

A CLOSER LOOK AT...

N° 2 - International tax reform (Pillar 2) – global minimum tax: transition rules and filing obligations

The GloBE model rules (Pillar 2) involve complex reporting obligations for groups that fall within the scope of the rules. Such groups now have to set up a laborious process of collecting and restating the qualifying income and covered taxes to determine the effective tax rate and, where applicable, the amount of the top-up tax in each jurisdiction.

The GloBE rules drawn up by the OECD as part of the international tax reform, adopted by the European Commission in Council Directive (EU) 2022/2523 of 14 December 2022 and transposed into French law in the Law of 29 December 2024, introduce a global minimum tax rate of 15% on the profits of multinational enterprise groups and large-scale domestic groups.

These rules come into force for financial years beginning on or after 1 January 2024. Given the complexity of the rules and the considerable amount of work necessary to implement them, it would be advisable for the groups to start looking at whether the transition rules and simplification measures provided for by the law apply to them.

The Pillar 2 rules provide for the following transition rules.

Temporary safe harbours

The top-up tax is not due by the filing entity or the group when one of the following conditions is met (French Tax Code (CGI), Art. 223 VZ bis):

1. The sum of the revenues of the constituent entities located in a State or territory is less than €10m and the sum of the profits and losses before tax of those entities is negative or less than €1m.
2. The simplified effective tax rate of all of these constituent entities located in the State or territory if it is equal to or higher than the minimum transitional tax rate.

The simplified effective tax rate is calculated by dividing the sum of the simplified covered taxes by the sum of the profits and losses before tax of all the constituent entities located in this State or territory reported in the return.

The simplified covered taxes of all the constituent entities located in a State or territory correspond to their total tax expense reported in the consolidated financial statements, minus non-covered taxes and uncertain tax positions.

The minimum transitional tax rate is set at 15% for financial years starting in the period from 31 December 2023 to 31 December 2024, 16% for financial years starting between 1 January and 31 December 2025 and 17% for financial years starting between 1 January and 31 December 2026.

3. The sum of the profits and losses of the constituent entities that are reported in the return is lower than the amount of the substance-based deduction for those entities.

These temporary safe harbours apply to financial years beginning no later than 31 December 2026 and ending no later than 30 June 2028. When the filing entity has not applied these safe harbour measures, even though the conditions were met in a given financial year, it loses the right to use them for all subsequent periods.

Election of the *de minimis* exclusion

At the election of the filing constituent entity, the top-up tax due for the constituent entities located in a State or territory is zero if the following conditions are both met (CGI Art. 223 WD):

1. The average total adjusted revenues of all the constituent entities located in this State or territory for this financial year and the two previous financial years, is less than €10m; and
2. The average net qualifying income or net qualifying loss in this State or territory for this financial year and the two previous financial years is a loss or less than €1m.

The election is made on the return for the first financial year to which it applies and is tacitly renewed for subsequent years.

Recognition and presentation of top-up tax in the financial statements

The amendments to IAS 12 published by the IASB on 23 May 2023, endorsed by the European Commission and published in the OJEU on 9 November 2023, detail the expected impacts of the implementation of the Pillar 2 rules on financial statements.

For financial years beginning on or after 1 January 2023, these amendments provide for:

- An exemption to the requirement to recognise and disclose deferred taxes arising from the implementation of the Pillar 2 rules. The entity must state in the Notes that it has applied this exception;
- **Information in the Notes on the current tax expense related to Pillar 2 top-up tax payable;**
- In the transition period when the Pillar 2 rules are enacted but not yet in effect, qualitative and quantitative information in the Notes on the entity's exposure to Pillar 2 top-up taxes to the extent this information is known or reasonably estimable.

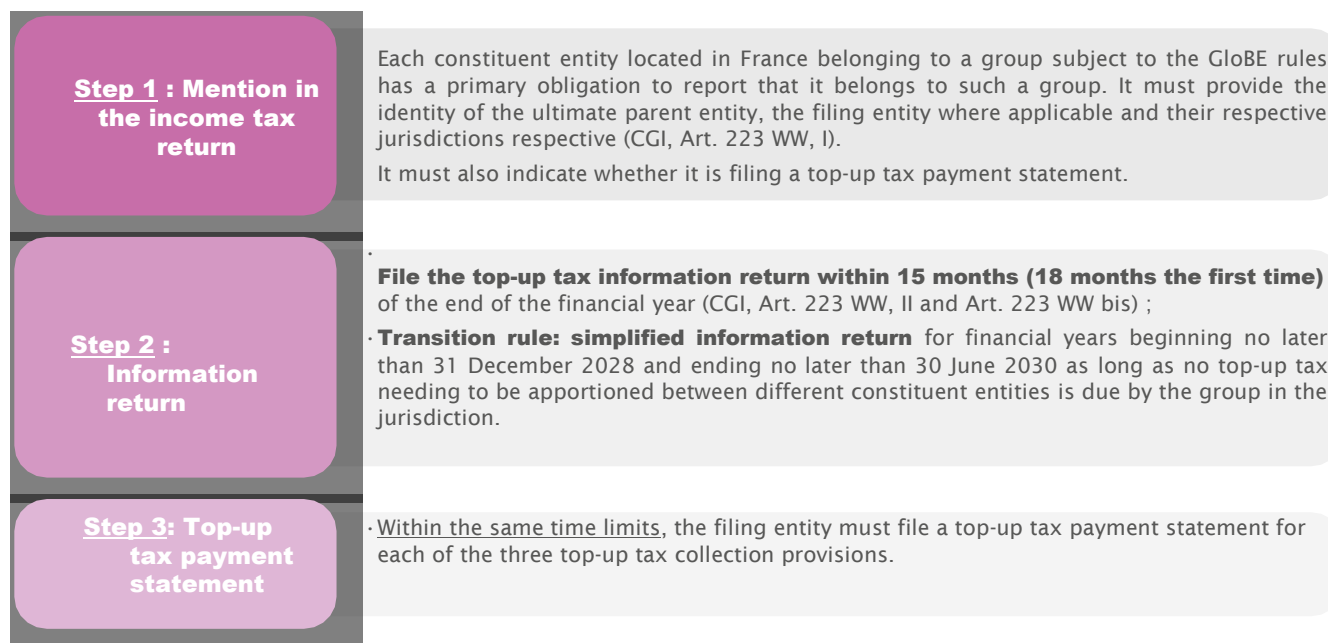
The French accounting standards body (*Autorité des normes comptables*, ANC) has also introduced an exception in its rules on consolidated financial statements concerning the recognition of deferred tax assets and liabilities linked to the application of the Pillar 2 rules.

For financial years beginning on or after 1 January 2024, in addition to the breakdown between current taxes and deferred taxes, the Notes must specifically mention the tax expense recognised for the top-up tax under the GloBE rules (ANC Regulation No. 2020-01, Art. 282-27).

Filing obligations

Decree no. 2024-1126 of 4 December 2024 lays down the filing obligation to be met by constituent entities located in France that are part of a group subject to the Pillar 2 rules. These filing obligations apply in three steps (see figure 1).

Figure 1: Global minimum tax - filing obligations



In theory, each constituent entity in the group must report that it belongs to a group in its **income tax return**, and then it must file a **GloBE information return** and a **top-up tax payment statement**.

However, a group's constituent entities are exempted from filing the information return when this is done by the ultimate parent entity or by an entity specially designated to do so. Likewise, constituent entities located in France may be exempted from filing the top-up tax payment statement when they have designated a single entity in France to file the statement and pay the full amount of top-up tax on their behalf.

The top-up tax information return must be filed electronically, **within fifteen months of the end of the financial year or eighteen months for the first financial year** during which the group or constituent entity comes into the scope of the GloBE rules for the first time.

The information return contains all the information needed to calculate the effective tax rate and, where applicable, the top-up tax rate as well as all the information relating to the transitional safe harbours and the simplified return option. This information return therefore requires a complex process of collecting and restating data to determine the qualifying income and covered taxes adjusted for each jurisdiction.

In fact, **the filing entity may opt for the transitional simplified information return when the following two conditions are met:**

- The financial year concerned by the option began no later than 31 December 2028 and ended no later than 30 June 203;
- No top-up tax needing to be apportioned between different constituent entities is due by the group in the jurisdiction concerned.

This simplified return contains less information and the administrative burden involved in complying with the regulations is therefore reduced. In particular it enables the filing entity to present aggregated information on the qualifying income, the adjusted amount of the covered taxes and the total amount of the adjustment for deferred tax in the jurisdiction concerned.

Finally, the Budget Minister issues, in a ministerial order, a list of the States or territories that have adopted a qualifying domestic top-up tax and which have signed an agreement with France on the automatic exchange of GloBE Information Returns in respect of this taxation (CGI, Art. 46 quater-0 ZZG).