

Pillar Two

Permanent Safe Harbours

At a glance...

Recent OECD/G20 IF guidance* contains following **three non-cumulative tests** [which we ranked from requiring the least data sources and data adjustments to the most] in order for a Tested Jurisdiction of Constituent Entities to be eligible for a **permanent Simplified Calculations Safe Harbour** where a **zero Top-Up Tax** applies without full GloBE.

De Minimis test

IF
**AND (Simplified GloBE Revenue < EUR 10m;
 Simplified Net GloBE Income < EUR 1m)**
THEN Simplified Calculations Safe Harbour **END**
ELSE Go to ETR test

- Based on 3-year average data
- Starting point is full GloBE rules, but with Simplified Calculations as per framework
- No guidance on simplification measures yet - to be implemented through Agreed Administrative Guidance to be developed

ETR test

IF
Simplified GloBE ETR >= 15%
THEN Simplified Calculations Safe Harbour **END**
ELSE Go to Routine Profits test

- Based on current year data
- ETR as determined under the simplified income and tax calculations
- Starting point is full GloBE rules, but with Simplified Calculations as per framework
- No guidance on simplification measures yet - to be implemented through Agreed Administrative Guidance to be developed

Routine Profits test

IF
**Simplified Net GloBE Income <=
 GloBE Substance-Based Income Exclusion (SBIE)**
THEN Transitional CbCR Safe Harbour eligible **END**
ELSE Full GloBE rules apply **END**

- Based on current year data
- Again no GloBE Income simplification yet
- SBIE as per complete GloBE rules (art. 5.3) - i.e. sum of payroll carve-out and tangible asset carve-out as per the GloBE rules, including all specific considerations

Non-Material Constituent Entity (NMCE)

= Constituent Entity of an MNE Group that is not consolidated on a line-by-line basis in the MNE Group's audited consolidated financial statements solely for size or materiality grounds and includes any Permanent Establishment of such Constituent Entity
 - For qualifying NMCEs, Simplified Calculations will be available on the basis of Constituent Entity-by-Constituent Entity data extracted from the financial accounts using definitions of CBCR.

Agreed Administrative Guidance

- Current guidance just provides for a framework for (potential) permanent safe harbours, based on Simplified Calculations
 - The calculations would be provided in Agreed Administrative Guidance whereas the Inclusive Framework on BEPS determined in its current framework that such adjustments or simplifications must: (a) provide for the same final outcomes as those provided under the GloBE Rules; or (b) do not otherwise undermine the integrity of the GloBE Rules.

* OECD (Paris 2022), Safe Harbours and Penalty Relief: Global Anti-Base Erosion Rules (Pillar Two), OECD/ G20 Inclusive Framework on BEPS, OECD, Paris. Published 20 December 2022. www.oecd.org/tax/beps/safe-harbours-and-penalty-relief-global-anti-base-erosion-rules-pillar-two.pdf

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