Overview of Pillar Two from a Practitioner’s Perspective

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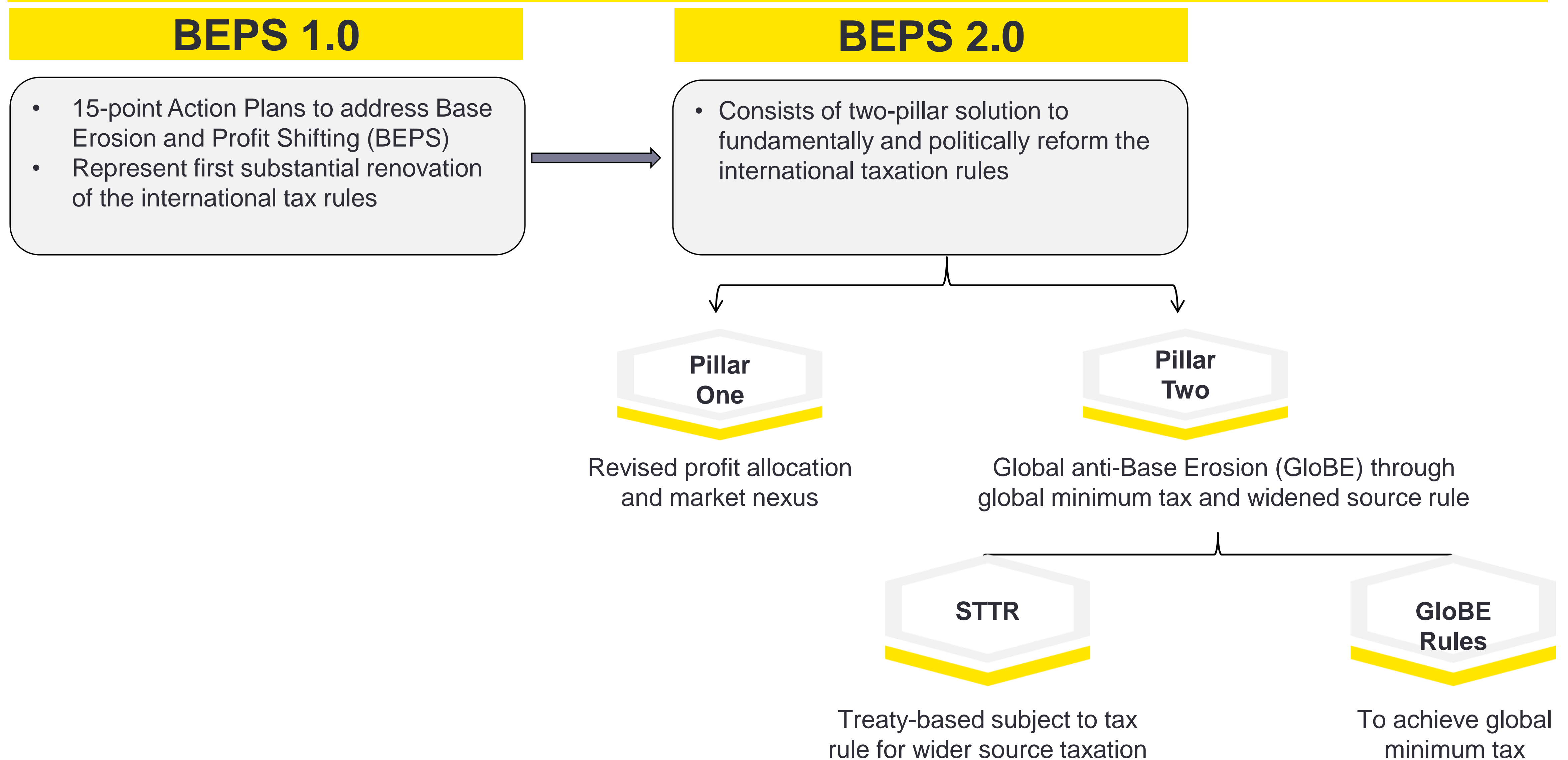
May 2022

BEPS 2.0 - Overview



GloBE Model Rules

Preamble:

"The GloBE rules provide for a **coordinated system of taxation** intended to ensure large MNE Groups pay a **minimum level of tax** on the income arising in each of the jurisdiction where they operate. It does so by **imposing a top-up tax** whenever the Effective Tax Rate, determined on a **jurisdictional basis**, is below the minimum rate"

[Executive Summary to Model Rules]

"The fact that Inclusive Framework members have managed to reach a consensus on this detailed and comprehensive set of technical rules demonstrates their commitment to ***a co-ordinated solution*** *to addressing the challenges raised by an increasingly digitalised and globalised economy"*

by Pascal Saint-Amans, Director OECD CTPA*,
(December 2021)

"Tell your CFOs, your CEOs, that the game has changed and that the ***tax function should be boring****. It's no longer a profit centre.*

So just tell your tax colleagues that ***it's going to be boring****. They will have to comply to pay the tax. And that's done. They will stop playing with very sophisticated engineering."*

by Pascal Saint-Amans, Director OECD CTPA**
(November 2021)

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* *Source: OECD Press Release dated 20 December 2021 titled 'OECD releases Pillar Two model rules for domestic implementation of 15% global minimum tax'*

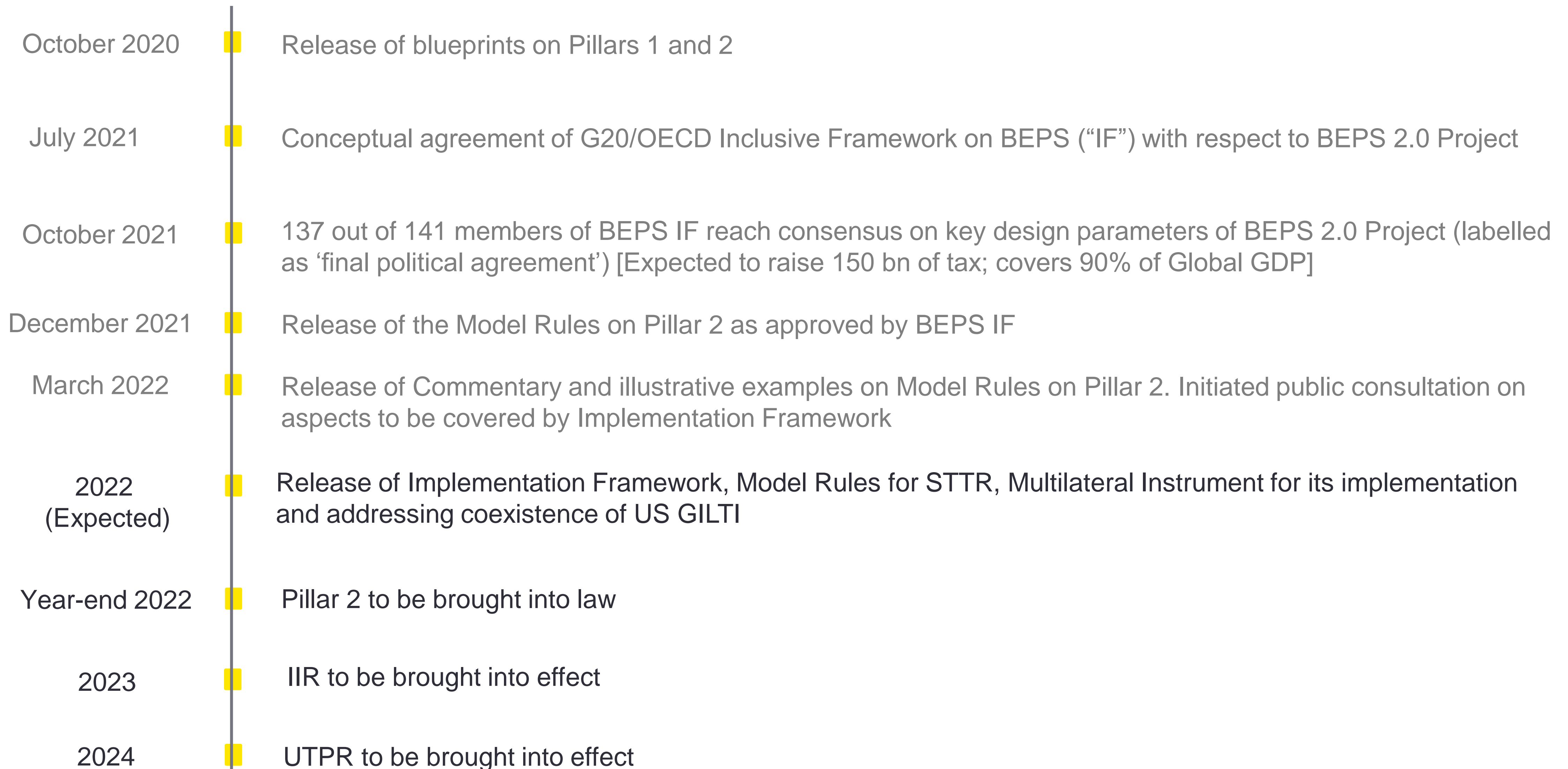
** *Source: https://mnetax.com/global-minimum-tax-will-work-if-implemented-oecds-saint-amans-says-46122*

Pillar 2 – Policy Objectives

- Pillar 2 aims to end “race to bottom” in corporate taxation
  - Setting tax rates is a sovereign right of a jurisdiction, but where rates are set too low, they adversely affect sovereign rights of another jurisdiction [forcing them to lower tax rates]
- Reduce pressure on developing countries to offer wasteful tax incentives
- Ensure that decisions on investments and effective capital allocation are based on non-tax factors such as infrastructure, education levels or labour costs
- Restore public finances post COVID by increase in corporate tax revenue globally, meet Environmental, Social, and Governance (ESG) transformation cost
- Trigger minimum tax in each jurisdiction in respect of profits in excess of routine returns related to real substance i.e. related to average net book value of tangible assets and payroll cost

- Model rules reflect common approach but optional measure i.e. countries may opt out at their discretion but will agree to implementation by others - if implemented, adhere to common template
- Complex model rules contemplate to provide a template for adoption by member countries: Couched in highly technical language adding several new concepts beyond the Blueprint

Path Forward



Is Pillar 2 on track?

1

EU ECOFIN Meeting (5 April 2022)
Most likely, the Income Inclusion Rule will effectively enter into effect in the EU in 2024. The Undertaxed Profit Rule will likely enter into effect in 2025. Small Member States will be allowed to delay the introduction of the rules

2

EU Parliament Panel (28 April 22)
EU countries should press Pillar 2 more quickly than currently envisaged timeline and should be ready to implement it by 31 December 2022"

3

US Treasury Secretary (13 April 2022)
Our corporations will no longer be based in the only country on earth that requires them to pay a minimum tax on their foreign earnings. This **level playing field will enhance their competitiveness relative to foreign corporations**

4

US Senate Finance Committee (Republicans) (22 Dec 2021 / 16 Feb 2022)

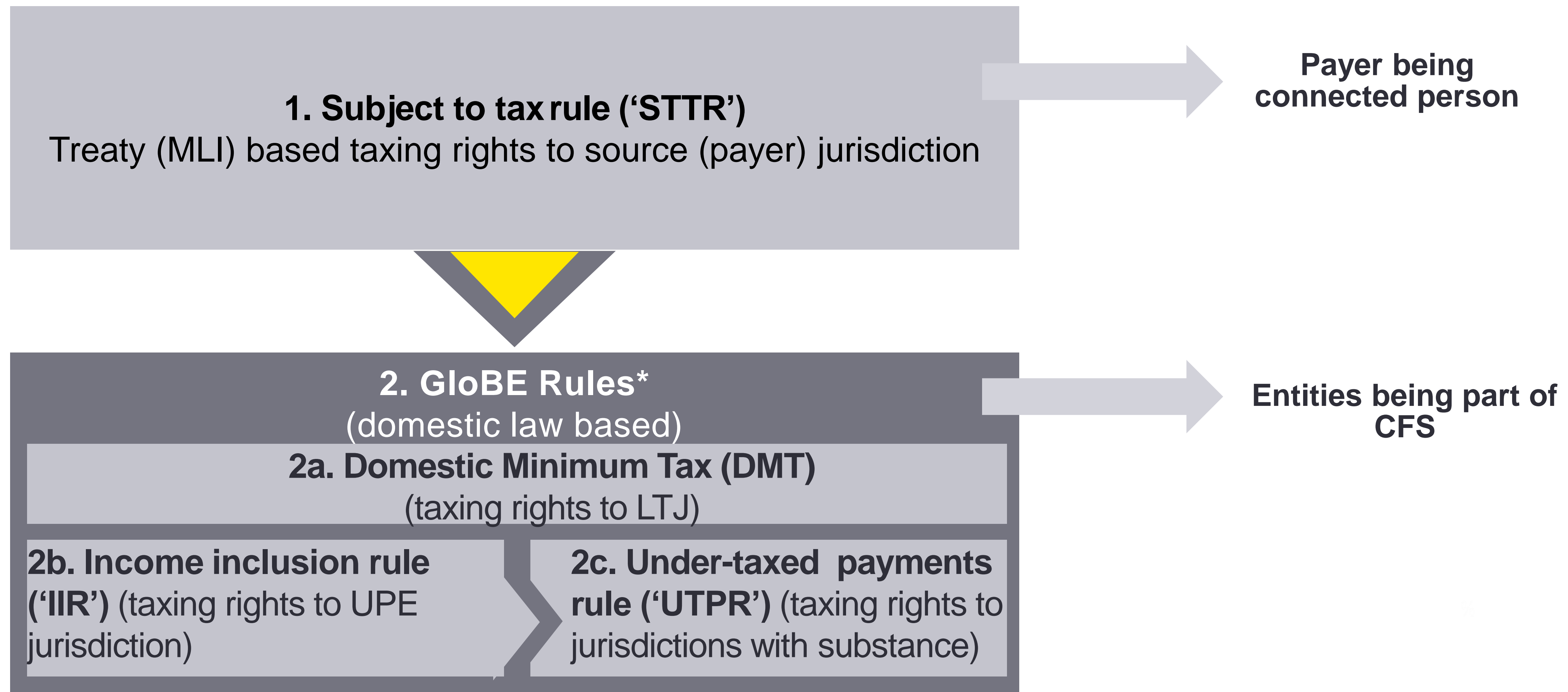
As **Pillar Two does not require other countries to adopt a global minimum tax**, we are not confident that our biggest foreign competitors, like China, will enact and implement a global minimum tax on the same terms or on the timeline agreed to at the OECD…

…**foreign countries could effectively capture the benefit of congressionally-provided tax credits and deductions** targeted at domestic innovation, investment, and job creation…

5

UK (27 April 2022)
The Chartered Institute of Taxation (CIOT) urges UK **not to rush into the implementation** ahead of its competitors as **quick adoption is not as important as implementing it with right policy aims**

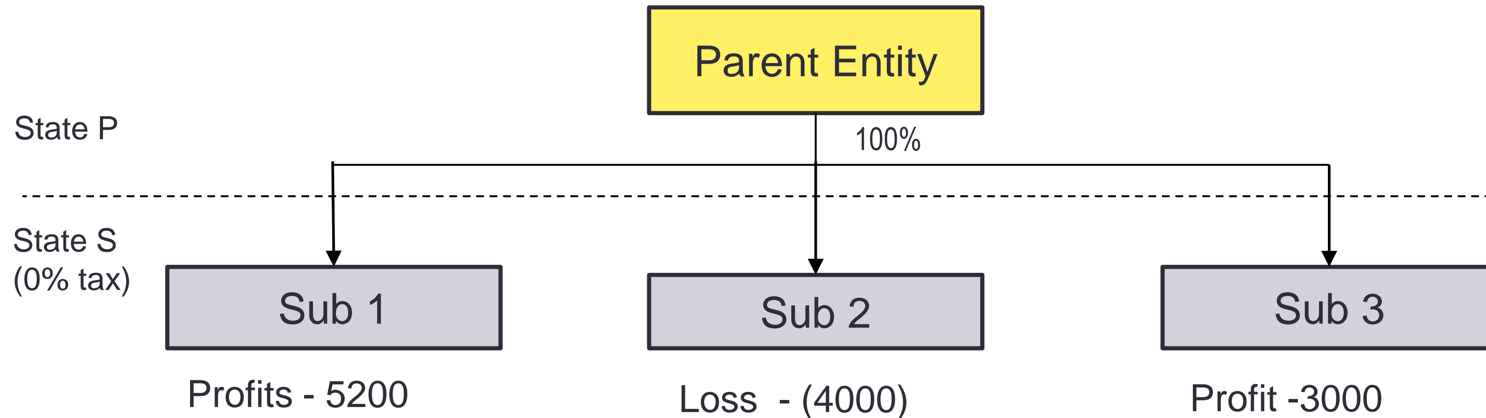
Achieving MTR through interlocking rules



Pillar 2 measures are in addition to existing SAARs including POEM, ALP, domestic GAAR, PPT

** Global anti-Base Erosion Rules*

Illustrating impact of jurisdictional blending



Illustrating GloBE TUT & Jurisdictional Blending		Amount
Aggregate book profits	A	4200
Current tax including DTL	B	NIL
ETR	C	0%
Shortfall (15% - 0%)	D	15%
Substance based exclusion* of profits	E	(200)*
Excess income (A-E)	F	4000
Top Up Tax (D x F) (15% of 4000)		600

*Reflects normatively calculated "routine profits" linked to tangible assets / payroll cost in S State

Where Pillar 2 is NOT relevant – say, India perspective

- MNEs which have revenue of < €750 mn as per CFS
- At level of individuals owning wealth through different companies/ entities
- Any Indian enterprise which has income from exports but has no PE in other jurisdictions
- If income as earned in a jurisdiction is less than 'moderate' profit due to meaningful substance
- Entity in LTJ is investment holding company and its income comprises of dividend or capital gains income or profit on fair valuation of its holdings
  - Holding can either be within group, JV, or associates, or other investments provided it is ≥ 10%
  - Holding of < 10% is considered portfolio investments and its dividend* or gain subjected to GloBE
- If some entity in overseas LTJ is considered POEM resident of India, it is regarded as located in India for GloBE rules, and will cease to be low taxed constituent entity (LTCE)
- De-minimis exclusion: If LTJ as a whole has 3 year average GloBE revenue of < € 10 mn (Rs. 85 cr) and GloBE profit of < € 1 mn (Rs 8.5 cr) as calculated by applying GloBE rules (on a jurisdictional basis)
- Losses incurred in pre-GloBE years can be captured through DTA mechanism
- Sector carve out: Income from international shipping and specified ancillary activities
- Excluded Entities : Government, international organisations, non-profit organisations, pension fund, investment fund, etc.

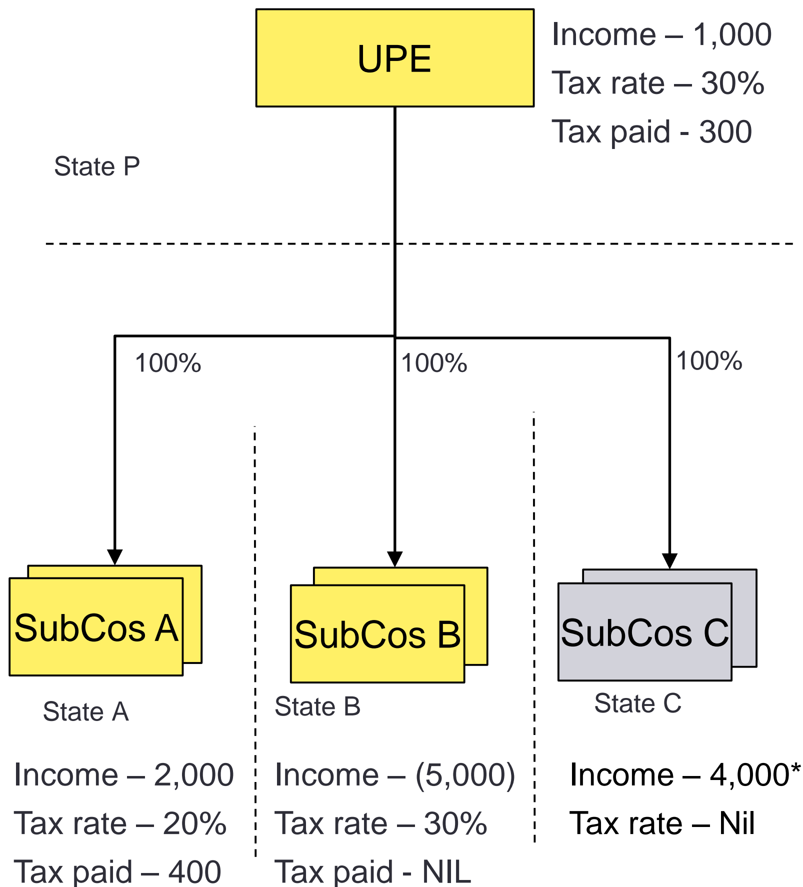
Natural persons/individuals are outside of GloBE, though trusts, partnerships are in scope

** If relating to long term holding of > a year, dividend is still exempt*

Where Pillar 2 is likely to impact

- Every meaningful MNE to bear minimum 15% tax on its “excess” profit from each jurisdiction (including HQ jurisdiction)
  - Ensure jurisdictional blending by aggregating “adjusted book profit” of all entities in a jurisdiction
  - At group level, MNE may have incurred loss as per CFS, but there are some low tax jurisdictions which have reported profit
  - ETR of MNE group as per CFS could be far in excess of 15%
- MNEs are expected to bear 15% tax in each jurisdiction– regardless of tax policy, treaty relief or any other reason whatsoever
- Interlocking and rule order ensure that if jurisdiction of shortfall fails to recover, some other jurisdiction can benefit by recovering the shortfall
- Every jurisdiction is within GloBE even if:-
  - Income is of active nature but profit earned is more than “moderate profit”. To recollect: calculation of moderate profit is as prescribed w.r.t. eligible tangible assets and eligible payroll cost
  - Business presence is in high tax jurisdiction, but tax is relieved due to economic incentive under its domestic laws, or is non chargeable due to territorial taxation norms adopted in domestic laws

Pillar 2 – Is 15% a threshold?



*In excess of "routine" returns on assets / employee cost

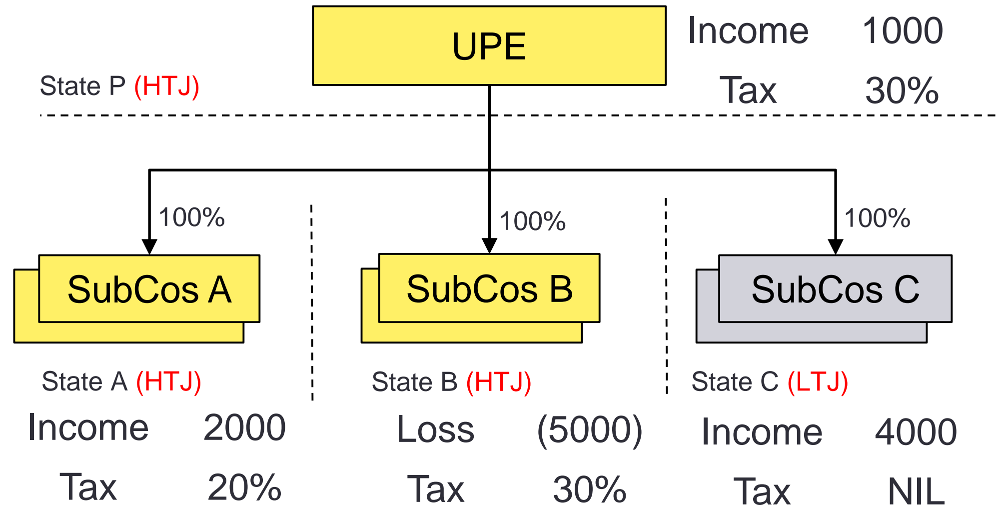
Facts:

- MNE Group, having HQ/UPE in State P, has various subsidiaries in three overseas jurisdictions (State A, B & C)
- State P and State A trigger headline tax rate of > 15%
- State A has profit on which tax paid ≥ 15% Hence, no adverse impact of GloBE
- SubCos B in State B having incurred losses on an aggregate basis (individually some of them may have profits) results in no taxes in State B
- SubCos C, despite being profitable trigger NIL tax liability, being in LTJ
  - Triggers adverse impact of GloBE
- At global CFS level: income is 2,000 (after set off of loss in State B), total tax 700; ETR is 35%

Analysis:

- GloBE determines top up tax liability at jurisdictional level and not at global CFS level
- Loss incurred in a jurisdiction (State B) are not available for effective set off against low taxed profits in other jurisdiction (State C)
  - However, losses of one entity can be set-off against MNE Group's profits of other entity in same jurisdiction
- An India headquartered MNE group will undertake GloBE calculations in INR, based on 'data pack' adopted for CFS

Pillar 2 – Is 15% a threshold?

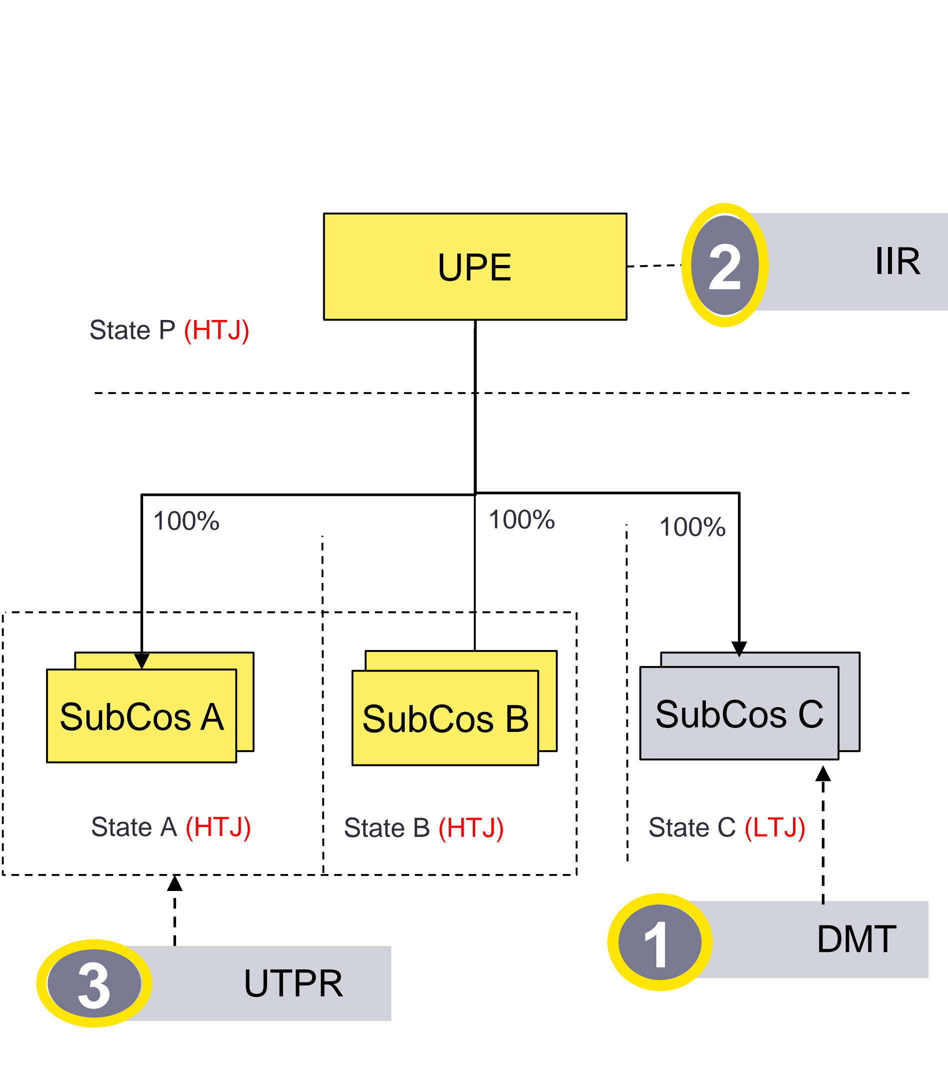


Parameters of Profits and Tax (as per CFS)

Jurisdiction	Profit / (Loss) as per CFS	Tax rate	Tax (Pre GloBE)	GloBE tax impact	Total tax (Post GloBE)
UPE	1,000	30%	300	NIL	300
SubCos A	2,000	20%	400	NIL	400
SubCos B	(5,000)	30%	NIL	NIL	NIL
SubCos C	4,000	NIL	NIL	**600**	600
Total	**2,000**		**700**	**600**	**1,300**
ETR			**35%**	**30%**	**65%**

Global ETR >15% does not foreclose GloBE trigger

Pillar 2 - A skeletal overview of Rule Order



1 DMT

- State C can implement qualified domestic minimum top-up tax of 600

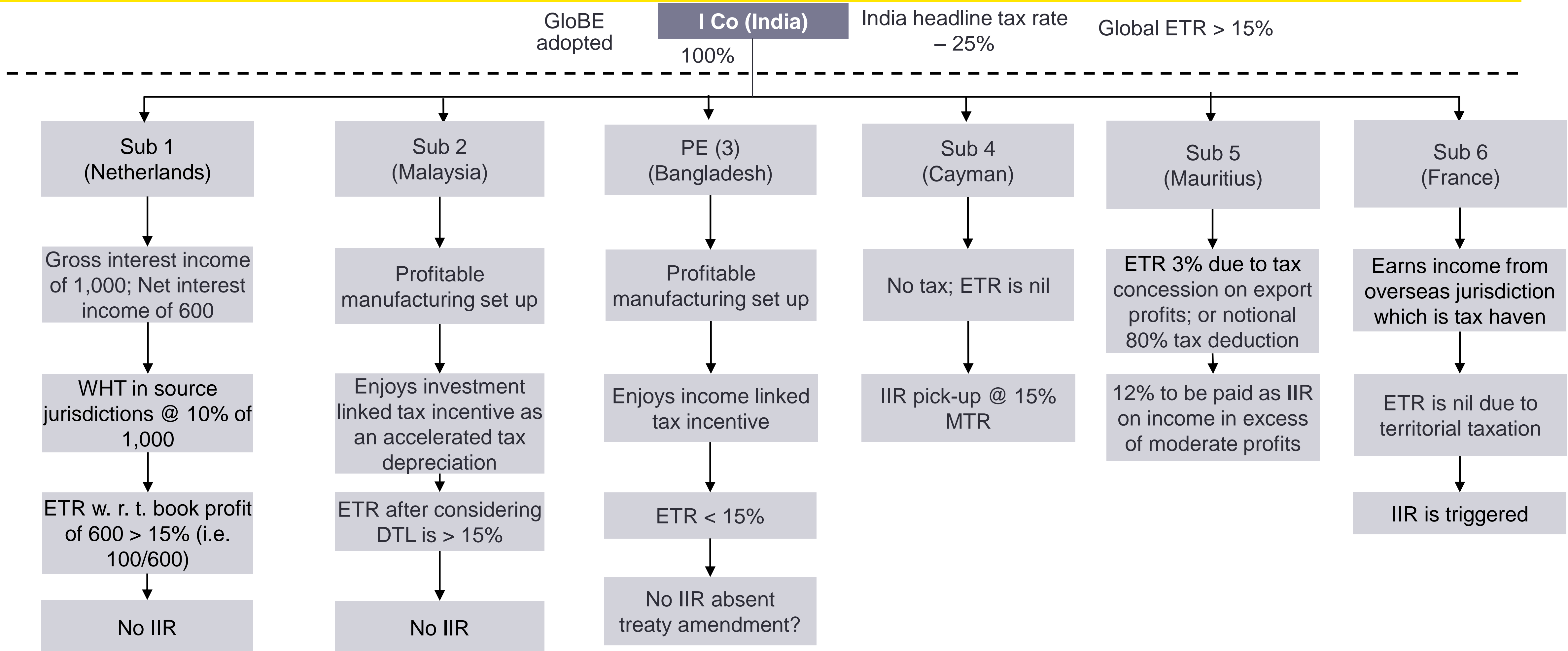
2 IIR

- If State C does not recover DMT, UPE (State P) can implement GloBE rules and recover 600 as per IIR

3 UTPR

- If State P does not recover IIR, States A and B can implement GloBE rules and recover UTPR in ratio of allocation keys (viz. number of employees and value of tangible assets)
- If State B alone implements GloBE, UTPR of 600 goes to State B alone

Illustrations: GloBE impact



To recollect: CFS reflecting global ETR > 15% does not preclude GloBE trigger!

How big companies reacting to Pillar 2

Netflix

“I can tell you, that with Pillar 2, we will have to hire an army of accountants just to guarantee that there will be consistency in complying with Pillar 2 and calculate the ETR across the 170 jurisdictions that we are in…”

- *Dr. Giammarco Cottani Director, Global Tax Policy, Netflix, at IFA International Tax Conference - “Emerging International Taxation Landscape post the Pandemic 2022” held on April 29 & 30, 2022*

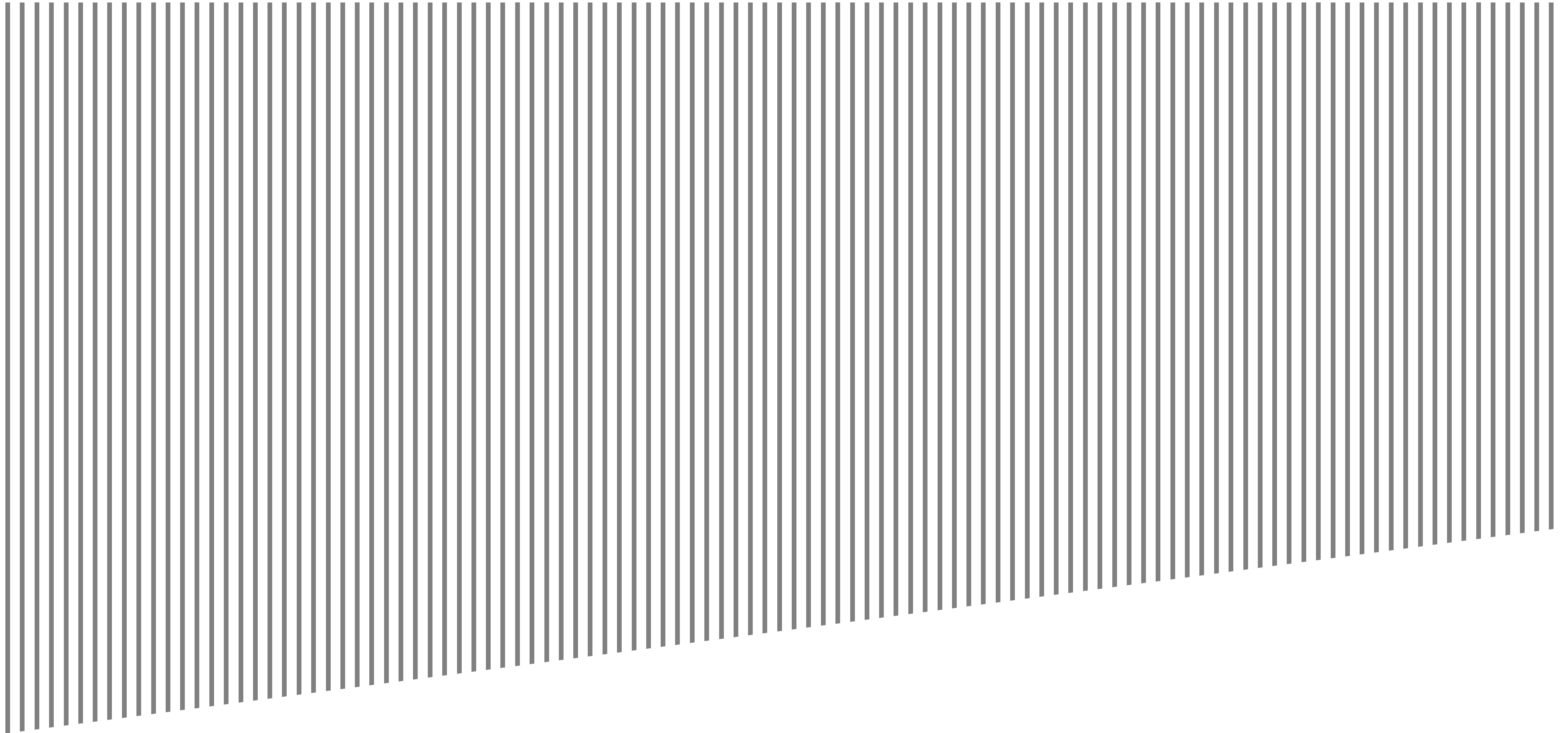
Google

“Global tax deal will make "no difference" to Alphabet Google's operations in Ireland as the company remains committed to investing and adding staff to its European hub there.

…. Ireland is a unique place. It gives us a chance to attract the best talent in the industry.”

- Sundar Pichai, Google CEO, Economic times, 28 April 2022

India and GloBE: Is India a safe harbour jurisdiction?



India’s reaction to Pillar 2

- India is likely to implement Pillar 2 as IF member, active participant in development of GloBE rules
- India’s Press Release dated 2 July 2021 confirms that
  - India is in favour of a consensus solution
  - Pillar 2 proposal vindicates India’s stand on:
    - Addressing the issue of cross border profit shifting; and
    - Wider STTR is needed to target treaty shopping
- As part of G24 Statement (comprised of developing countries) dated 19 September 2021
  - Inclusion of a simple STTR as a “minimum standard” must to address BEPS concerns
  - STTR should be transaction-based rule applying to all payments of services and capital gains without any low-return exclusion of materiality threshold[1]
  - Without a sufficiently broad STTR the Pillar 2 solution shall be sub-optimal and unsustainable
- As part of G20 Summit on 30 October 2021[2]
  - 15% MTR is just and fair, and ensure companies don't go to tax havens

“Under the BEPS framework, there is agreement on a minimum tax of 15% & discussions are going on STTR. We are fighting at 9% for royalty income, dividends. India wants capital gains to be included within this. We have raised it in the group at OECD.”
- Indian Revenue Secretary Mr. Tarun Bajaj, Economic Times

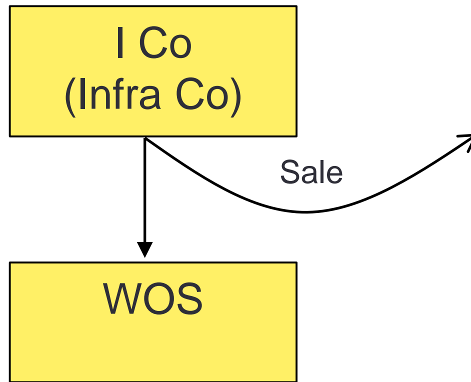
[1] *Exact scope and inclusion of capital gains contingent on final agreement*
[2] *Source: https://www.hindustantimes.com/india-news/at-g20-summit-pm-modi-calls-for-collaborative-approach-in-global-fight-against-covid19-101635614162204.html*

Is India a safe harbour jurisdiction?

- India has phased out incentives
- Entities are subject to MAT/AMT
- CTR also triggers tax @ 25%/17%
- Permanent disallowances (e.g. 14A) will only enhance ETR
- Investment linked incentive deduction results in timing difference. GloBE addresses timing mismatches through DTA/DTL
- Past losses will be available through DTA
- Incentives under S.80JJAA or concession under Patent Box Regime (PBR) ‘may’ potentially trigger GloBE – though, relevant only if profits breach moderate levels
- Companies enjoying exemption in respect of agricultural income (say, tea manufacturing company) can trigger top up levy -though, state income tax paid if any will be reckoned to determine short fall
- Jurisdictional blending will require aggregation of all Indian operations (i.e. PE taxation @40%; presumptive tax cases; S.10AA incentivised units, etc.)

However, devil is in details. A typical mismatch in GloBE basis and domestic tax law could potentially make CEs in India LTCE

Situation 1 – Impact of Excluded Loss



Particulars	Local tax computation (MAT)	GloBE computation
Operating profit	1,000	1,000
Loss on sale of shares	(600)	-
Income (a)	400	1,000
Current tax (@17%)	68	68
MAT credit	(68)	?
DTA @ 20% on 600	(120)	-
Tax (b)		68
ETR (a/b)		6.8%
Shortfall (TUT)		8.2%

- I Co enjoys 100% income linked incentive deduction in respect of its operating profit
- I Co is subject to MAT
- For year under reference, I Co has operating profit of 1,000 and loss on transfer of shares of one of the WOS of 600
- I Co's book profit for MAT purposes is 400 and tax liability @ 17% is 68
- GloBE income of I Co is 1,000
  - Loss on sale of shares of WOS is ignored and excluded
- Covered tax of I Co is 68
  - DTA qua capital loss of 120 (600 @ 20%) is ignored due to co-relative adjustment
- ETR of I Co for GloBE is 68/1,000 = 6.8% ~ 7%
- There is shortfall compared to MTR of 8% (15 – 7%)
- Open Issue: Does MAT credit entitlement reduce ETR?
- Routine return exclusion may be available on intangible asset viz. concessionaire right

Situation 2 – Impact of super deductions and recast of DTL

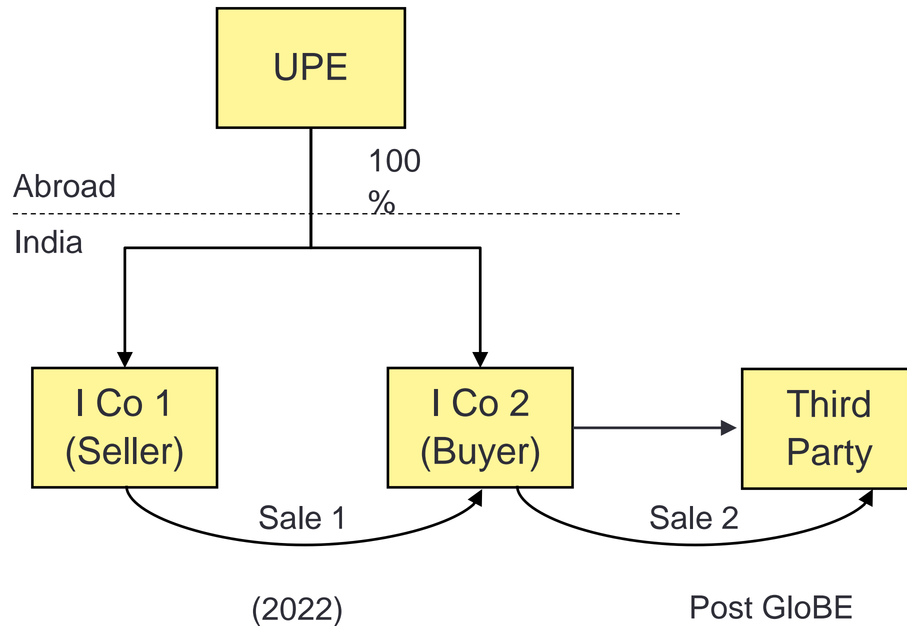
I Co
(operating company)

Tax rate: 25%

Particulars		Local tax computation (Normal)	GloBE Computation
Operating profit		1,000	1,000
Accelerated depreciation		(800)	-
S.80JJAA deduction		(200)	-
Income	(a)	Nil	1,000
DTL @ 25% of 800		200	-
DTL for GloBE (recast @ 15% of 800)			120
Tax	(b)		120
ETR	(a/b)		12%
Shortfall (TUT)			3%

- I Co has book profit of 1,000 (post book depreciation) but taxable income as per domestic law of nil on account of following two deductions:
  - Accelerated depreciation of 800 (over and above book depreciation)
  - Weighted deduction u/s. 80JJAA for employment cost of 200
- Tax payable by I Co @ 25% is nil
- In books, DTL of 200 is provided in respect of additional depreciation of 800 (25% of 800)
- GloBE income of I Co is 1,000
- Covered tax of I Co is 120 (actual tax of nil plus DTL of 120 post re-casting @ 15%)
- ETR in the facts of the case is 12% (120 / 1,000) resulting in shortfall of 3% (i.e. 15%-12%)
- TUT will be 3% of excess profit (i.e. profit over routine profits excluded based on substance)

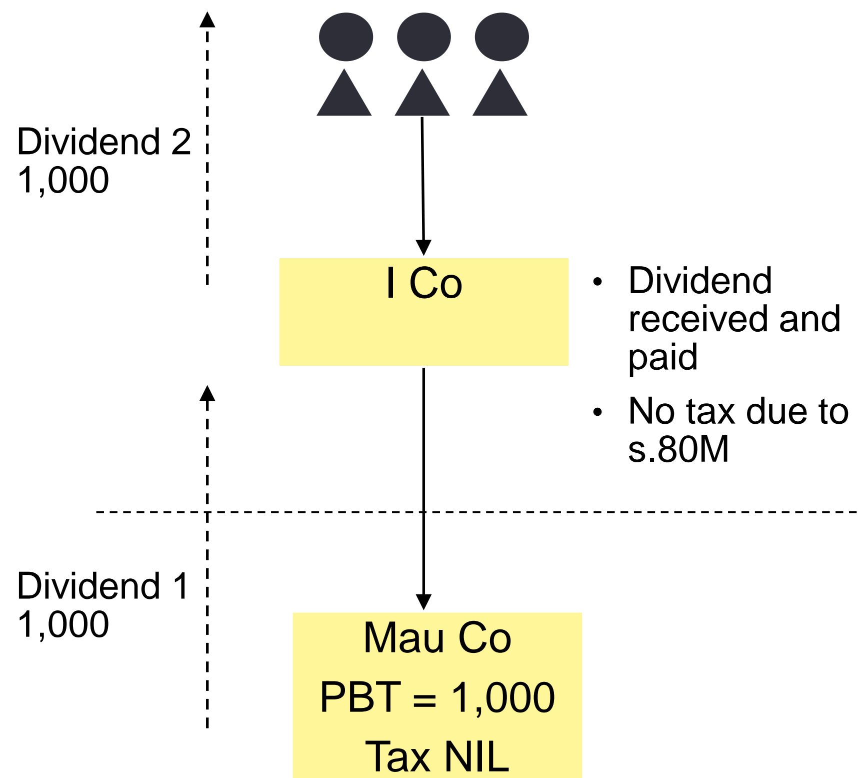
Situation 3 – No cost step up for intra-group asset transfers



ICo1's carrying value	1,000
Sale 1 Transfer price	10,000
Sale 2 Transfer price	10,000

- UPE has 2 subsidiaries in India, I Co 1 and I Co 2
- I Co 1 owns asset that has book value/cost of 1,000 and fair value of 10,000
- In 2022 (pre-GloBE)(and after 30 Nov 2021), I Co 1 transfers the asset to I Co 2 for fair value of 10,000. ICo1 pays capital gains tax @ 20% = 1,800
- In (say) 2029 (post GloBE), I Co 2 transfers such IP to third party for fair value of 10,000
- Book profit of ICo2 is NIL
- Taxable income is NIL
- GloBE income however is 9000 (i.e. fictionally ICo2's cost for GloBE is equal to carrying value of ICo1)
- Potential GloBE TUT = 15% of 9000 = 1350

IIR tax: Cross border reallocation of dividend tax and s.80M impact



- Dividend received and paid
- No tax due to s.80M

- ICo is UPE and has 100% subsidiary in Mauritius
- Mau Co earns 1,000 in calendar year 1
- Mau Co pays no local tax

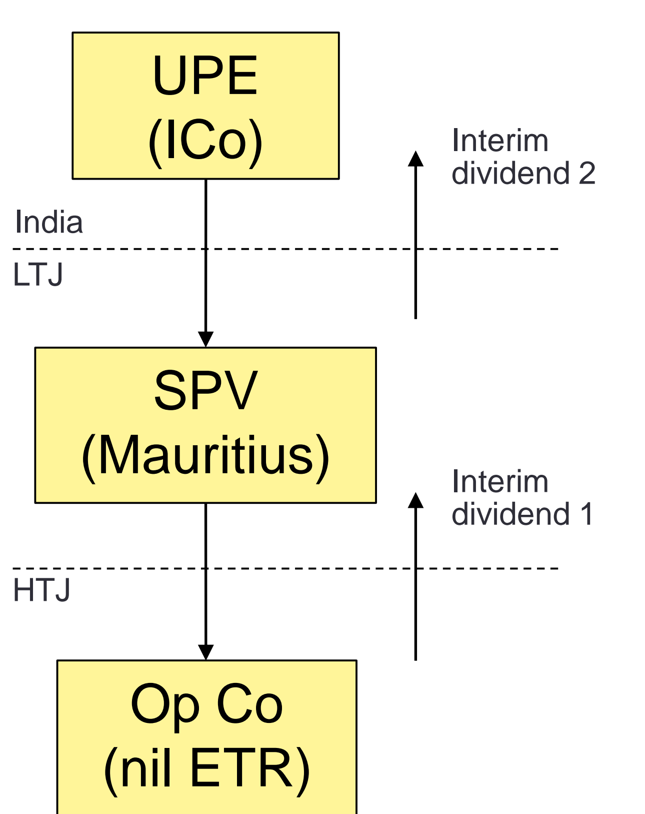
Situation 1:

- Mau Co declares interim dividend to I Co (in year 1)
- I Co does not claim s.80M deduction and pays tax @ 34% on such interim dividend
- Dividend tax is assigned to Mauritius under GloBE rules
  - Such allocation happens only on incurrence of actual tax liability by I Co
- No IIR tax for I Co as ETR > MTR (i.e. 34% > 15%)

Situation 2:

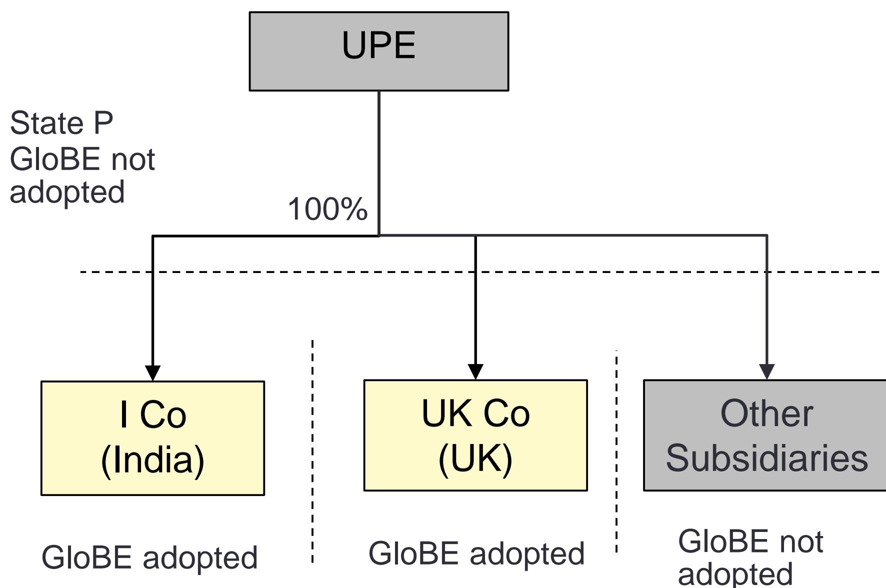
- Mau Co declares interim dividend to I Co (in year 1)
- I Co in turn distributes dividend to I Co's shareholders and claims s.80M deduction
- Shareholders of I Co pay tax @ >15% in same year
  - Shareholder's tax cannot be attributed to Mau Co (individuals are out of GloBE). Tax paid in Mauritius is Nil
  - IIR tax still applies in such year as I Co has not paid dividend tax
- Mauritius may levy tax by introducing DMT. If not, I Co pays tax of 150 to Indian Tax Authority – it is additional tax

IIR tax: Cross border reallocation of dividend tax – need to eliminate SPVs?



- Op Co is an operating entity in HTJ but enjoys well-meaning tax holiday
- Op Co's ETR is NIL
- Op Co's GloBE income is calculated @ 10,000
- Op Co pays interim dividend of 10,000 to SPV (dividend 1), SPV in turn pays interim dividend to UPE (dividend 2) in same fiscal year
- SPV pays no local tax on dividend income
  - SPV's dividend income is also excluded from GloBE income due to specific exclusion
- UPE pays tax of 34% on dividend 2
  - **UPE's tax is allocated to SPV but not to Op Co**
- UPE will therefore need to pay IIR to Indian Tax Authority on Op Co's GloBE income @15% in UPE jurisdiction
  - This tax of 1500 is additional tax. It cannot be adjusted or set off in any tax computation
- Had UPE held Op Co directly, tax on dividend could get attributed to Op Co - leading to ETR of Op Co being > MTR
- The case study highlights need to revisit presence of intermediate SPV in LTJ

UTPR and its potential impact

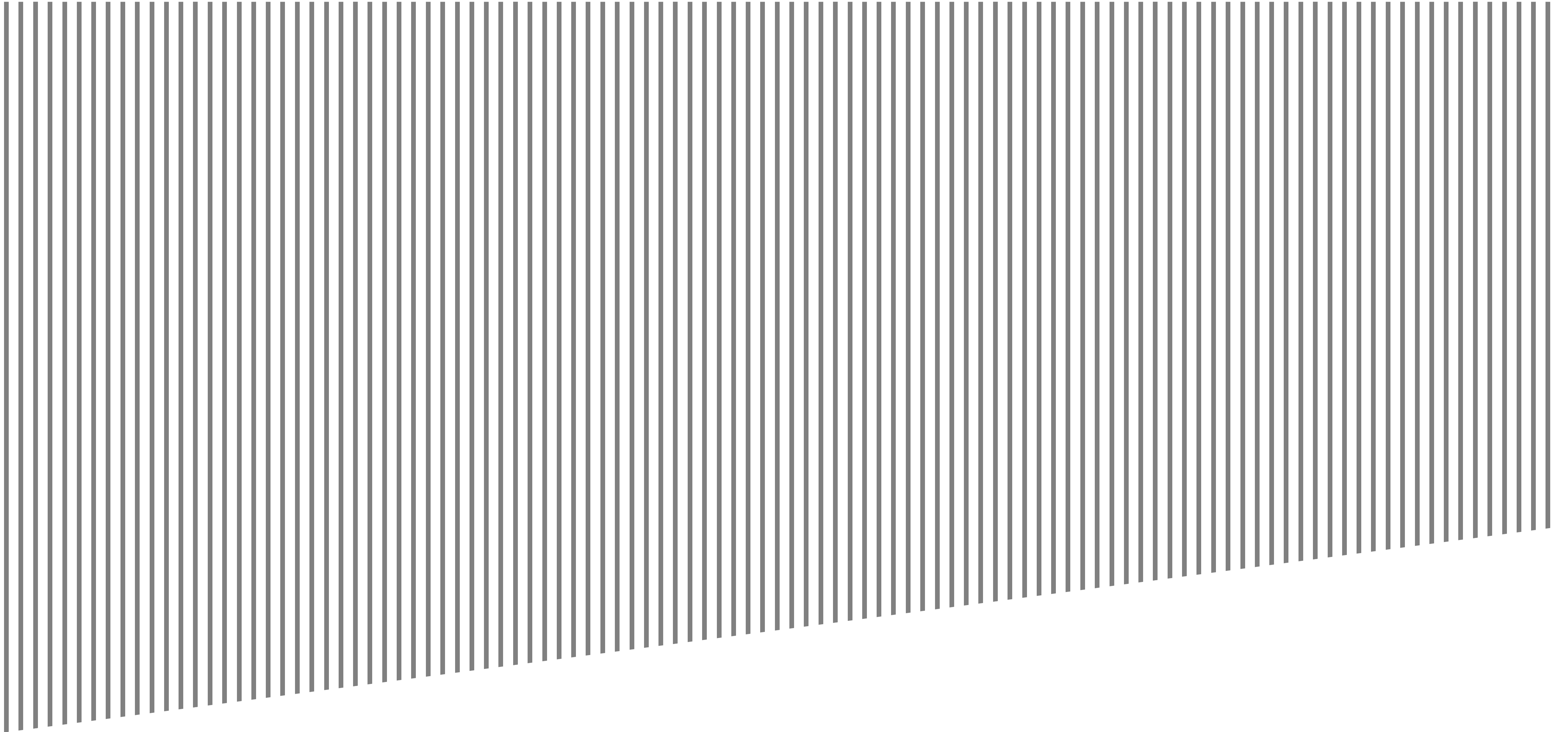


- In scope MNE Group is in scope with relatively insignificant presence in >6 jurisdictions while it has meaningful presence in its own jurisdiction
- UPE enjoys meaningful tax incentive in State P due to societally significant activities
- TUT is 10,000 largely due to tax incentives enjoyed in UPE jurisdiction
- Overseas subsidiaries are "asset light" and have very few employees except I Co/UKCo
- Of all the jurisdictions, only India and UK have implemented GloBE rules
- Vis-à-vis ICo/UKCo, head count proportion is 90:10
- As State P does not implement GloBE, UPE's TUT will be collected by other jurisdictions implementing GloBE
  - India will recover 90% of UPE's TUT under UTPR
  - UK will recover 10% of UPE's TUT under UTPR

"…… any country with a subsidiary can impose the UTPR on a sub of the UPE entity, regardless of the lack of a link between payments and incentive regimes. Suddenly, what had been viewed as a BEPS measure against unfair tax competition, became a means of extraterritorial taxation. Put differently, a rule previously aimed at certain "unfair" incentive regimes, now applied indiscriminately to all incentive regimes, regardless of how beneficial they might be for social, economic and other legitimate policy reasons unless they are in the form of qualified refundable credits."

- Business at OECD (BIAC) UTPR Tax Credit letter dated 11 March 2022

STTR



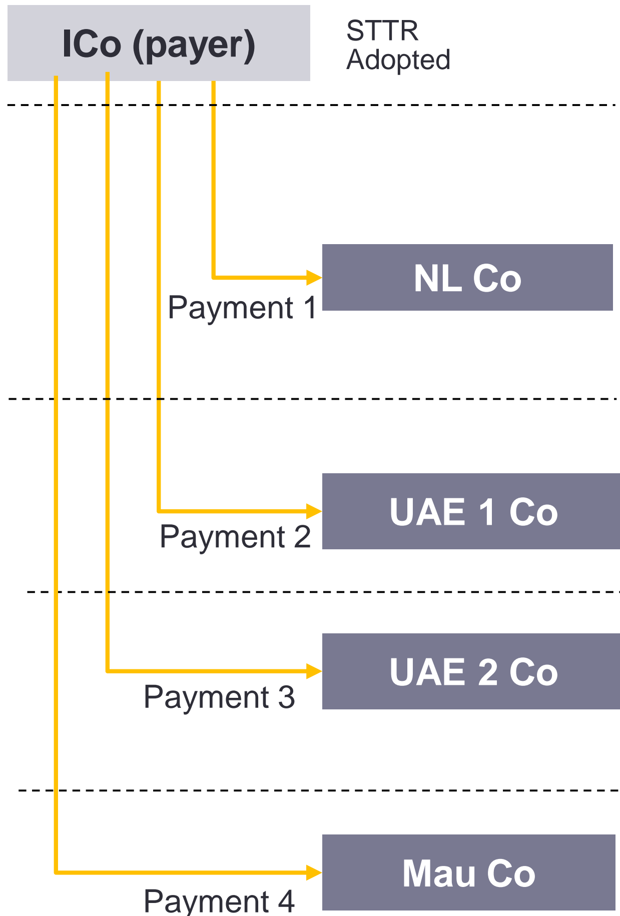
STTR (Subject To Tax Rule)

- STTR complements GloBE – works in priority to GloBE (i.e. IIR and UTPR)
- Implementation of STTR to be pursuant to a treaty like instrument in the nature of MLI
  - To recollect, OECD to publish model rules and multilateral instrument “in the coming months”[1]
  - MLI will override existing treaty benefits and provide for additional/higher source taxation rights provided headline rate <9%
- STTR to grant taxation rights to payer jurisdiction when connected recipient’s nominal rate of taxation for the transaction is < 9%
  - Headline rate to be adjusted for standard rebate / deductions, incentives, grant of exemption, etc. to test 9% threshold
- STTR to grant source taxation at a rate higher of (i) 9% on gross basis; or (ii) existing treaty rate
  - Applicability expected to be tested on a transaction to transaction basis
- STTR applies only to “Covered Payments” made to “Connected Persons”
- Connected persons is defined widely and can extend to entities beyond CFS
  - It generally covers entity having 50% interest or two entities with common stakeholder of > 50% interest
  - Could be narrower / wider than AE
    - Connected person threshold is 50% interest against 26% for AE;
    - Unrelated major lender may be AE though not a connected person)
  - In any case, unlike IIR/UTPR, STTR is not restricted to CEs which are part of CFS

Right to adopt STTR can be exercised by a developing country (i.e. country with per capita income of < $ 12,535; Ex: India, China, Brazil, Mexico) at its option, and the counter party (whether a developing or a developed country) ‘to’ accept request

[1] *Source:* Planned stakeholder input in OECD tax matters – OECD *– “For the Subject to Tax Rule (STTR) of Pillar Two, the draft model provision and its commentary will be released in the coming months with a defined set of questions set for input”*

Case study – STTR on India outbound payments



- I Co makes payments to various group entities (not necessarily its subsidiaries)
- **Payment 1** - Equipment royalty/FTS of 1,000 paid to NL Co
  - No taxation in India as per Article 12 of India-Netherlands treaty due to restricted source rule which grants taxation of Equipment royalty/FTS not meeting make-available test to Residence State
  - Taxed in NL at headline rate of 25% - since tax in residence state > 9%, no STTR impact
- **Payment 2** - Marketing and Procurement Support Fee of 1,000 to UAE 1 Co
  - Market and procurement service is driven by proprietary list possessed by UAE 1 Co
  - Considered as covered payment, with nil tax liability; income liable to tax of 9% as STTR
- **Payment 3** - Interest of 1,000 paid to UAE 2 Co subject to preferential tax under s.194LC of ITA
  - Differential STTR of 4% may or may not be levied by India at its discretion
- **Payment 4** - Interest of 1,000 on CCD debt availed from Mau Co
  - Taxation in India at 7.5% as per Article 11(2) of the India-Mauritius treaty; tax in Mauritius effectively @ 3% under a preferential regime of 80% deemed credit
  - Under STTR, Mauritius will restrict foreign tax credit to 1.5%
  - In aggregate, tax paid will be 9% with no additional tax in India – but Mauritius will restrict tax credit to 1.5%

STTR (Subject To Tax Rule)

Particulars	Source taxation as per conventional DTAA	Source taxation post STTR (MLI 2)
Mode of implementation	Individual DTAA as modified by MLI 1	Individual DTAA as modified by MLI 2
Scope of source taxation	As agreed in DTAA but s.90(2) works on non-aggravation principle	Can be broader compared to DTAA but scope of DTAA survives if latter is wider
Covered payments	Payer can be third party	Payer needs to be a connected person
Source taxation rate	As agreed in treaty	Maximum 9%
Impact of taxation in country of residence of recipient	• Generally, none • Treaty access may require condition of “subject to tax”	No source taxation if COR applicable rate is $\geq$ 9%
Is source taxation on gross basis?	Yes	Yes (?)[1]

[1] Whether such requirement will apply in case STTR is extended to capital gains payments is in debate

Coverage of STTR

Scope of STTR to likely extend to payments of a mobile activity nature or passive income nature. Overarching principle behind coverage: Greater BEPS risk due to financial risk, intangible assets or valuable resources that are mobile and can be easily shifted

Focus Areas

- Interest
- Royalties
- Other Payments in debate at the desire of G24 countries* – Yet to be decided[1]
  - Management Fees
  - Technical Services
  - **Capital Gains (Scope of capital gain coverage and applicability w. r. t. gross amount is not clear as at present)**

*G24 Countries are Developing Countries and include India, China, Brazil, Argentina, South Africa, Mexico, etc.

Other Relevant Payments

- Other payments under debate – Yet to be decided
  - Franchise fee for use of or right to use intangibles in combination with services;
  - Insurance or reinsurance premium;
  - A guarantee, brokerage or financing fee;
  - Rent or any other payment for the use of or the right to use moveable property;
  - Consideration for supply of marketing, procurement, agency or other intermediary services deriving value from intangible assets such as client list or supplier list (whether extended to commission?)

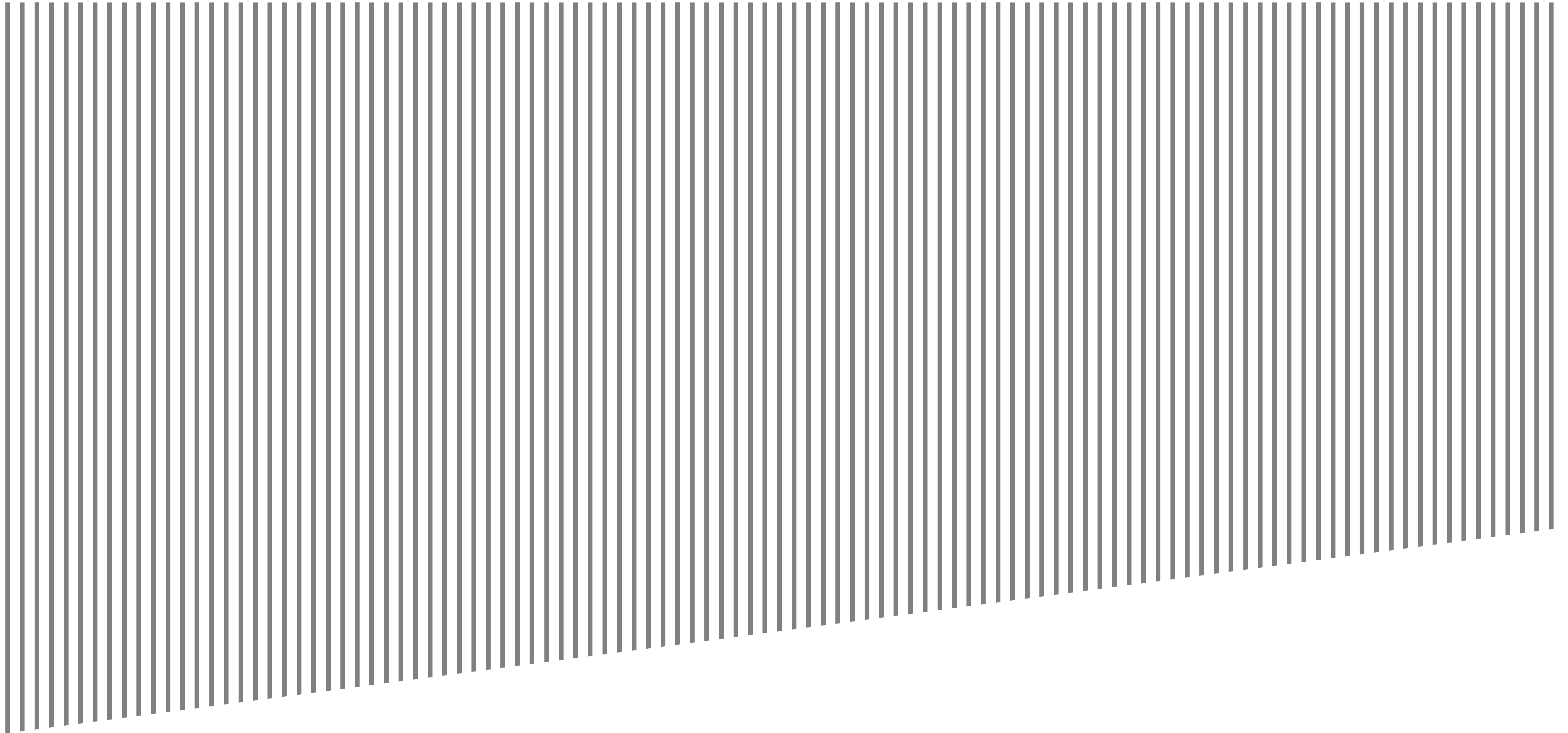
[1] *Source: https://www.g24.org/wp-content/uploads/2021/09/Comments-of-the-G24-on-the-IF-July-Statement.pdf; G24 supports broader coverage including of cost plus payments, capital gains as well as non-applicability of materiality threshold*

Exclusions from STTR

- Cost of goods (including embedded royalty)
- Dividends (since not base eroding)*
- Payments made to individuals including KMPs
- Payments forming part of PE in payer country (as the payer jurisdiction already has full taxation right)
- Payments to investment funds, pension funds, government entities (including sovereign wealth funds), international organisations and non-profit organisations
- Low-return payments - e.g. cost plus payments – subject to safe-harbour margin **[not supported by G24 developing countries (including India)]**
- Payments up to materiality threshold (to be determined by BEPS IF) [**not supported by G24 developing countries (including India)]**

**Indian Revenue Secretary Mr. Tarun Bajaj has indicated that India is negotiating to include dividends within scope of STTR*

Concluding thoughts



Concluding thoughts

- Model Rules a common ‘template’: domestic law variations not ruled out
- Complex set of rules; many clarifications sought!!
- Rules contemplates domestic application based on agreed implementation framework/guidelines which are under debate
- Significance of commentary, implementation framework
- Compliance burden: Use of technology tools inevitable
  - Significant representations to ease the burden and provide strong dispute resolutions
- Impact on treaty obligations
- Impact of domestic GAAR**:** Is GloBE a SAAR and hence subject to domestic GAAR?
- Likewise, Rule order / priority of tax in TUT reckoning likely to create new form of “tax competition”!

Global tax policy landscape

- Pillar 2 is moving faster than Pillar 1
  - EU is first mover with a Draft Directive already released in December 2021 (revised in March 2022)
  - EU expected to defer implementation by one year (viz. GloBE applies to fiscal years starting 31 December 2023)
- UTPR implementation shifted to 2024 – a mechanism to push countries to adopt IIR
  - Revenues via UTPR are likely to be economically insignificant since 60% of global economy might adopt IIR (viz. USA, UK, EU, and probably, in Japan) – But DMT may result in TUT collection by LTJs
- Legislative activity in other jurisdictions:
  - While no change in tax regime is likely in countries with zero tax and limited “real economy” (such as Bermuda), countries which have a real economy are likely to introduce corporate tax – e.g. UAE to introduce CIT of 9%
  - Ireland has announced increase in tax rates to 15% for MNEs meeting € 750 million threshold; 12.5% to be retained for MNEs below threshold and is also considering DMT
  - Singapore shall adjust its tax system in response to Pillar 2, and is exploring DMT – acknowledges that while Pillar 2 has reduced tax competition, there will be other forms of competition to attract investments
  - UK has released a public consultation document for implementing GloBE
  - Switzerland (not part of EU) announced intent to introduce GloBE only for MNEs crossing € 750 mn
  - Hong Kong shall implement GloBE from 2023, and introduce DMT from 2024
  - Canada proposes to implement GloBE (along with a DMT) effective from 2023 with UTPR effective from 2024
  - Japan has expressed strong support for GloBE and continues to contribute in discussions
  - African countries are considering DMT

Thank You!

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