TaxFlash

Tax Indonesia / January 2025 / No. 03

Indonesia officially implemented the Pillar Two GloBE Rules implementation

On 31 December 2024, the Minister of Finance ("MoF") issued PMK-136[1] to implement the Top-up Tax mechanism under the Global Anti-Base Erosion ("GloBE") Rules in Indonesia. The regulation is designed to be aligned with the Organisation for Economic Co-operation and Development ("OECD") GloBE Rules.

In a nutshell, GloBE Rules are aimed at implementing global minimum tax rules that enforce a global tax framework ensuring a minimum taxation of 15% for Multinational Enterprise ("MNE") operating in low-tax jurisdictions. There are three charging mechanisms of Top-up Tax adopted by Indonesia, namely Income Inclusion Rule ("IIR"), Undertaxed Payment Rule ("UTPR"), and Domestic Minimum Top-up Tax ("DMTT"). The rule applies in Indonesia to fiscal year starting on or after 1 January 2025 for IIR and DMTT and for fiscal year starting on or after 1 January 2026 for UTPR. Hereinafter, Fiscal Year ("FY") refers to the fiscal year where the GloBE Top-up Tax is assessed. We highlight below the key points of the regulation.

In-scope MNEs and Safe Harbour assessment

1. Identification of in-scope MNEs and Constituent Entities ("CEs")

GloBE Rules apply to CEs of an MNE Group with annual gross turnover of at least EUR 750 million based on Consolidated Financial Statement ("FS") of the Ultimate Parent Entity ("UPE") for at least two out of four FYs preceding the GloBE FY. Special rules apply on the threshold calculation where there is a merger and demerger transaction occurring within the past four-year period.

A CE is defined as any Entity that is part of the group and any Permanent Establishment ("PE") of the Parent Entity that falls within the scope of any Entity included in the group.

GloBE Rules do not apply to the following CEs:
a. Governmental Entities that do not carry on a trade or business;
b. International organisations;

[1] MoF Regulation No.136 Year 2024 ("PMK-136") dated 31 December 2024 and effective from 1 January 2025

c. Non-profit organisations;
d. Pension funds;
e. Investment Funds which are UPE; and
f. Real Estate Investment Vehicles which are UPE.

2. Safe Harbour assessment

The Top-up Tax for CEs fulfilling Safe Harbour requirements will be deemed as zero. Therefore, assessing the eligibility to use the Safe Harbour provision may be crucial to reduce the Group's tax obligation under the GloBE Rules.

PMK-136 stipulates five types of available Safe Harbour, namely:
a. Permanent Safe Harbour;
b. Transitional Country by Country Report ("CbCR") Safe Harbour;
c. Transitional CbCR Safe Harbour for certain entity and group;
d. Transitional UTPR Safe Harbour;
e. Simplified calculations Safe Harbour on non-material CE.

More details on the above Safe Harbour requirements are available in the Appendix A.

Top-up Tax determination

Below are the high-level steps to calculate the Top-up Tax.

1. GloBE income or loss determination

To calculate the GloBE Income/Loss, the accounting net income/loss of each CE (before consolidation) must be subject to the following GloBE adjustments:
a. General adjustment – includes adjustment of general financial accounts, transfer pricing, Qualified Refundable Tax Credit and Non-Qualified Refundable Tax Credit, as well as Intra Group Financing Arrangements;
b. Elective adjustment – includes adjustment of stock-based compensation, profits and losses on assets and liabilities based on the realisation principle, aggregate asset profits, and application of group tax consolidation; and
c. Specific adjustment – includes adjustment for insurance companies, banks, international shipping income, PEs, and Flow-through Entity.

Special rules apply for the GloBE income calculation where there are corporate restructurings and holding structures changes as well as upon UPEs and CEs that are subject to tax neutrality and distribution regimes.

2. Adjusted Covered Tax

Covered Tax that can be included to calculate the Effective Tax Rate ("ETR") includes:
a. Taxes recorded in the financial accounts of the CE relating to its income or profits or its share of the income or profits of a CE in which it owns an Ownership Interest;
b. Taxes on distributed profits, deemed profit distributions, and non-business expenses imposed under an Eligible Distribution Tax System;
c. Taxes imposed in lieu of a generally applicable Corporate Income Tax ("CIT"); and
d. Taxes levied by reference to retained earnings and corporate equity, including tax on several components based on income and equity.

Taxes that are excluded in the definition of Covered Tax include:
a. Top-up Tax recognised by the Parent Entity under Qualified IIR;
b. Top-up Tax recognised by the Top-up Tax under Qualified DMTT ("QDMTT")/Qualified UTPR;
c. Disqualified refundable imputation tax; and

d. Taxes paid by the insurance company in relation to refund to policyholders.

The Adjusted Covered Tax is a recalculation of current tax expense recognised in the accounting net profit/loss that is adjusted with:

a. the net amount of the addition/reduction of Covered Tax for the FY;
b. the amount of deferred tax adjustments (including deferred tax recast at the lowest between 15% and domestic tax rate); and
c. any increase/decrease in Covered Tax recorded in equity or other comprehensive income included in the calculation of GloBE Profit/Loss and taxed based on domestic tax provisions.

PMK-136 also stipulates the jurisdiction allocation of Covered Tax for PE, tax transparent entity, Controlled Foreign Company, hybrid entity, and CEs that are distributing dividends.

3. Jurisdictional ETR

The ETR to be compared to the 15% minimum rate is the Jurisdictional ETR. The Jurisdictional ETR is calculated by dividing the Adjusted Covered Tax with the GloBE income (both calculated on a jurisdictional basis). The jurisdictional ETR for investment entities, stateless CEs, and Minority-owned CEs ("MOCEs") where UPE ownership interest is 30% or less but has a controlling interest, is calculated separately from the other group entities.

4. Jurisdictional Excess Profit and Substance-based Income Exclusion ("SBIE")

The jurisdictional excess profit is calculated by deducting the SBIE from the net GloBE income, effectively reducing the Top-up Tax liability for a jurisdiction. SBIE is calculated based on the payroll carve-out and tangible asset carve-out for all CEs located in the same jurisdiction, excluding investment entities. The carve-out or the SBIE deduction is calculated by multiplying certain percentage with payroll cost and tangible asset carrying value. The percentage is gradually decreasing from 2023 to 2033, which is from 10% to 5% for payroll carve-out and 8% to 5% for tangible asset carve-out.

5. Top-up Tax

The Top-up Tax percentage is calculated by deducting the jurisdictional ETR from the minimum rate of 15%. The Jurisdictional Top-up Tax is calculated with the following formula:

Jurisdictional Top-up Tax = (Top-up Tax % x Jurisdictional Excess Profit) – QDMTT + Additional Current Top-up Tax (if any)

QDMTT is a minimum tax that is included in the domestic law of a jurisdiction and that:

- determines the domestic Excess Profits in an equivalent method to the GloBE Rules;
- operates to increase domestic tax liability with respect to the domestic Excess Profits to 15%; and
- produce an outcome that is aligned with the GloBE Rules provided that such jurisdiction does not provide any benefits that are related to such rules.

Disputed QDMTT or QDMTT that is deemed uncollectible by the tax authority cannot be deducted against the Top-up Tax.

Additional Current Top-up Tax is an amount of incremental Top-up Tax resulting from certain adjustments including recalculation of ETR and Top-up Tax for a prior FY.

Agreed rule order of charging mechanism

Once the Top-up Tax amount is determined, the agreed rule order to settle the tax is as follows:

1. **DMTT**

   DMTT is imposed on all Indonesian CEs (either wholly or partially owned) with ETR of less than 15% regardless of the ownership ratio. However, under PMK-136, it is proportionally allocated only to the Low-taxed CEs ("LTCEs") based on their GloBE income portion compared to total GloBE income of all LTCEs in Indonesia. DMTT for MOCE, investment entity, and Joint Venture ("JV") is calculated separately from the other group entities.

   The accounting standard used in the FS and the methods used to calculate the ETR, net GloBE income/loss, covered taxes, and Top-up Tax refer to the same rules governing the IIR and UTPR.

2. **IIR**

   UPEs, Intermediate Parent Entities or Partially owned Parent Entities are liable for paying Top-up Tax under IIR mechanism arising from directly or indirectly owned LTCEs. The charging mechanism varies depending on the group holding structures and the adoption of GloBE Rules in the jurisdictions where the group operates.

3. **UTPR**

   Indonesian CEs (excluding investment entities) are liable for paying the Top-up Tax under UTPR mechanism allocated to Indonesia from low-tax jurisdictions that remains uncollected by other mechanisms. This allocation percentage is determined based on the ratio of employees and tangible assets in Indonesia to those in all countries applying UTPR multiplied by 50%. This UTPR is borne by the Indonesian CEs and is calculated proportionally based on the GloBE income of each entity.

   UTPR can be deemed to be zero in the first five year if the MNE group only has CEs in a maximum of six jurisdictions and has Net Book Value ("NBV") of tangible assets of all CEs worldwide (other than the reference jurisdiction, i.e. jurisdiction with the highest NBV of tangible asset) of a maximum of EUR 50 million. If Indonesia is the reference jurisdiction and the LTCE is in Indonesia, the UTPR Top-up Tax allocated to other jurisdictions becomes zero.

Tax administration requirements and deadlines

There are several reporting and payment requirements under the GloBE Rules, namely:

1. **Global Information Return ("GIR") and Notification**

   GIR contains detailed information about the CEs, the group structure, ETRs, Top-up Taxes, and records regarding the selection made in accordance with the relevant provisions of GloBE, whilst the Notification is a written notice from a CE, which includes a statement regarding the identity UPE and non-UPE domestic taxpayer and the identity of the party designated to submit the GIR.

   By default, GIR is submitted by the UPE, and Notification is submitted by the CEs. However, under certain circumstances, CEs may also be required to submit GIR. In this situation, the CE no longer needs to submit Notification.

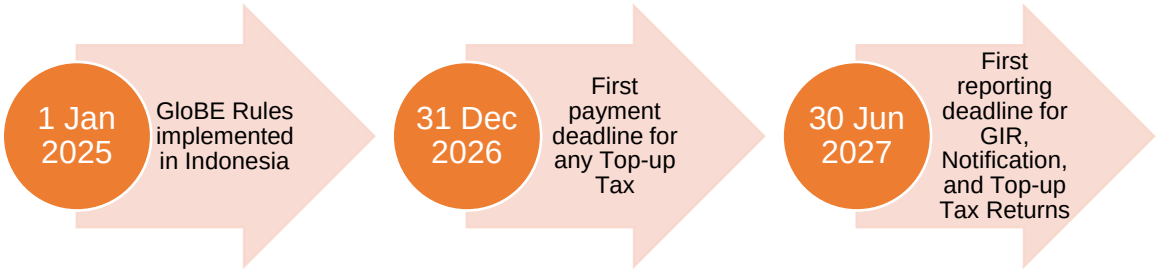
   The submission of GIR and Notification must be made within 15 months after the end of GloBE FY (e.g. the submission deadline for GloBE FY ending on

31 December 2026 would be 31 March 2028). The first-year reporting can be done within 18 months instead of 15 months (e.g. by 30 June 2027 for GloBE FY ending on 31 December 2025). The receipt of this submission must be attached to the Annual GloBE Tax Return.

2. **Annual Tax Returns ("ATRs")** – serves as a reporting mechanism for the calculation of Top-up Tax for the GloBE FY which consists of:
   - **GloBE Tax Return** – reported by Indonesian UPE;
   - **DMTT Tax Return** – reported by Indonesian CEs;
   - **UTPR Tax Return** – reported by Indonesian CEs if there is a UTPR allocated to Indonesia.

   The above ATRs must be submitted within four months after the following FY (e.g. the submission deadline for GloBE FY ending on 31 December 2026 would be 30 April 2028). The first-year reporting can be extended by two months (e.g. by 30 June 2027 for GloBE FY ending on 31 December 2025).

   Related payments must be made within the year following the GloBE FY (e.g. by 31 December 2026 for GloBE FY ending on 31 December 2025).



PMK-136 has mandated the Directorate General of Taxes ("DGT") to stipulate provisions regarding the forms, filing procedures, payment, reporting for GIR, ATRs (GloBE, DMTT, and UTPR), and Notification.

Compliance monitoring

DGT is authorised to supervise the compliance of all Indonesian CEs. Administrative sanctions relating to the reporting and payment obligation under the GloBE Rules follow the laws governing general provisions and tax procedures. Administrative sanction waiver is applicable for reporting CE for FY starting on or prior to 31 December 2026 and ending on 30 June 2028.

Specifically for Safe Harbour application, DGT is authorised to check the use of Safe Harbour rule and the imposition of Top-up Tax in the case Indonesia is allocated a Top-up Tax from jurisdiction whose ETR is below the minimum rate. If there are facts and circumstances that may affect the eligibility of the Safe Harbour use, DGT can request clarification to the responsible CE within 36 months after the filing of GIR, which must be responded within six months after such request. Failure to respond within the time limit will render the Safe Harbour invalid and additional tax may be imposed.

Financial Statement Disclosure

The amendments to PSAK 212 prohibit entities from recognising or disclosing deferred tax implications arising from Pillar Two but introduces targeted disclosure requirements for affected companies, as follows:

1. The fact that they have applied the exception to recognising and disclosing information about deferred tax assets and liabilities related to Pillar Two income taxes (mandatory temporary exception);
2. Their current tax expense or income related to the Pillar Two income taxes; and
3. In the period where the Pillar Two is substantially enacted but is not yet effective, for the FS for the year ended prior to 31 December 2024, known or

reasonably estimable information that would help users of FS understand an entity's exposure to paying Pillar Two income taxes under the PMK-136 in the future.

This information does not have to reflect all the specific requirements of the Pillar Two legislation and can be provided in the form of an indicative range. Disclosures that might be considered are as follows:

1. Qualitative information such as how the group is affected by Pillar Two legislation and the main jurisdictions in which exposures to Pillar Two income taxes might exist.
2. Quantitative information such as:
    - An indication of the proportion of the entity's profits that potentially might be subject to Pillar Two income taxes and the average effective tax rate applicable to those profits; or
    - An indication of how the entity's average effective tax rate would have changed if Pillar Two legislation had been effective.

As the PMK-136 was just issued on 31 December 2024 and became effective shortly thereafter on 1 January 2025 and, also, due to the complexity of the Pillar Two rules, it is expected that entities will take time to carry out their impact assessments following the legislation's announcement. As a result, by the time of issuance of the FS as of 31 December 2024, entities might be unable to quantify and therefore disclose the detailed effects. In this case, entities might be able to provide qualitative information but are required to disclose a statement that the effects are not known or reasonably estimable and information about their progress in assessing the exposure.

How to make sure you are Pillar Two ready?

The time to start preparing and adopting an action plan for Pillar Two is live, as this has changed the tax compliance landscape for impacted MNEs. Here are some initial key considerations to embark on your Pillar Two journey:

- Review the group structure to determine the applicability of the relevant provisions (e.g. which one is the UPE, CE, revenue threshold, etc.).
- Assess the applicability of the transitional CbCR Safe Harbour to alleviate the Pillar Two impact during the first year of early implementation (including assessing whether the current CbCR filed by the group is qualified).
- Engage with your financial auditor to agree on expectations and requirements for the 31 December 2024 year-end financial reporting.
- Evaluate the relevant data points (you may refer to PwC Data Input Catalog), identify gaps, and design a new process where necessary.
- As the Pillar Two assessment involves exercises in multiple jurisdictions where the group operates, how does the group ensure to have a full knowledge of such detailed technicality.
- Where relevant, to consider possible corporate actions to manage overall Pillar Two compliance.
- Last but not least, be mindful of the additional compliance obligations required by the rules.

Please reach out to your regular contacts for any further assistance. Further insights on the Pillar Two Readiness Guide for APAC MNEs can be found here.

Appendix A

PMK-136 stipulates the Safe Harbours rules as follows:

a. Permanent Safe Harbour – requires fulfilment of the following:
- De Minimis rule – Average GloBE revenue and net income for CEs in a jurisdiction is less than EUR 10 million and EUR 1 million, respectively, or there is a GloBE loss, in the current year and the past two FYs; or
- GloBE income in a jurisdiction in an FY does not exceed the SBIE amount; or
- The jurisdictional ETR is a minimum of 15%.

b. Transitional CbCR Safe Harbour – can be elected by reporting CE for FY starting at the latest 31 December 2026 and ending at the latest 30 June 2028, and requires fulfilment of the following:
- Revenue and Profit Before Tax ("PBT") for CEs in a jurisdiction in an FY is less than EUR 10 million and EUR 1 million, respectively, based on a qualified CbCR; or
- PBT for CEs in a jurisdiction based on a qualified CbCR does not exceed the SBIE amount; or
- The simplified ETR is a minimum of 15%, 16%, and 17% for FY starting 2024, 2025, and 2026 up to FY ending on 30 June 2028.

A CbCR is qualified if prepared based on qualified FS. PMK-136 provides more details on the qualified FS requirements, the formula of Simplified ETR, and parties excluded from the application of CbCR Safe Harbour rule.

Note that once an MNE Group fails to fulfil the Safe Harbour on a certain fiscal year, then they cannot use the Safe Harbour for the remainder of the transitional period for that particular jurisdiction.

c. Transitional CbCR Safe Harbour for certain entity and group

PMK-136 sets out special rules on the application of CbCR Safe Harbour on the following:
- JV and its subsidiaries that are treated as separate group;
- UPE that is a flow-through entity or entity that is subject to deductible dividend regime;
- Investment entities.

d. Transitional UTPR Safe Harbour

UTPR is deemed to be zero for every FY starting prior to 31 December 2025 up to FY ending on 31 December 2026, if the UPE jurisdiction has applicable CIT rate of a minimum of 20%.

e. Simplified calculations Safe Harbour on non-material CE

- Non-material CE is a CE that is not consolidated in the group FS based on size and materiality.
- Non-material CE with gross turnover of above EUR 50 million must prepare their FS based on Accepted Financial Accounting Standard ("FAS") or Recognised FAS.
- This simplified calculation is using a GloBE revenue, income, and adjusted covered tax based on CbCR rules of the UPE jurisdictions. If there is no CbCR rule in UPE jurisdictions, the surrogate UPE jurisdiction rule will be used. If there is no domestic CbCR rule at all, implementation guidelines of CbCR rule will be used.

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