SIFM Quarterly Conference

BEPS 2.0 Pillar Two

March 20, 2024

Agenda

A. OECD Pillar Two

1. Background
2. Legislative update
3. Current status / areas of focus

B. Bermuda Corporate Income Tax

A. Overview
B. Selected provisions
C. Reactions and next steps

C. Considerations for Finance

A.

OECD Pillar Two

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Overview of BEPS 2.0 — Pillar One and Pillar Two

Pillar One introduces new rules aiming to **allocate more profit to market jurisdictions**

Pillar Two introduces **global minimum tax** mechanisms

- The 142 jurisdictions participating in the Organisation for Economic Co-operation and Development OECD)/G20 Inclusive Framework have agreed on a new global minimum tax mechanism designed **to help ensure that all large multinational corporations pay at least 15% income tax in all countries of operation**
- A Global Anti-Base Erosion (GloBE) regime designed to help ensure all large internationally operating businesses pay at least a **minimum level of tax**
  - Minimum tax rate of **at least 15%**
  - Implemented via an Income Inclusion Rule (IIR), the primary rule, and an Undertaxed Profits Rule (UTPR), the backstop rule
- A treaty-based Subject To Tax Rule (STTR) with **9% minimum tax rate —** first applicable rule with a withholding tax at source on certain types of intragroup payments (interest, royalties, etc.)

OECD GloBE Model Rules

The GloBE Model Rules apply to Constituent Entities that are members of a multinational group (MNE Group) that has annual revenue of EUR 750 million or more in the Consolidated Financial Statements in at least two of the four preceding Fiscal Years

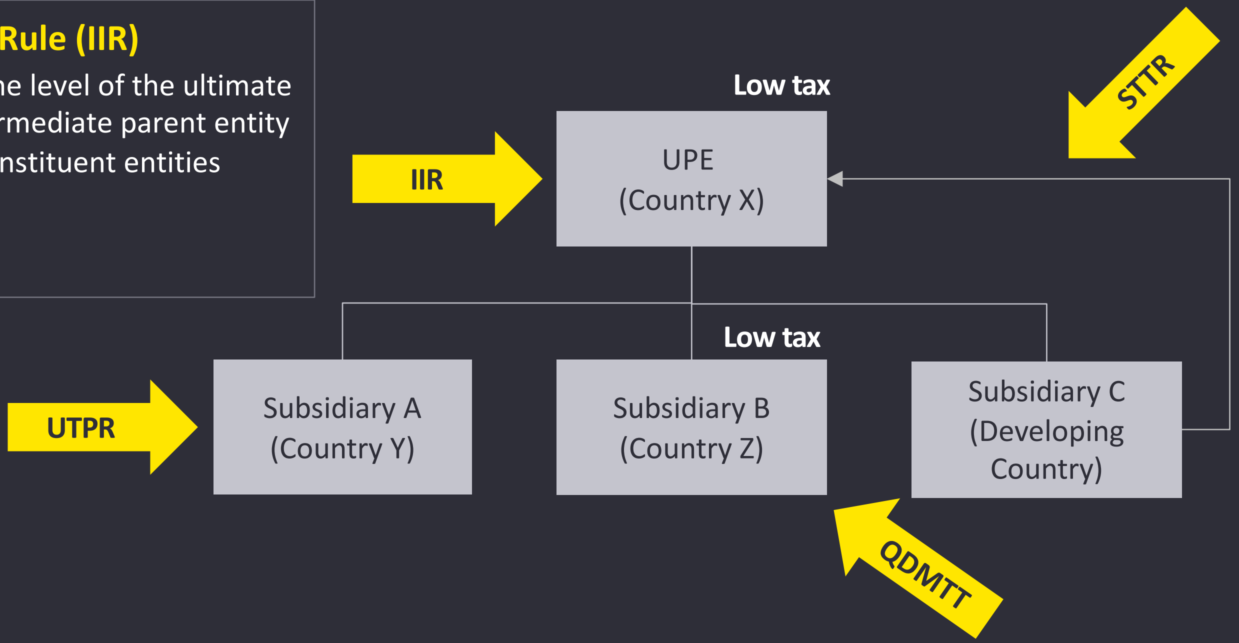
- MNE groups will determine a combined effective tax rate for all entities located in a jurisdiction and if that rate is less than 15%, a top-up tax will generally be due
  - The effective tax rate (ETR) is generally based on book tax expense and pre-tax book income (before elimination entries) of entities in the jurisdiction, with certain adjustments
- The GloBE Model Rules themselves are not law; each jurisdiction must enact into law their own legislation consistent with the framework
- The US operations of an MNE Group will be subject to the GloBE Model Rules if the MNE Group operates in a jurisdiction that has enacted them

OECD member countries are expected to enact the GloBE Model Rules in 2023
with effective dates expected to begin 1 January 2024

Pillar Two mechanisms: illustration

GloBE: Income Inclusion Rule (IIR)

- Top-up tax is imposed at the level of the ultimate parent entity (UPE) or intermediate parent entity on income of low-taxed constituent entities
- **Minimum ETR: 15%**



Subject to Tax Rule (STTR)

- **Applies before GloBE Rules**
- A treaty-based rule that allows countries to impose limited source taxation on covered related-party payments that are subject to tax below agreed minimum nominal rate
- Applies to interest, royalties and a defined set of other payments
- Minimum nominal tax rate: 9%

GloBE: Undertaxed Profits Rule (UTPR)

- **Backstop — applies if no QDMTT or IIR is imposed**
- Right to impose Top-Up Tax is allocated among countries with constituent entities based on relative amounts of tangible assets and employees
- Imposed by limiting or denying deductions or requiring an equivalent adjustment
- **Minimum ETR: 15%**

GloBE: Qualified Domestic Minimum Top-up Tax (QDMTT)

- **Applies before IIR and UTPR**
- Top-up tax is assessed by the low-tax jurisdiction itself under a computation similar to the IIR computation
- **Minimum ETR: 15%**

Pillar Two implementation activity around the world **(last updated: March 1, 2024)**

Final legislation

- Austria
- Belgium
- Bulgaria
- Czech Republic
- Denmark
- European Union
- Finland
- France
- Germany
- Hungary
- Ireland
- Italy
- Japan
- Liechtenstein
- Luxembourg
- Malaysia
- Mauritius
- Netherlands
- Qatar
- Romania
- Slovakia
- Slovenia
- South Korea
- Sweden
- Switzerland
- United Arab Emirates
- United Kingdom
- Vietnam
- Croatia
- Norway
- Malta

Draft legislation

- Barbados
- Canada
- Cyprus
- Estonia
- Latvia
- Lithuania
- New Zealand
- South Africa
- Spain

Official communication/Public consultation

- Australia
- Bahamas
- Gibraltar
- Guernsey
- Hong Kong
- Indonesia
- Isle of Man
- Jersey
- Singapore
- Taiwan
- Thailand

Pillar Two – current focus

- Evaluating impact of Pillar Two on global tax position
- Preparing for Q1 2024 provision
- Preparing for ongoing Pillar Two compliance and reporting
  - Processes and controls
  - Data requirements
  - Tools and technology
- Engaging with internal and external stakeholders

B.

Bermuda Corporate Income Tax

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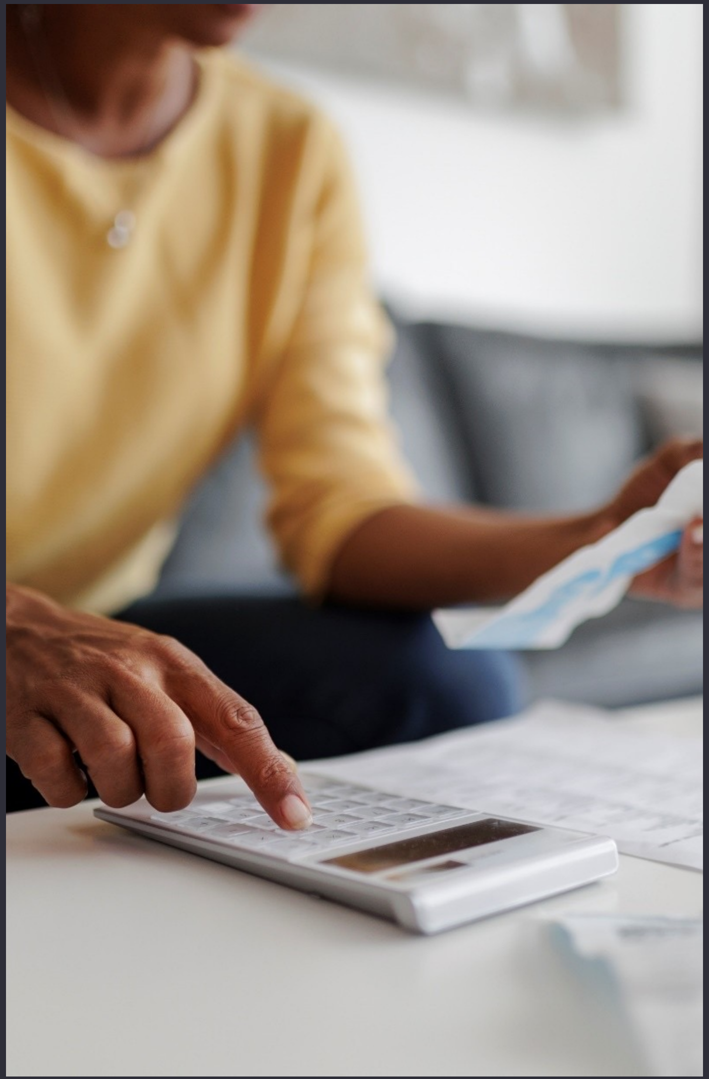
Bermuda Corporate Income Tax - Overview

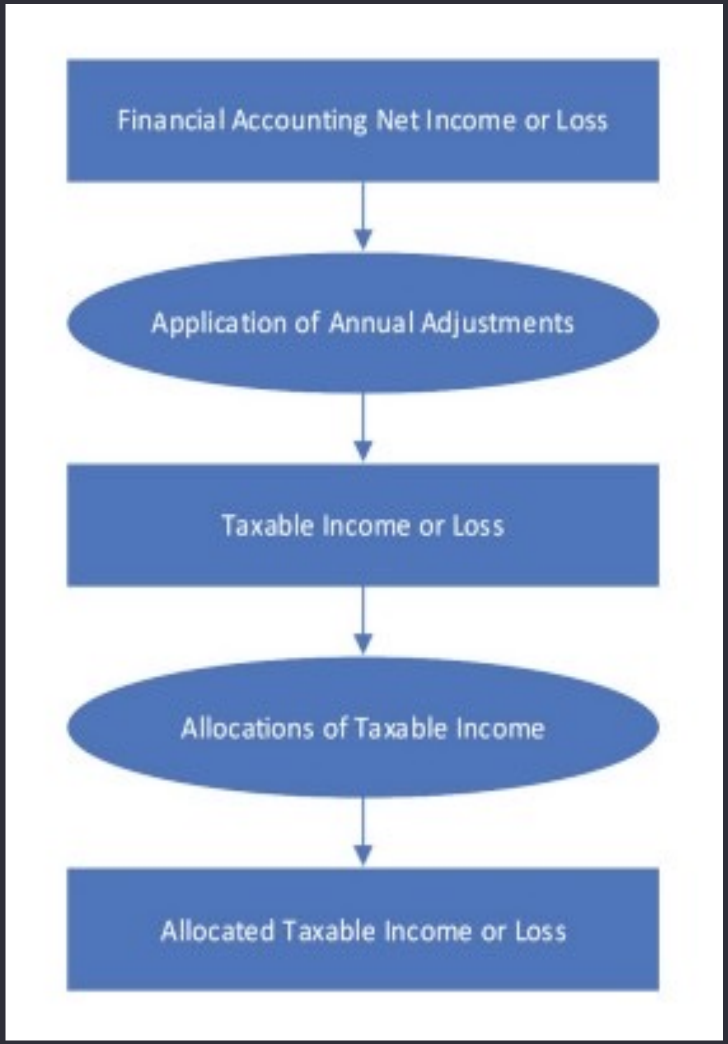
- On December 27, 2023, the Bermuda Government enacted a 15% corporate income tax (CIT) that is effective for years beginning on or after January 1st, 2025.
- The CIT applies to Bermuda Constituent Entities (Bermuda CE) in a multinational entity (MNE) group with annual revenue of at least EUR 750m.
- Key features of the regime:
  - A Tax Loss Carryforward deduction is allowed, and certain losses arising prior to 1/1/2025 are allowed into the regime.
  - Foreign tax credits (FTCs) are allowed.
  - Tax liability determined generally by aggregating Taxable Income/Loss, Tax Loss Carryforwards, and FTCs of all in-scope Bermuda entities.
  - Numerous elections that affect scoping determinations, the computation Taxable Income, among other attributes.
  - Scoping determinations, computation of Taxable Income and other definitional items broadly aligned with the OECD Global Anti-Base Erosion (GloBE) Rules

Articulated design principles for the Bermuda CIT

- CIT is intended to:
  - Qualify as a Covered Tax for Pillar 2 purposes.
  - Result in an overall effective tax rate on Bermuda profits not in excess of 15% and reduce the potential for Top-Up Tax payable to other jurisdictions on profits earned in Bermuda.
  - Leverage key scoping and definitional elements of the GloBE Rules.
  - Include design features that promote key initiatives of the government (e.g., maintaining Bermuda’s competitiveness, lowering the cost of doing business and cost of living, job creation, increasing the residential population and overall stimulating the Bermuda economy).
- CIT is not a qualified domestic minimum top-up tax (QDMTT) under the GloBE Rules.



Bermuda Taxable Income or Loss



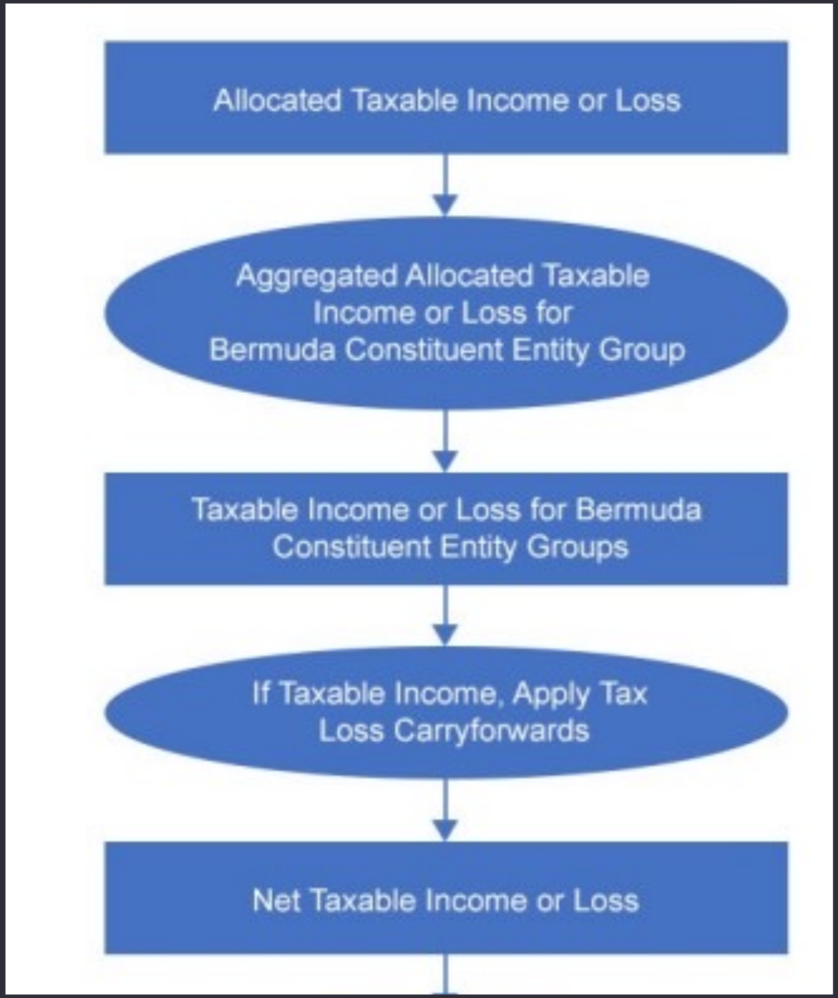
- **Financial Accounting Net Income or Loss (FANIL)**
  - Default rule: Based on accounting standard of Ultimate Parent Entity in preparing its Consolidated Financial Statements
  - Election to use Acceptable Financial Accounting Standard (defined under GloBE Rules) or US/Bermuda statutory standards, but permanent differences in excess of EUR 1M must be adjusted

Required Annual Adjustments	Elective Annual Adjustments
Adjustments akin to those under Art. 3 of GloBE Rules	Branch Exemption Election
Adjustments for Prior Period Adjustments and Changes of Accounting Principle	Economic Transition Adjustment (mandatory, but can opt-out)
	Realization Basis Election
	Matching Election
	IFRS 17/LDTI Election
	Stock-Based Compensation Election
	CFC Income Exclusion Election (only available 2025/2026)

Economic Transition Adjustment (ETA)

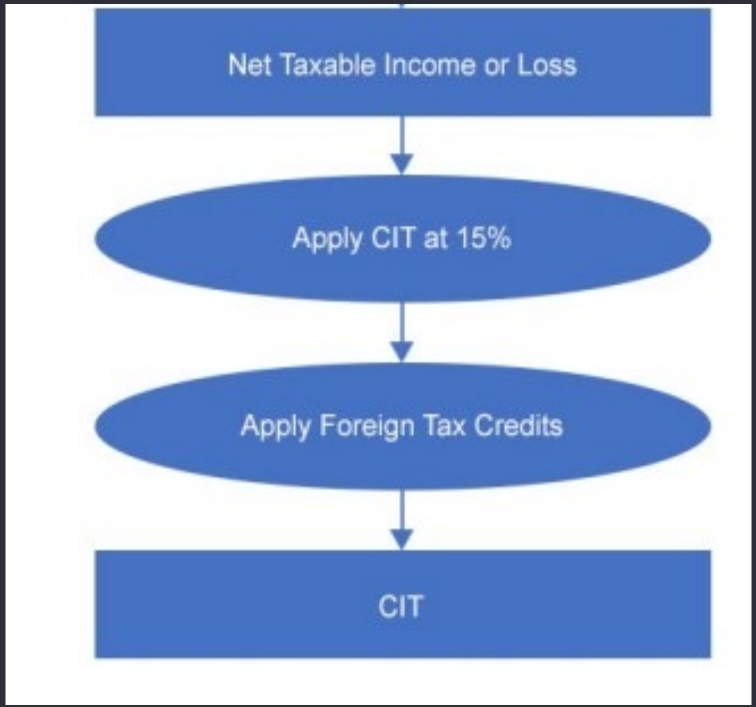
- Meant to algin starting point for CIT regime more closely with Bermuda CE's economic position
- Adjustment amount based on difference between fair market value and carrying value of each asset (excluding goodwill) and liability as of September 30, 2023
  - Applies to all assets (excluding liabilities) and goodwill, and regardless of whether an asset has appreciated or depreciated relative to carrying value
- For identifiable intangibles, adjustment is amortized over ten years
- For all other assets/liabilities, Taxable Income is determined by reference to tax basis (i.e., post-ETA) and in accordance with how the asset or liability is amortized or settled under the relevant financial accounting principles
- Amount of ETA that can be deducted is limited to 80% of Taxable Income (before Tax Loss Carryforwards)
- Excess amount carries forward as Tax Loss Carryforward
- A Bermuda CE can elect out of applying the ETA

Tax Loss Carryforwards



- Tax Loss Carryforwards can only offset up to 80% of Taxable Income, but no expiration on carryforward
- Opening Tax Loss Carryforward is allowed: determined in same manner as if the Bermuda CE had been subject to CIT in the five Fiscal Years preceding the prior to MNE Group becoming in-scope
  - If Economic Transition Adjustment is applied (i.e., if Bermuda Constituent Entity does NOT elect to opt-out of the ETA), Taxable Income/Loss of Bermuda Constituent Entity prior to 1 October 2023 applying the ETA is not included in 5-year look-back calculation.
- Election is available to utilize smaller amount of Tax Loss Carryforward in a given Fiscal Year

Foreign Tax Credit (FTC)



- **FTC = lesser of amount of Adjusted Creditable Foreign Taxes or pre-FTC CIT liability**
- Creditable Foreign Taxes
  - Non-Bermuda (federal, state, and local) income taxes
  - Non-Bermuda taxes imposed in-lieu of a generally applicable CIT (including US FET on insurance/reinsurance premiums)
  - Non-Bermuda taxes levied by reference to retained earnings and corporate equity, including a tax on multiple components based on income and equity
- Adjusted Creditable Foreign Taxes = Creditable Foreign Taxes recorded in FANIL in current tax expense + deferred tax expense (adjusted in a manner consistent with Art. 4.4 of GloBE Rules, including 15% recast) + other adjustments broadly consistent with adjustments to Covered Taxes under Art. 4 of GloBE Rules
  - No "push down" of foreign taxes paid by a shareholder of a Bermuda CE under a CFC regime (e.g., US tax on Sub F/GILTI inclusions on a Bermuda CFC), but note the CFC Income Exclusion Election (for 2025/2026)
  - No "push down" of foreign taxes paid by a non-Bermuda CE that has a Bermuda PE

CIT Elections

Election Name	Election Type
Branch exemption election	Annual Elections
Unclaimed accrual election	
De minimis election	
Modification of Bermuda Constituent Entity Group composition	
Treatment of MNE Group as an In Scope MNE Group	
Fiscal transparency election	
Treatment of segregated accounts as separate Bermuda Constituent Entities	
Treatment of a company and its segregated accounts as one Bermuda Constituent Entity	
Stock-based compensation election	
Matching election	
Realization principle election	
Election to apply consolidated accounting treatment	
Treatment of <80% owned entity as Bermuda Constituent Entity	Five-Year Elections
Treatment of Excluded Entity as Bermuda Constituent Entity	
Election to determine FANIL in accordance with an Approved Accounting Standard	
Fair value basis of taxation with respect to Ownership Interest in an Investment Entity	
Taxable distribution method of taxation with respect to Ownership Interest in an Investment Entity	
Reduction in Tax Loss Carryforward Deduction	Other Elections
Permanent reduction in Tax Loss Carryforward	
Election to reduce the FANIL of a Bermuda Constituent Entity treated as a CFC for US federal income tax purposes	
Adjustments to Taxable Income or Loss attributable to the implementation of IFRS 17 or LDTI	
Election to forego the ETA	
Election to recognize gain or loss, use fair value of assets and liabilities with respect to Qualifying Reorganization	
Election to treat transfer of Controlling Interest in a Bermuda Constituent Entity as a transfer of assets and liabilities	

- Elections are generally made with the tax return for the year in which they are intended to be effective.
- Elections can be made prior to their due date via filing Form CT-ELT.
- Elections made prior to their due date can be modified/reversed on the tax return that is ultimately filed.

Reaction and next steps

- The Bermuda government has issued guidance on certain key determinations and interpretative matters in the form of "frequently asked questions"
- Additional guidance and legislation is expected, including-
  - Guidance on procedural matters
  - Tax credits to support policy initiatives (job creation, infrastructure etc.) that are designed to be qualified refundable tax credits (QRTCs) under the GloBE Rules
  - Other regulatory guidance

C.

Considerations for Finance

How will BEPS impact Finance?

BEPS 2.0 impacts the larger ecosystem of an organization and requires a **cross-functional strategy** that extends beyond tax functions. The finance function in its role as a key value driver is responsible for transforming information. Below are some questions that Controllership should consider **NOW:**

Strategy and investor communications

- How might BEPS impact long-term value to investors and stakeholders?
- Are additional BEPS business scenarios and insights needed for strategic financial decision making?
- Could BEPS pose a challenge to flexibility, agility and strategic thinking impacting planning, budgeting and forecasting activities?
- In a post-BEPS world, does the MNE have an optimized legal entity structure and supply chain that will continue to support the minimization of tax obligations?
- Do any M&A deal models factor in the impact of Pillar Two, including the transition rules that cover transactions now?

Process, data and controls

- Are your systems ready to efficiently enable Tax to gather the large number of financial and non-financial data points requirements of new rules?
- How do you integrate BEPS compliance and impact issues into existing business diagnostics and general financial systems?
- How is the internal control environments impacted by interdependent requirements to data capture, BEPS calculations and analytics?
- Are the additional tax calculations and processes in-scope for internal audit?
- Are your systems and processes ready for an external examination under new rules?

How will BEPS impact Finance?

Accounting and reporting

- For the purpose of tax models, do you have accurate information around net income/loss at constituent entity level used in preparing the consolidated financial statements of the ultimate parent?
- Have you looked at specified adjustments and elections in the rules from a financial accounting lens?
- Have you considered the impact to statutory financial reporting?
- How will you manage the tax accounting data requirements resulting from global minimum tax rules?
- Have you considered the impact of increase in cash taxes and changes to effective tax rate?
- How does BEPS interact with other tax regimes including CAMT, GILTI, etc.

Pillar Two financial reporting requirements: Accounting and reporting

The following **accounting practices can create data gaps** when determining constituent entity net income for purposes of calculating the GloBE top-up tax:

- Incomplete legal entity listing/organizational charts
- Multiple enterprise resource planning (ERP) systems/charts of account
- Consolidation system is not at a level of detail to extract tax sensitive data for Pillar 2
- Topside, consolidated accounting for special items (e.g., purchase accounting, share-based compensation, accruals/ contingencies) not posted to legal entity ledgers or provided in functional currency

- Post-close entries not posted to legal entity ledgers or in functional currency
- Intercompany transactions not recorded consistent with Group GAAP
- Transfer pricing not timely adjusted (e.g., "period 13")

- Forecast by legal entity, including balance sheet, is not available to calculate GloBE deferred covered taxes for interim periods
- Ability to track reversal of certain GloBE deferred covered tax adjustments (e.g., reversal of intangible deferred tax liabilities (DTLs) originating during a GloBE tax year)
- Non-co-terminus group and statutory year-end

Thank you

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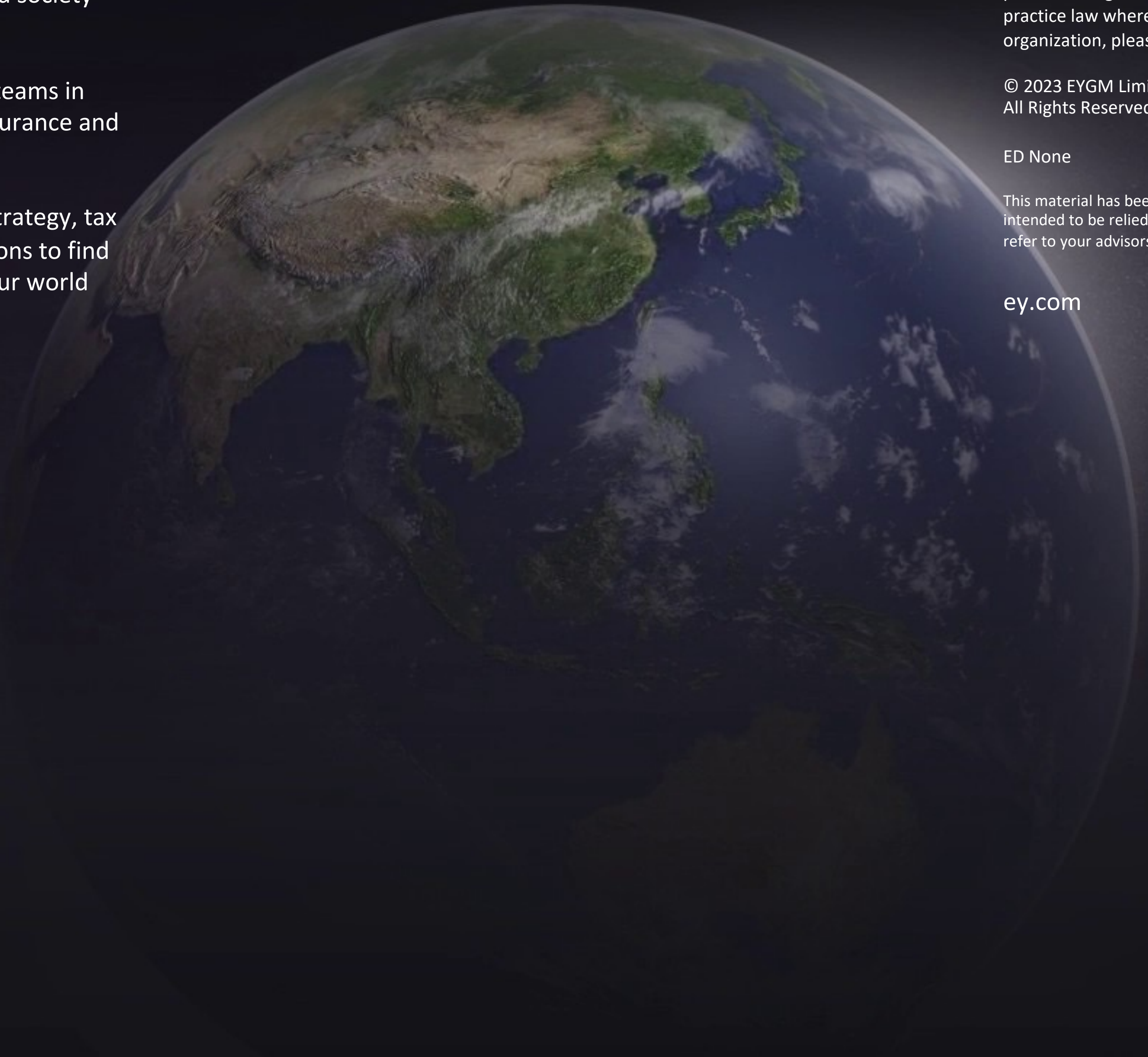

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