calculation.
- The rules to determine where an entity is located are set out in Chapter 10 of the GloBE Rules. Most CEs will likely be located in the jurisdiction where they are tax resident. If a CE is not tax resident in a jurisdiction, it will be located in the jurisdiction where it was created, for example where it was incorporated.
- There are specific rules prescribing where tax transparent entities (e.g., partnerships) and PEs are located for the purposes of the ETR calculations and charging provisions. Further details on this can be found in Article 10.2 and 10.3 of the GloBE Rules.

Step 2 – Calculate GloBE Income for each CE

- A CE's GloBE Income is determined by making certain adjustments to its financial accounting net income or loss. The adjustments aim to better align the tax base for the global minimum tax with those that are typically applied for local tax purposes.

- The general rule is to determine such income based on the accounting standard used in the preparation of the Consolidated Financial Statements of the UPE, which should be prepared in accordance with an Acceptable Financial Accounting Standard (e.g., IFRS) or an authorized financial accounting standard adjusted to prevent Material Competitive Distortions.
- However, if it is not reasonably practicable to use the financial accounting standard adopted by the UPE in preparing its Consolidated Financial Statements, a CE is permitted under the GloBE Rules to calculate the financial accounting net income or loss based on another acceptable accounting standard or authorised financial account standard to prepare its own financial statements, subject to three conditions as follows –
    - The financial accounts are maintained based on that accounting standard;
    - The information contained in the financial accounts is reliable; and
    - Adjustment be made for any permanent differences in excess of EUR 1 million between the CE's accounting standard and the one adopted by the UPE.
- Certain adjustments are then made to the CE financial accounting income. Guidance on these adjustments can be found under Chapter 3 (Article 3.2) of the GloBE Rules.
- There are also certain elections available to the MNE Group. Further details on these can also be found under Chapter 3 (Article 3.2) of the GloBE Rules.
- There is a special rule that prescribes the treatment of government incentives delivered as Qualified Refundable Tax Credits (Article 3.2.4 of the GloBE Rules).
- International shipping income and loss is excluded from the computation of GloBE Income or loss. A substance criterion is imposed such that a CE must demonstrate that the strategic or commercial management of all ships concerned is effectively carried on from within the jurisdiction where the entity is located to qualify for the exclusion.
- In order to align with taxable outcomes and evaluate correctly the tax system of a jurisdiction, high taxed profits in one jurisdiction cannot be used to offset low-taxed profits in another jurisdiction. Accordingly, allocating profits appropriately between jurisdictions is consequently integral to the GloBE Rules. Specific rules in relation to such profit allocation can be found in Article 3.4 and 3.5 of the GloBE Rules.

Step 3 – Determine the taxes paid by CEs

- An MNE must then determine the Covered Taxes attributable to a CE, which are broadly defined to include taxes on income or profits, withholding taxes and other taxes which are in lieu of a Corporate Income Tax and do not include taxes such as indirect taxes, excise and stamp duty, etc.
- To avoid a circular computation, Top-up Taxes accrued under a Qualified IIR, qualified UTPR and QDMTT are excluded from Covered Taxes.
- The starting point is to look at the income tax expense which includes the current tax expense and the deferred tax expense (income) based on the financial accounts to determine the amount of Covered Taxes paid, followed by adjustments required under the GloBE Rules. Specific details on such adjustments can be found under Article 4.1 of the GloBE Rules.

- Following the pattern of the income allocation rules, Covered Taxes are generally assigned to the CE which includes the corresponding income in the computation of its GloBE Income or loss. Specific rules in relation to allocation of Covered Taxes can be found under Article 4.2 of the GloBE Rules.
- Deferred taxes are also included as Covered Taxes. The GloBE Rules require deferred tax liabilities and deferred tax assets to be valued at the lower of the minimum rate and the applicable tax rate.
- Specific adjustments also need to be made, as applicable, in relation to timing and permanent differences (including those arising due to losses), post filing adjustments and tax rate changes (Article 4.4, 4.5 and 4.6 of the GloBE Rules). There are also specific adjustments for deferred taxes that are required under the GloBE Rules which can be found under Article 4.4 of the GloBE Rules.

E. Top-up tax calculation

A Top-up Tax is charged on an MNE Group when its ETR in a jurisdiction is below the 15% minimum rate.

There are several steps in the Top-up Tax calculation in the GloBE Rules –

a. Identify whether there is net GloBE Income in a jurisdiction

- The first step is to determine the profit in a jurisdiction. This is calculated by adding together the GloBE Income and GloBE losses of all the CEs in the jurisdiction.
- However, there is an exception to this rule when the jurisdiction qualifies for the de minimis exclusion (see chapter 9 for additional details). If the exclusion applies, the Top-up Tax for the CEs in a jurisdiction shall be deemed to be zero, i.e., there is no need for the MNE Group to compute the ETR of the CEs located in that jurisdiction.
- There are two conditions for a jurisdiction to be eligible for the de minimis exclusion-
  - The average GloBE Revenue of the MNE Group in that jurisdiction for the current and two preceding fiscal years is less than EUR 10 million; and
  - The average GloBE Income or loss of the MNE Group in that jurisdiction for the same period is a loss or less than EUR 1 million.
- The exclusion applies on an annual basis and at the election of the filing CE.

b. Calculate the ETR in jurisdictions with net GloBE Income to identify low tax jurisdictions *(as highlighted in the previous section of this Guidance Paper)*

c. Compute the Top-up Tax percentage –

- The Top-up Tax percentage is calculated when the ETR is below the 15% minimum rate. This is done by subtracting the ETR from the minimum rate and represents the additional tax rate that needs to be charged.

d. Calculate the Substance-Based Income Exclusion ("SBIE")

- Deduct the SBIE from the net GloBE Income in the jurisdiction to determine the Excess Income
- The SBIE is a carve out of based on payroll costs and tangible assets. This is based on a percentage of the MNE's payroll costs and tangible assets in the jurisdiction, on the grounds that employment costs and tangible assets tend to be relatively immobile factors of production and are therefore reasonable proxies for substantive economic activities. Specific rules in relation to calculation of the SBIE can be found under Article 5.3 of the GloBE Rules.

e. Calculate the Top-up Tax in the jurisdiction by:

1. Multiplying the Excess Income by the Top-up Tax percentage.
2. Adding any additional Top-up Tax calculated in respect of earlier years, and in respect of current year permanent differences when there is a GloBE loss in a jurisdiction.
3. Subtracting any taxes charged under a QDMTT in that jurisdiction.

f. Allocate the Top-up Tax for the jurisdiction among the CEs in that jurisdiction

- Jurisdictional Top-up Tax computed for a low-tax jurisdiction is allocated only to the CEs of that jurisdiction that have GloBE Income for the fiscal year. The allocation is based on the CEs' proportion of the GloBE Income over that of all CEs located in the jurisdiction. Such allocation of Top-up Tax facilitates the application of the IIR by parent entities other than the UPE.

F. Transitional Rules

The GloBE Rules provide certain transitional rules which apply for a period of time when an MNE Group first enters the scope of the GloBE Rules. An MNE Group's transition year is determined on a jurisdictional basis. For a jurisdiction, the transition year means the first fiscal year in which an MNE Group comes within the scope of the GloBE Rules in respect of that jurisdiction.

Chapter 9 of the GloBE Rules contains the Transitional Rules. These relate to the following aspects –

1. Losses and timing differences

- Timing differences which began before a group enters the Pillar Two regime will generally be taken into account by the GloBE Rules by taking into account deferred tax assets and liabilities at the lower of the Minimum Rate or the applicable domestic tax rate. Deferred tax assets that derive from losses in low tax jurisdictions must be recast to the minimum rate. This aligns with the ordinary treatment of losses and timing differences in the rules.
- Losses in zero tax jurisdictions which are made before the rules come into effect will not be brought into the regime. Once the rules are in place, a group may make an election to ensure that future losses are brought into the ETR calculation.
- Special rules have been drafted to deal with deferred tax assets incurred and asset transfers taking place after 30 November 2021.
- Further details on this can be found in Article 9.1 of the GloBE Rules.

2. Higher SBIE

- The percentages used in the SBIE are higher during a transition period. The carve-out percentages start at 10% for payroll and 8% for tangible assets, tapering down to the normal rates of 5% over the 10-year transition period. The transition period applies regardless of when an MNE Group comes within the scope of GloBE Rules. For a fiscal year beginning in 2033, the percentages for both are at 5%.
- Further details on this can be found in Article 9.2 of the GloBE Rules.

3. MNE Groups in their initial phase of international activity

- There is temporary relief of five years as in the UTPR will not apply to groups which are in the initial phase of expanding internationally. This applies when the group:
  (i) has CEs in no more than six jurisdictions; and
  (ii) has tangible assets worth no more than EUR50 million outside of the country in which it has the largest tangible asset base.

- Further details on this can be found in Article 9.3 of the GloBE Rules.

4. Filing deadline in transition year

- The normal filing deadline for the GloBE Information Return and notifications is no later than 15 months after the end of the reporting fiscal year. In order to provide an MNE Group with additional time to set up the necessary compliance processes and systems when they come within the scope, the filing deadline for the first year will be extended to 18 months after the end of its reporting fiscal year.
- Further details on this can be found in Article 9.4 of the GloBE Rules.

G. <u>Simplifications</u>

Given the concerns about the complexity of the calculations and the adjustments under the GloBE Rules, jurisdictional Safe Harbours have been developed to relieve the compliance burden for MNE Groups from performing full GloBE calculations when certain conditions are met.

Article 8.2 of the GloBE Rules states that the Top-up Tax of a jurisdiction is deemed to zero where the jurisdiction is eligible for the Safe Harbour.

Currently, there are three types of Safe Harbours subject to Article 8.2: 1) transitional CbCR Safe Harbour; 2) the permanent Safe Harbour; and 3) the QDMTT Safe Harbour. In addition, the transitional UTPR Safe Harbour which avoids the UPE jurisdiction to be exposed to the UTPR. These have been further detailed below and are divided into transitional and permanent Safe Harbours –

Transitional Safe Harbours

1. Country by Country Reporting (CbCR) Safe Harbour

The transitional CbCR Safe Harbour operates by using simplified jurisdictional revenue and income information contained in the MNE's 'Qualified CbCR' and jurisdictional tax information contained in its 'Qualified Financial Statements'. Further details on definitions of 'Qualified CbCR' and 'Qualified Financial Statements' can be found in Chapter 1 of guidance on Safe Harbours and Penalty Relief issued in December 2022.

The CbCR Safe Harbour only applies to a transition period covering fiscal years beginning in 2024, 2025 and 2026. For a fiscal year that falls within the transition period, the Top-up Tax of an in-scope MNE Groups in a jurisdiction will be deemed to be zero if the group can satisfy one of the following tests:

a. *De minimis test*: The MNE Group reports a total revenue of less than EUR 10 million and profit (loss) before income tax of less than EUR 1 million in such jurisdiction on its Qualified CbCR for the fiscal year; or

b. *Simplified ETR test*: The group has a simplified ETR that is equal to or greater than the transition rate in such jurisdiction for the fiscal year. The transition rates are as follows –
Fiscal years beginning in 2024 – 15%,
Fiscal year beginning in 2025 – 16%, and
Fiscal years beginning in 2026 – 17%; or

c. *Routine profit test*: The MNE Group's profit (loss) before income tax in such jurisdiction is equal to or less than the SBIE amount, for CEs resident in that jurisdiction under the CbCR, as calculated under the GloBE Rules.

If an in-scope MNE Group has not applied the transitional CbCR Safe Harbour in respect of a jurisdiction for a fiscal year in which the group is subject to the GloBE Rules, the group cannot qualify for the Safe Harbour in respect of that jurisdiction for a subsequent fiscal year.

Further details and guidance on the transitional CbCR Safe Harbour can be found in Chapter 2 of the Administrative Guidance on GloBE Rules issued in December 2023.

2. UTPR Safe Harbour

Given that the corporate income tax rate in the UAE is below 20%, the UTPR Safe Harbour is not applicable for UAE CEs.

Permanent – QDMTT Safe Harbour

Where an in-scope MNE Group is eligible for the QDMTT Safe Harbour in respect of a jurisdiction, the group will only need to undertake one QDMTT calculation and be relieved from applying the GloBE Rules to that jurisdiction since the Top-up Tax payable in respect of that jurisdiction under the GloBE Rules will be deemed to be zero.

As set out previously, a jurisdiction that implements a QDMTT ("QDMTT jurisdiction") must meet the following three standards for the purpose of benefitting from the QDMTT Safe Harbour:

1. *QDMTT accounting standard* – This requires that the QDMTT legislation should either adopt the financial accounting standard used for preparing the Consolidated Financial Statements of the UPE or the local financial accounting standard rule is met. Further details on this can be found in Chapter 5 (Safe Harbours) of the Administrative Guidance on GloBE Rules issued in July 2023.
2. *Consistency Standard* – The computations under the QDMTT must be the same as those under the GloBE Rules, except where the Administrative Guidance explicitly requires the QDMTT to depart from the GloBE Rules. The consistency standard is met even if the QDMTT –
   - does not include or has a more limited SBIE, or
   - does not include or has a more limited de minimis exclusion, or
   - has a minimum tax rate above 15% for the purpose of computing the Top-up Tax percentage for the jurisdiction
3. *Administration standard* – This requires that a QDMTT jurisdiction to be subject to the same ongoing monitoring process as the GloBE Rules.

To strike the right balance between having a QDMTT Safe Harbour that applies on a jurisdictional basis and avoiding that particular restrictions affect the ability of a QDMTT to meet the Consistency standard, it has been agreed that the following cases should not affect a QDMTT from meeting the Consistency standard:

a. A QDMTT jurisdiction decides not to impose a QDMTT on Flow-through Entities created in its jurisdiction.
b. A QDMTT jurisdiction decides not to impose a QDMTT on Investment Entities subject to Articles 7.4, 7.5, and 7.6 of the GloBE Rules.
c. A QDMTT jurisdiction decides to adopt Article 9.3 in a QDMTT legislation with no limitation.
d. A QDMTT jurisdiction includes members of a JV Group (which includes Joint Ventures) within the scope of the QDMTT but imposes the liability on CEs of the main group instead of directly on the members of the JV Group.

In these specific scenarios, the MNE Group will be subject to a Switch-off Rule which prevents the MNE Group from applying the Safe Harbour.

Permanent Simplified Calculations Safe Harbour - Simplified calculation Safe Harbour for non-material CEs

Simplified income and tax calculations have been developed for MNE Groups for their non-material CEs under the simplified calculation Safe Harbour. A non-material CE is an entity (including its permanent establishments) of an MNE Group that is not consolidated in the UPE's audited financial statements solely on materiality grounds and is considered a CE, provided that –

(a) the Consolidated Financial Statements are those that are described in the definition provided under Article 10.1.1;
(b) the Consolidated Financial Statements are externally audited; and
(c) in the case of an entity with a total revenue that exceeds EUR 50 million, its financial accounts that are used to complete the CbCR are prepared in accordance with an Acceptable Financial Accounting Standard or an Authorised Financial Accounting Standard, as defined under Article 10 of the GloBE Rules.

Using the non-material CE simplified calculations means applying all of the following calculations with respect to a non-material CE for purposes of applying the tests under the permanent Safe Harbour:

(a) the GloBE Income of a non-material CE is the total revenue as determined in accordance with the Relevant CbC Regulations;
(b) the GloBE Revenue of a non-material CE is its total revenue as determined in accordance with the Relevant CbC Regulations; and
(c) the adjusted Covered Taxes of a non-material CE is equal to its income tax accrued (current year) as determined in accordance with the relevant CbC Regulations.

Further guidance on this can be found under Chapter 6 of the Administrative Guidance on GloBE Rules issued in December 2023.