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19 August 2024

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RE: GloBE Information Return XML Schema

Via email: taxpublicconsultation@oecd.org

Dear Sir or Madam:

On 10 July 2024, the OECD published a *Draft User Guide for the GloBE Information Return XML Schema* (the “Guide”) “which is designed to both facilitate domestic GIR filings, wherever appropriate, and to be the technical format for exchanging GIR information between tax administrations.” The Guide is another step forward for the OECD’s Pillar Two project, which would implement a global anti-base erosion tax (“GloBE”). The OECD asked for stakeholder input on the Guide no later than 19 August 2024. On behalf of Tax Executives Institute, Inc. (“TEI”), I am pleased to respond to the OECD’s request for input.

About TEI

TEI was founded in 1944 to serve the needs of business tax professionals. Today, the organization has 56 chapters in Europe the Middle East & Africa (“EMEA”), North and South America, and Asia. TEI, as the preeminent association of in-house tax professionals worldwide, has a significant interest in promoting sound tax policy, as well as the fair and efficient administration of the tax laws, at all levels of government. Our over 6,000 individual members represent over 2,800 of the leading companies in the world.¹

TEI Comments

TEI appreciates the OECD’s efforts to adopt a single GloBE filing system similar to the country-by-country reporting (“CbCR”) Extensible Markup Language (“XML”) system.

¹ TEI is organized under the Not-For-Profit Corporation Law of the State of New York. TEI is exempt from U.S. Federal Income Tax under section 501(c)(6) of the U.S. Internal Revenue Code of 1986, as amended.

It would be beneficial for the OECD to provide a framework for countries to implement a centralized exchange network for the GloBE information return (“GIR”), which could be upgraded periodically as technology and the Pillar Two rules evolve. Thus, the OECD should establish common protocols and schemas to ensure interoperability among tax authorities with respect to Pillar Two filings. Further, a central filing system would help prevent disputes between tax authorities and taxpayers as well as among tax authorities themselves.

We note that future guidance under Pillar Two may require changes to the GIR and thus the GIR XML schema. To ensure a smooth exchange of GIR information, future updates of the schema must be accepted by all participating countries, otherwise the seamless exchange of information may be disrupted.

It is still critical from our members’ perspective to ensure that only data that is strictly needed to support a calculation where payments are due should be provided to only relevant authorities where that payment is due. The GIR requires a substantial amount of data, so we also expect this would include guardrails to protect company data to what is strictly necessary. This does not change our strong view that all filings should be with the UPE jurisdiction, or elective secondary jurisdiction (as noted below), and subject to exchange of information agreements.

GIR Filing Implementation Date

As a threshold matter, to TEI’s knowledge no countries have entered into GIR exchange agreements. TEI strongly encourages countries to conclude GIR exchange agreements before the end of this calendar year. Without a robust GIR exchange agreement network, tax administrations and multinational enterprises (“MNEs”) face substantial uncertainty and complexity regarding how to file GloBE information and where it will be available. To avoid this cumbersome compliance exercise – attributable to the reluctance of countries to conclude such agreements – TEI recommends continued prioritization of the GIR filing framework.

Uniform Schema and Portal

To maintain consistency of the global system, TEI recommends countries be required to uniformly implement the GIR XML schema. Submission formats, reporting portals, and notification requirements should be consistent across all implementing jurisdictions. Even slight differences between formatting or information requirements among jurisdictions would require additional time and expense, including a review to ensure compliance, which would generate significant financial costs for MNEs.

For example, several countries either do not follow the standard CbCR XML schema or have specific requirements regarding CbCR information. This forces MNE groups to expend additional time and resources satisfying the different requirements. Moreover, different jurisdictions developed bespoke CbCR filing portals, as a result of which filing the CbCR in multiple jurisdictions involved hiring local counsel and the use of information technology resources to submit the CbCR to those countries. Similar duplicative expenses and use of resources may arise in the case of multiple GIR filings, especially because the GIR contains significantly more data than the CbCR. These issues would be avoided in the GIR XML schema by requiring uniformity.

Countries should also cease developing their own “DocRefID” requirements. They are all sharing these files with one another and if Germany must read U.K. filings and the U.K. must read Dutch filings, all the DocRefIDs requirements should be standardized for ease of compliance.

XML Schema Inputs Should be Defined

All inputs into the GIR XML schema should be explicitly defined, as slight differences in practice between countries could inhibit some MNEs’ ability to file the GIR or some countries to receive the return. For example, the standard UTF-8 character set should be published as soon as possible. Some countries have special characters which are not commonplace in other jurisdictions. So that those characters are not rejected by the system, a framework must be established for those special characters. Implementing jurisdictions should be required to adopt this framework and accept alternate spelling/characters in such circumstances. For example, entity names may be provided in a local language with different characters, so a standard convention of which letters will be accepted is important (i.e., will ä, ö, ü and ß characters be accepted or should entity names be converted to a specific framework?).

Timing of XML Schema Implementation

The GIR XML schema’s implementation date should be fixed and the portal ready at least 90 days before reporting begins to ensure no unnecessary delays or surprises. Targeting a date prior to live reporting will help ensure minor bugs and schema fixes are worked out, minimizing reporting disruptions. MNEs will invest significant time and resources to develop the systems necessary to comply with the GIR. The systems development costs will take MNE resources away from productive uses, so it is important the implementation timing does not slip.

The CbCR Exchange Network took considerable time to develop. A similarly long implementation process of the exchange network for the GIR would create tax certainty issues

of its own. For example, if an MNE makes multiple filings in year 1 and a dispute arises in year 2 on one of the filings, should the MNE inform the authorities of such dispute in the other filings? And if so, how (e.g., new filings in all countries)? Further, the rules regarding the administration of the GloBE return, dispute resolution, and the practical matters regarding the filing are currently lagging the development of the other rules, creating significant uncertainty for taxpayers. Without these rules, taxpayers subject to Pillar Two may have to file returns in many jurisdictions, creating costs that tax departments must plan and budget for in advance of the filings.

Secondary Filing Mechanism

TEI recommends the OECD consider including a secondary filing mechanism allowing a taxpayer to designate a secondary jurisdiction to exchange information with certain jurisdictions that do not have an exchange of information agreement with the ultimate parent entity (“UPE”) or the Designated Filing Entity. Such a mechanism would allow taxpayers to streamline their compliance obligations by filing in fewer jurisdictions.

The benefits of the secondary filing mechanism can be shown with the following example: Assume that the UPE jurisdiction has Pillar Two exchange of information agreements in place with most countries in the world (North America, EU, Africa, Asia Pacific) except for Latin American countries. Further assume that Country Y has Pillar Two information exchange agreements with all Latin American Countries. If the Model Rules include a secondary filing mechanism, an MNE may choose to file with the UPE parent jurisdiction for all countries except those in Latin America and select Country Y as a secondary filer which would then exchange the GIR with every country in Latin America. Absent a secondary filing mechanism, the MNE would have to file in each Latin American country in addition to filing with the UPE jurisdiction.

Data Security

The OECD should work with jurisdictions to ensure appropriate mechanisms to safely store and receive the GIR XML schema data, which will be significant. This data will contain sensitive MNE information, requiring appropriate safeguards. Further, the sheer volume of data will be significant, and countries must develop the means to safely receive and store the data.

MNE Data Contact

The OECD should clarify that the MNE determines the contact for the message header and that the person can be any individual so long as they are an employee of the MNE group. Furthermore, additional guidance on the required contact information to be provided would

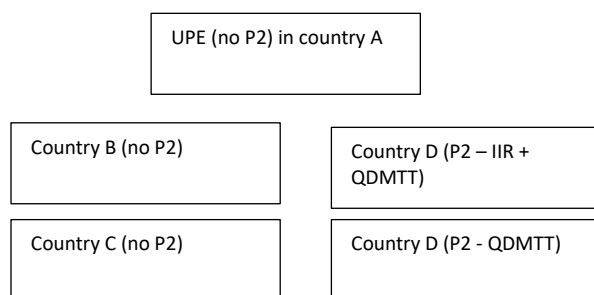
be useful. For example, is the contact's full name and e-mail address sufficient or would a phone number or other information also be required?

Aggregated Reporting

We welcome the discussion of Aggregated Reporting for tax Consolidated Groups in the GIR guidance published to date. However, the requirements underlying such Reporting do not leave room for jurisdictional differences in what constitutes a consolidated group that do not impact the calculation / allocation of Top Up Tax. For example, the OECD publication *Tax Challenges Arising from the Digitalisation of the Economy – GloBE Information Return (Pillar Two)* requires "all consolidated entities [to be] wholly owned by the consolidating entity." However, many jurisdictions permit consolidation even if not all entities are wholly owned. As an example of insignificant deviations from the wholly owned requirement that does not impact the calculation / allocation of Top Up Tax is the 95% shareholding requirement in the Dutch / Luxembourg Tax Consolidation regime. There does not appear to be a policy rationale to exclude the aforementioned fiscal unity (and other consolidation) regimes from the option for aggregated reporting in the GIR. TEI recommends the wholly owned requirement be loosened to permit consolidation regimes such as the one above to qualify for aggregate reporting. If the OECD is worried about consolidated groups that are not wholly owned, the GIR XML schema could include a box for MNE groups to check when their consolidation is not wholly owned, which would alert tax authorities to the issue.

Limiting Reporting in 2024

TEI recommends limiting the information needed to be reported in 2024 for jurisdictions that have not implemented a qualified domestic minimum top-up-tax or in jurisdictions in which the MNE group does not have an IIR shareholder as such information would be irrelevant. The information that should be limited is illustrated by the following:



As the UTPR does not apply in 2024, the information on Country A, B and C is irrelevant in that there will be no effective levying of Top-up Tax.

TEI recommends the GIR does not need to be filled out in 2024 for, in this example, Country A, B and C as there will not be an effective levying of Top-up Tax under the QDMTT and/or IIR.

The same goes for the table with high-level information designed to provide an overview of the application of the GloBE Rules in respect of the MNE Group. This table should be completed only if and insofar as a jurisdiction is effectively subject to Top-up Tax under Pillar 2.

Safe Harbors

Many of our strongest concerns about the GIR, whether volume of information, extent of disclosures and tailoring to need, administrative burden and cost, uncertainty, among others, would be alleviated by effective safe harbors. Without critical simplifications, companies and tax administrations, will be forced to expend substantial resources for compliance where actual tax liability may be minimal or non-existent. Also, unnecessary complexity will lead to more uncertainty and potential for disputes. We strongly encourage the development of permanent safe harbors. This could, for example, be profits-before-tax aggregated by country and based on the UPE's applicable accounting standard. For this simplified calculation, there should be few, easy-to-track, reasonable adjustments to maintain the objective of simplification. We look forward to further discussions in this area and are open to contributing further feedback. Simplification efforts will be extremely important for the effectiveness and durability of the policies underlying these rules.

Other Comments

The timestamp information should be clarified as to whether it is intended to function on a 24-hour time convention and what time zone MNEs should use for the reference time.

Companies often have different taxpayer identification numbers for the same entity; for example, a German entity may have a German tax ID and a U.S. tax ID. The OECD should clarify whether MNEs can choose which tax ID to use for each constituent entity. For example, would an MNE be able to use German tax IDs for some German entities but U.S. tax IDs for other German entities?

The OECD should continue to evaluate the information required for Pillar Two reporting for simplification purposes as Pillar Two implementation expands. There is significant momentum towards local adoption of DMTTs, and thus the importance of the IIR and UTPR will become more and more limited. Moreover, there is overlap between Pillar Two and the CbCR, so MNEs are doing very similar compliance work twice (e.g., the list of legal entities is already in the CbCR).

Finally, the OECD should work to establish consistent notification formats so MNEs can develop tools to allow the notifications to be properly received and characterized, reducing incremental manual work.

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TEI appreciates the opportunity to provide input on the Guide. TEI's comments were prepared under the aegis of its EMEA Direct Tax Committee. Should you have any questions regarding TEI's comments, please do not hesitate to contact Ralf Thelosen of Citco at



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Respectfully submitted,

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