

Pillar Two – GloBE Information Return

Response by the Chartered Institute of Taxation

1 Introduction

- 1.1 The Chartered Institute of Taxation (CIOT) is the leading professional body in the UK for advisers dealing with all aspects of taxation. We are a charity and our primary purpose is to promote education in taxation with a key aim of achieving a more efficient and less complex tax system for all. We draw on the experience of our 19,000 members, and extensive volunteer network, in providing our response.
- 1.2 We welcome the consultation on the GloBE Information Return (GIR) published by the OECD Secretariat on 20 December 2022 as an important step in the ongoing work in relation to Pillar Two. We recognise the continued progress in developing Pillar Two, which is due to come into effect from 31 December 2023 in a number of jurisdictions, including the UK. We welcome this opportunity to comment on the proposals for the GIR scoped out in the consultation document. We note that these proposed rules represent the work of the OECD Secretariat; the Inclusive Framework has not reached consensus on them. The consultation document (at paragraph 7) says that: *‘Annex A represents the best efforts of the Inclusive Framework to identify all the data points of the MNE Group that it may need to collect in order to calculate its GloBE tax liability..... however it does not necessarily represent the final form of the GIR. The collection of these data points constitutes the first step in the process of developing common information filing and exchange requirements.’*
- 1.3 In light of the relatively short consultation period and the fact that we are aware that many other stakeholders (including the Big 4 accounting firms and the multinational enterprises (MNEs) that will be within the scope of the rules) are engaged with the OECD and the consultation process, and will be feeding in more specific comments around the practicalities of the suggested data points etc., we have limited our comments to more high level points around underlying principles and ensuring, so far as possible, that the GIR will help the model rules meet the CIOT’s objectives for the tax system. These objectives are that a tax system should comprise rules which translate policy intentions into law accurately and effectively, without unintended consequences. The tax system should aim to provide simplicity (so far as possible) and clarity, so businesses can understand how much tax they should be paying and why, and also to provide certainty so that businesses can plan ahead

with confidence. It is also important that there is responsive and pragmatic tax administration, with a minimum of bureaucracy.

- 1.4 The GIR will establish an enormously complex tax return. Complying with its requirements will be extremely difficult, even for sophisticated businesses, and examining the voluminous information provided will likewise be very challenging, even for sophisticated tax authorities. The ultimate objective of the GIR is to develop a consistent and transparent set of standards for information collection that preserves consistency and certainty of outcomes for MNE groups, while avoiding a significant increase in taxpayer and tax administrations' compliance burdens. We welcome the principle behind this: it will be helpful to have a standard form. However, as presented in the consultation document, the GIR will not meet the second part of this objective; but it will undoubtedly result in the need for significantly increased data collection and information sharing. In part this is inevitable, as the GloBE rules require consideration of historical and non-tax information on a jurisdictional basis that is not routinely collected by MNEs currently, but it will be important for the practicability of the new rules to minimise this to the greatest extent possible.
- 1.5 Accordingly, we would strongly encourage the OECD and the Inclusive Framework in the work going forward to be mindful of practical advice and experience that is received from businesses, trade associations and other groupings, in order to make the GIR more administrable and less burdensome, while continuing to deliver on the overall objectives of the proposals.

2 About us

- 2.1 The CIOT is an educational charity, promoting education and study of the administration and practice of taxation. One of our key aims is to work for a better, more efficient, tax system for all affected by it – taxpayers, their advisers and the authorities. Our comments and recommendations on tax issues are made solely in order to achieve this aim; we are a non-party-political organisation.
- 2.2 The CIOT's work covers all aspects of taxation, including direct and indirect taxes and duties. Through our Low Incomes Tax Reform Group (LITRG), the CIOT has a particular focus on improving the tax system, including tax credits and benefits, for the unrepresented taxpayer.
- 2.3 The CIOT draws on our members' experience in private practice, commerce and industry, government and academia to improve tax administration and propose and explain how tax policy objectives can most effectively be achieved. We also link to, and draw on, similar leading professional tax bodies in other countries.
- 2.4 Our members have the practising title of 'Chartered Tax Adviser' and the designatory letters 'CTA', to represent the leading tax qualification.

3 Question a. - safe harbours

- 3.1 The consultation document asks about simplified income or tax calculations that could be developed as part of the permanent safe harbours described in the document on safe harbours and penalty relief. In our view identifying these will be an important part of the work in finalising the GIR. There will be a reduced value in the permanent safe harbours that is to be developed if the simplified calculations that are envisaged (and are described in the document published in December 2022) do not translate into a reduced reporting obligation under the GIR.

- 3.2 In addition, it is not clear how the GIR will interact with the Transitional country by country reporting (CbCR) Safe Harbours. Similarly, in order to give value to the transitional safe harbour, it should be utilised to reduce the reporting obligations and permit MNEs to take lower-risk jurisdictions out of their GIR, without having to do new and complicated calculations, if the tests around the effective tax rates (the ETR test) are met. We recognise that CbCR has to be prepared using a qualified set of accounts, usually the ultimate parent company's accounts, which is a top down approach and, therefore, different to the Pillar Two approach. Also, the ETR under the safe harbour will go up year on year, making it harder to qualify in future years, which will mean that MNE Groups will have to do the full calculations for the Globe Rules and, probably, the GIR for more jurisdictions.
- 3.3 We note that the guidance on safe harbours provides for relief from penalties and sanctions for mistakes made by MNEs in applying the rules during the transition period, but this is only a temporary measure.
- 3.4 With regard to cases where the MNE Group may not be required to collect all the data points, one such circumstance may be where there is no liability to top-up tax. We suggest that it should not be necessary for an MNE Group to complete the GIR for every constituent entity if there is no liability to top-up tax.

4 Question c. - administrative burden

- 4.1 The consultation document asks for views on the amount and type of GloBE information that MNE Groups should be expected to collect, retain and report to the tax authority in order to maximise the efficiency, accuracy and the verifiability of information reported without undermining effective administration and risk assessment.
- 4.2 We understand that some businesses have indicated that the GIR will require the collection of tens of thousands of additional data points. Looking at the constituent entity-level reporting required under just Section 3.4.1(a) (in Annex A1) for financial accounts net income and loss (FANIL), where, in respect of each entity, up to 24 different items (both additions and reductions) must be reported, that number does not seem unreasonable. The potential volume of data raises significant questions with respect to the compliance burden on taxpayers as well as the extent to which tax authorities will be able to analyse the data in a meaningful fashion as part of the examination process.
- 4.3 The covered taxes disclosures are particularly complex with respect to tracking deferred tax liabilities that are not paid within five years and are therefore subject to the 'recapture mechanism' and deferred tax liabilities that are subject to modification to account for the transition rules in Article 9.1.1 - 9.1.3 of the GloBE Model Rules. The approach of tax administrations in seeking supporting information that ties to and generates the GIR Annex A data will be a key issue to be resolved in the medium term.
- 4.4 The GIR is not the same as the actual computation of the pillar two liabilities. It is simply a form with all the data points that could possibly be required for the calculation. It will be as important to consider whether the information provided will be of practical use to tax administrations, as to consider the compliance burden on MNEs.
- 4.5 In addition, as the global tax environment is dynamic, the GIR will not be static. With increasing tax controversy, decreases in adjusted covered taxes will be commonplace as such disputes are resolved. Consequently, MNEs will need to develop a process that (1) tracks decreases in covered taxes previously recorded and (2) systematises the re-calculation and re-population of the GIR for the respective prior year.

5 Question e – duplication with domestic rules

- 5.1 Question e asks specifically about integrating the reporting requirements applicable under a qualified domestic minimum top-up tax (QDMTT) in a jurisdiction with the provision of information in the GIR.
- 5.2 However, more generally, the obligation to prepare the GIR is separate from any local tax return requirements. Implementing jurisdictions will in many cases also amend the local corporate income tax return to request additional GloBE information pertinent to that jurisdiction, and MNEs will need to comply separately with these local requirements.
- 5.3 To counteract the compliance burden arising from this, we suggest that the Inclusive Framework, and the Implementation Framework (that is still being developed) should encourage jurisdictions to follow the data points required by the GIR as much as possible in order to limit the duplication of effort required in order to comply with local requirements as well as the GIR.

6 Acknowledgement of submission

- 6.1 We would be grateful if you could acknowledge safe receipt of this submission, and ensure that the Chartered Institute of Taxation is included in the List of Respondents when any outcome of the consultation is published.

The Chartered Institute of Taxation
3 February 2023