

Navigating Pillar Two Compliance: Strategies & Solutions with Grant Thornton and Orbitax

Teaser Video Transcript

Pillar 2 Framework

So we'll start with who's impacted. A Pillar 2 applies to multinational enterprise groups, MNEs you'll hear us refer to them most likely, with consolidated revenue of at least €750 million in two of the four preceding years. So you really need two things. You need to be subject tax in more than one jurisdiction, and you need to meet that revenue threshold in two of the preceding four.

The revenue threshold is very similar to the country reporting threshold that you may all be familiar with, but there are some distinct differences. If you're above that threshold, then your group is going to be pulled in and that covers a broad range of corporations, partnerships, trust, PEs, really all the constituent entities that are identified within the group. Although there is a few carve outs for governments, nonprofits, REITs and other certain specific investment funds, as far as the framework or the architecture if you will, as to how this applies, there are three really 4 charging mechanisms for Pillar 2 and these operate to collect the tax and they take various approaches, top down, local country, priority, backstop and so on and so forth.

The goal is to tax all profits no matter where they are earned at a minimum rate of 15%. So be at the Cayman Islands or Germany, the effective rate is 15%. And what that effectively does is it moves the so-called race to the bottom from 0% up to 15 and prevents some of that desire to base a road out of high tax jurisdictions. So as far as the implementation framework operates, the first we have the income inclusion regime or the IIR. That's the starting point for the GloBE rules. And this rule imposes a top up tax on the ultimate parent entity, the UPE or in many cases, particularly in the US, the intermediate parent entity when the UPE is not an implementing jurisdiction.

So think of foreign holding company for example and that applies based on the low tax profits of its subsidiary, similar to guilty in some ways but has some key differences. Next, we have the qualified domestic minimum top of tax, the QDMTT which gives the local jurisdiction first priority of taxing that income. So if it meets certain requirements, QDMTT will take priority over an income inclusion regime and will reduce or eliminate the top of tax of the parent. So an example of the UK owned Ireland, UK would impose an IIR. Well Ireland may want to tax their own income first, so they will have under a QDMTT the first right to tax that up to 15% and if they do so then there would be no top of tax at the UK level.

Next, we have the under tax profit rule of the UTPR, and that functions is what I like to call a backstop kicks in when neither the income inclusion regime nor the QDMTT have been applied, and denies deductions imposes a top of tax to make up the gap of the low tax income. In principle, when a jurisdiction is under taxed and one of the other mechanisms hasn't applied to top it up to 15%, all other implementing jurisdictions in the group are able to tax those profits and it's done based on effectively an apportionment factor. And lastly, we're not going to talk about today, but there's a subject tax rule. It's a treaty-based provision allowing certain developing countries to tax some income.