State of Tax, Legal & People

Pillar 2

Praktische handvatten en recente ontwikkelingen

12 november 2024

pwc

Welkom

- Wordt dit webinar live bekeken, dan komt u in aanmerking voor 1 PE-punt
- Met de chat functie kunt u direct uw vragen stellen
- Voor overige vragen kunt u terecht bij uw PwC-adviseur of vul het formulier in op pwc.nl
- De webcast en presentatie worden achteraf beschikbaar gesteld
- Alsmede een evaluatieformulier

Agenda

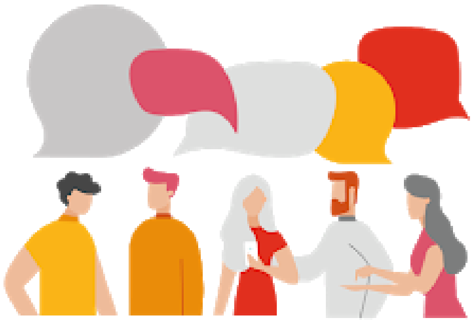
1. Transitional CbCR Safe Harbour
2. Full GloBE calculations
3. Next steps and key takeaways

01 Transitional CbCR Safe Harbour

Transitional CbCR Safe Harbour

Preparing for YE2024 – what we see in practice

- Still a large focus on Transitional CbCR Safe Harbour calculations
- Do not forget Entity Classification Analysis
- Importance of a Qualified CbC Report
- Increase of scrutiny from auditors on the CbC Report
- Full GloBE calculations



Entity Classification Analysis

Why is it relevant?

- It directly impacts both the CbCR Safe Harbour and Detailed Calculations;
- Separate calculations required for Joint Ventures (i.e., **no jurisdictional blending**);
- Some entities are **not eligible** for the CbCR Safe Harbours (e.g., Stateless Constituent Entities such as tax transparant and reverse hybrids);
- But may also be relevant for **P2 registration compliance**.

	Safe Harbour applicable?	Yes	Yes
	De minimis	Yes	Yes
	Simplified ETR	25,8%	6,0%
	Routine Profits	No	Yes
		Netherlands (regular)	Netherlands (JVs)
		NL	NL
Description	**Source**		
Income			
Profit before Income Tax of the Constituent Entities located in that jurisdiction	CbC-report	1.000	100
Net Unrealised Fair Value Losses w.r.t. Ownership Interests exceeding EUR 50M	CbC-report	-	-
Goodwill impairment expense	CbC-report		-
Taxes			
Total income tax expense (exclude non-Covered Taxes, if any)	Financial accounts	-258	-6
Amount of tax expense related to UTP	Financial accounts	-	-
Substance-based income exclusion			
The Substance-based income exclusion applies by default, but can be opted out of per year per jurisdiction by election.			
Eligible payroll costs	Financial accounts	-60	-10
Eligible payroll costs capitalised and included in the eligible tangible asset carve-out base			
Eligible payroll costs attributable to income that is excluded in accordance with Article 16 (shipping)			
Eligible tangible assets - property, plant and equipment	Financial accounts	100	20

Qualified CbC Report - definition

- OECD Safe Harbors document (2022):
  "A Qualified CbC Report means a Country-by-Country Report prepared and filed using Qualified Financial Statements."

- Qualified Financial Statements means:
  "(a) the accounts used to prepare the Consolidated Financial Statements of the Ultimate Parent Entity (to mirror the requirement under article 3.1.2);

  - (b) separate financial statements of each Constituent Entity provided they are prepared in accordance with either an Acceptable Financial Accounting Standard or an Authorised Financial Accounting Standard if the information contained in such statements is maintained based on that accounting standard and it is reliable; or

  - (c) in the case of a Constituent Entity that is not included in an MNE Group's Consolidated Financial Statements on a line-by-line basis solely due to size or materiality grounds, the financial accounts of that Constituent Entity that are used for preparation of the MNE Group's CbC Report."

Qualified CbC Report – how to assess?

Our two-step approach:

1. Focus on the numerical aspects of the CbCR

Based on OECD CbCR technical guidance

- Review of current definitions and mapping logics;
- Ensure that the relevant CbCR variables (e.g., CbCR Revenue) are calculated in line with the OECD guidelines
- Ensure numerical reconciliation, i.e., having a bridge file between the CbCR and the sources of financial statement data used for the preparation of the CbCR

2. Focus on the technical aspects of the CbCR

Based on OECD Pillar 2 CbCR Safe Harbor technical guidance

- Purchase Price Allocation (“**PPA**”) entries
- Post-Year-End (Transfer Pricing) Adjustments
- Top-side adjustments/consolidation entries
- Applicable Financial Accounting Standard
- And more...refer to the December 2023 Administrative Guidance…

Purchase Price Allocation – Dec '23 AG

Purchase Price Accounting Adjustments

- **Main rule**: a CbC Report and/or financial accounts that include PPA is not considered a qualified CbCR and/or FS, unless the consistent reporting and goodwill impairment conditions are both met **(exceptions);**
- The ***consistent reporting*** condition is met if the MNE Group has not submitted a CbC Report for a fiscal year beginning after 31 December 2022 that was based on the CE's reporting package or separate financial statements without the PPA adjustments, except where the CE was required by law or regulation to do so;
- The ***goodwill impairment adjustments*** condition prescribes that any reduction to the CE's income attributable to an impairment of goodwill related to transactions entered into after 30 November 2021 must be added back to the PBT:
  a) for the routine profits test; and
  b) for the simplified ETR test, but only if the financial accounts do not also have a reversal of DTL or recognition or increase of a DTA in respect of the impairment of goodwill

Safe Harbour applicable?	Yes
De minimis	Yes
Simplified ETR	21,5%
Routine Profits	No

Description	Source	Netherlands (regular) NL
Income		
Profit before Income Tax of the Constituent Entities located in that jurisdiction	CbC-report	1.000
Net Unrealised Fair Value Losses w.r.t. Ownership Interests exceeding EUR 50M	CbC-report	-
Goodwill impairment expense	CbC-report	-200
Taxes		
Total income tax expense (exclude non-Covered Taxes, if any)	Financial accounts	-258
Amount of tax expense related to UTP	Financial accounts	-

Poll

Welk van de volgende situaties doet zich voor binnen uw onderneming?

1. Het verrekenen van fiscale verliezen die commercieel niet zijn gewaardeerd.
2. Het opboeken van belastingcorrecties t.a.v. voorgaande jaren.
3. De aanwezigheid van fiscaal vrijgestelde inkomen in de commerciële P&L (bijv. capital gains verkoop deelneming).
4. Tenminste twee van bovenstaande punten.
5. Geen van bovenstaande.

Trans. CbCR Safe Harbour – common pitfalls

Most common issues we see in practice:

1	Utilisation of unrecognised tax losses for which no DTA was booked	*Low/zero current tax accompanied with no deferred tax*
2	Prior Year Tax Adjustments (booking a tax benefit)	*Reduces total income tax expense of the year*
3	Tax exempt income included in CbCR PBT (e.g., capital gains on sale of participation, government subsidies etc.)	*Gain in CbCR PBT without tax effect*
4	Recognition of a previously unrecognized DTA	*Generates a deferred tax benefit. Reduces total income tax expense of the year*

Utilisation of an unrecognised tax loss

Information

Year 2023:

- PBT and Tax loss of 100;
- No DTA is recognized for this tax loss;

Year 2024:

- IFRS Profit before taxes: 100;
- Assuming no permanent/temporary differences, and applying loss utilization, taxable income equals nil;
- Local tax rate: 25%;
- There is no reversal of the DTA for IFRS purposes. However, for P2 purposes, there is a reversal of a Pillar 2 DTA.

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Year 2024 (profit year)	IFRS	CbCR SH	Pillar 2
Profit before tax / GloBE Income (a)	**100**	**100**	**100**
Perm / temp differences	0	0	0
Loss utilization	-100	-100	-100
Taxable Income (b)	**0**	**0**	**0**
IFRS Current tax expense	0		
IFRS Deferred tax expense	0		
IFRS Total tax expense (c)	**0**		
Reversal Deemed DTA			
Re-cast deferred tax to 15%			
Adjusted covered taxes (d)			
IFRS ETR (-c/a)	**0%**		
Simplified ETR (-c/a)			
Pillar 2 ETR (-d/a)			
Top-up Tax % (e)			
Top-up Tax due (e*a)			

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Taxable Income (b)	**0**	**0**	**0**
IFRS Current tax expense	0	0	0
IFRS Deferred tax expense	0	0	0
IFRS Total tax expense (c)	**0**	**0**	**0**
Reversal Deemed DTA			-15 (at 15%)
Re-cast deferred tax to 15%			0
Adjusted covered taxes (d)			**-15**
IFRS ETR (-c/a)	**0%**		
Simplified ETR (-c/a)		**0%**	
Pillar 2 ETR (-d/a)			
Top-up Tax % (e)			
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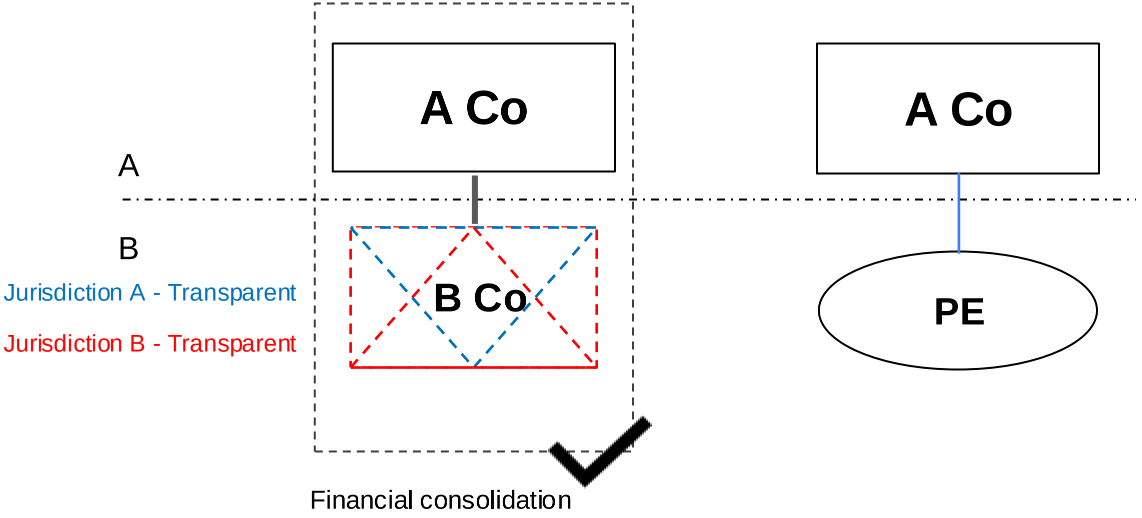
IFRS ETR (-c/a)	**0%**		
Simplified ETR (-c/a)		**0%**	
Pillar 2 ETR (-d/a)			**15%**
Top-up Tax % (e)			**0%**
Top-up Tax due (e*a)			**0**

02 Full GloBE calculations

Full GloBE calculations

When is it relevant?

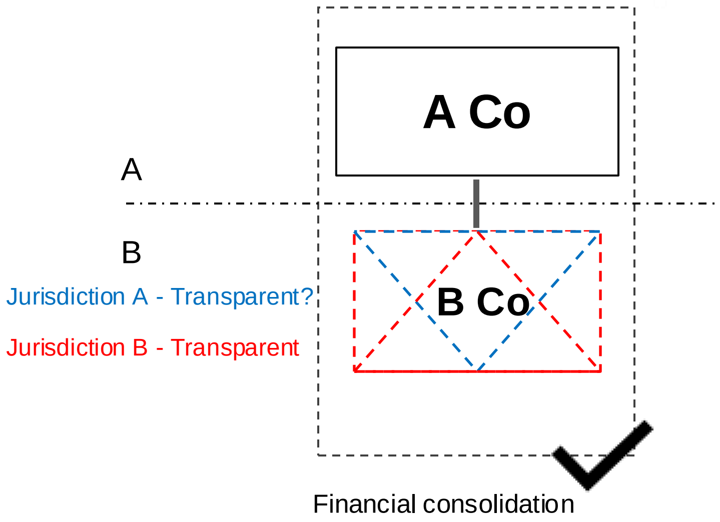
- If you cannot rely on the **CbCR Safe Harbours**
- Then, you will need to make **Detailed Calculations**
- Some entities are **not eligible** for the CbCR Safe Harbours (e.g., Stateless Constituent Entities such as Flow-through Entities and certain branches/PE's)
- **Separate calculations** are required too (**no jurisdictional blending**)



Flow-through Entity

What is a Flow-through Entity?

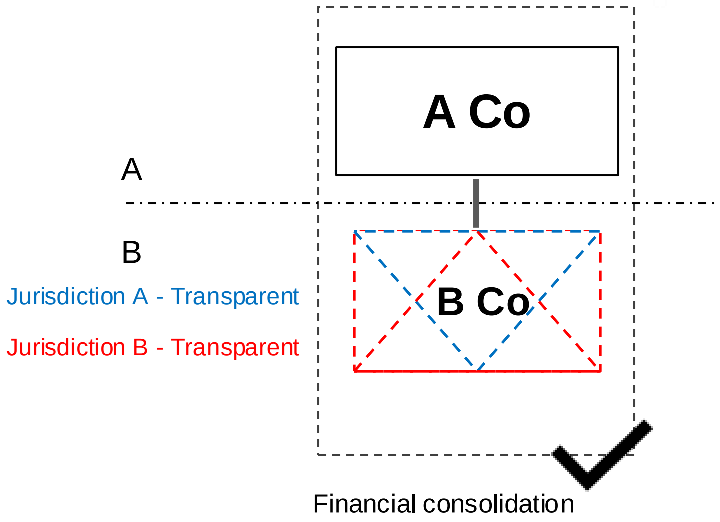
- A **CE** may be a **Flow-through Entity**
- This is the case if the jurisdiction where the Entity was created (State B) treats the Entity as **fiscally transparent**
- A **Flow-through Entity** can take the form of a **Tax Transparent Entity** or a **Reverse Hybrid Entity** → this is dependent on the **view of the Owner**



Tax Transparent Entity

What is a Tax Transparent Entity?

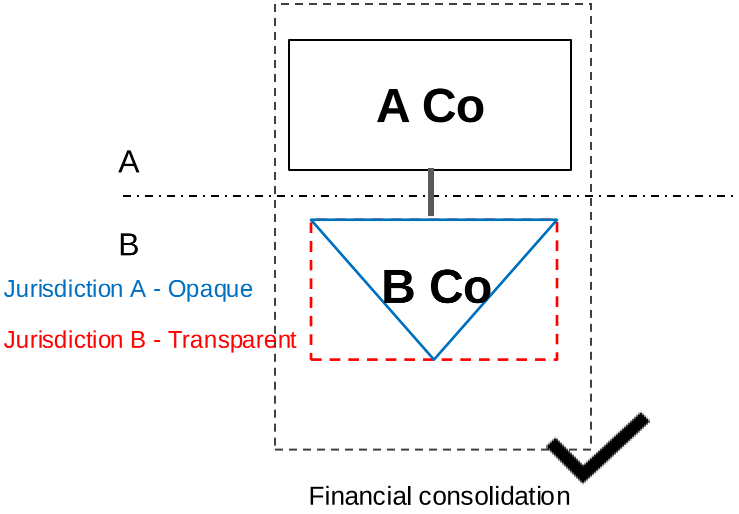
- In case of a **Tax Transparent Entity** the Owner treats the as **Flow-through Entity** as **fiscally transparent too**
- No qualification mismatch



Reverse Hybrid Entity

What is a Reverse Hybrid Entity?

- In case of a **Reverse Hybrid Entity** the Owner treats the as **Flow-through Entity** as **fiscally opaque**
- There is a qualification mismatch



Poll

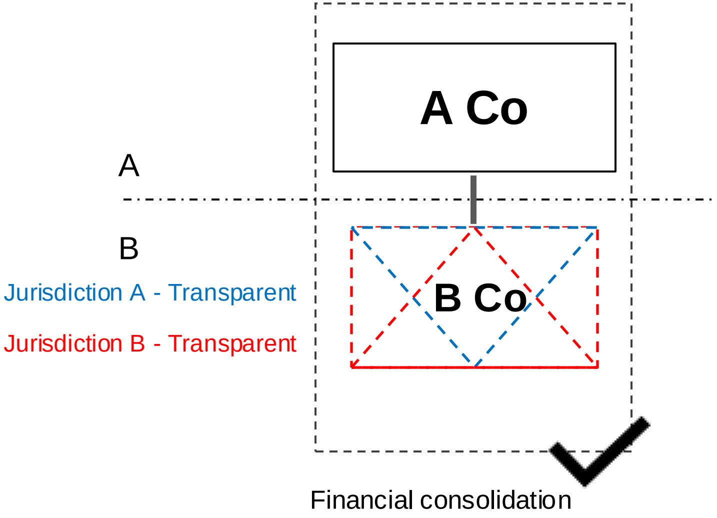
Heeft een Flow-through Entity een vestigingsplaats voor Pijler 2-doeleinden?

1. Ja
2. Nee
3. Het ligt genuanceerd

Flow-through Entity

Is a Flow-through Entity awarded a Location?

- No, in principle not
- A Flow-through Entity is a **Stateless Entity**, unless it is a UPE or if it is required to apply an IIR (Art. 10.3.2)
- So, it does not matter whether it is a **Tax Transparent Entity** or a **Reverse Hybrid Entity**
- A **Stateless Entity** is **not eligible** for the CbCR Safe Harbours
- **Separate calculations** are also required, i.e. no jurisdictional blending



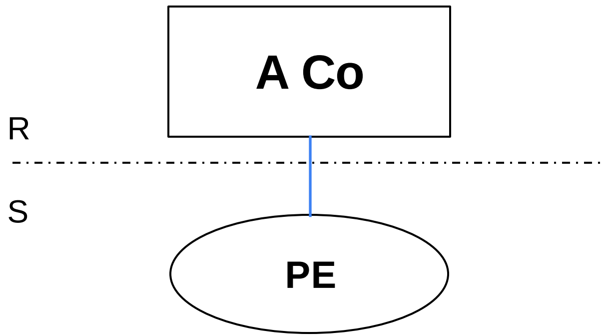
Permanent Establishment

What is a PE for P2 purposes?

- A **PE** has a **separate P2 meaning** different from the normal International Tax meaning
- A **PE** constitutes a **Constituent Entity** to which **Income and Taxes** may/should be **allocated**
- A PE constitutes an **Ownership Interest, i.e. the Main Entity (A Co) holds** an **Ownership Interest** in **PE**

- There are **four types of PE's**

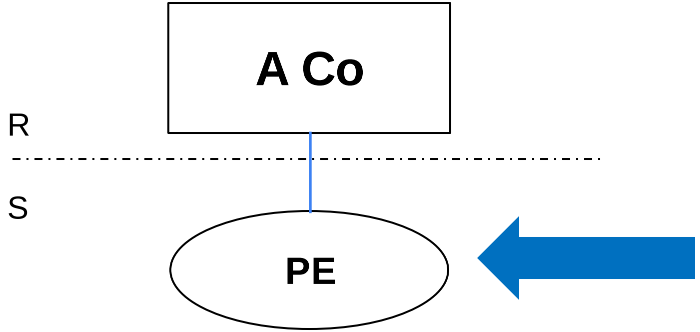
1. Tax Treaty PE
2. Unilateral Source State PE
3. Fictitious OECD MC PE
4. Unilateral Residence State PE



Permanent Establishment

What is a PE?

- In certain cases, under a **Double Tax Treaty** there is a PE, *i.e.* there is a PE in accordance with that Treaty
- However, the **Source State** may not tax this PE (*e.g.* no ECI or non-trading branch)
- **Is that a Tax Treaty PE**?



Permanent Establishment

Dutch parliamentary history

- EM: “In dat geval zal voor de toepassing van de in dit wetsvoorstel opgenomen maatregelen sprake zijn van een vaste inrichting indien op grond van het van toepassing zijnde belastingverdrag sprake is van een vaste inrichting, **mits de staat waarin de vaste inrichting is gelegen het inkomen van die vaste inrichting in aanmerking neemt** op grond van een bepaling die vergelijkbaar is met artikel 7 van het OESO-modelverdrag”

Dutch parliamentary history

- NV: “De NOB vraagt te bevestigen dat voor een vaste inrichting in de zin van onderdeel a in de definitie in artikel 1.2 Wet minimumbelasting 2024 sprake moet zijn van een vaste inrichting zoals gedefinieerd in het van toepassing zijnde verdrag **en de staat van de vaste inrichting** op basis van een verdragsbepaling vergelijkbaar met artikel 7 van het OESO-modelverdrag de inkomsten **mag belasten**, of in de terminologie van artikel 7 van het OESO-modelverdrag: «may be taxed».”

Dutch parliamentary history

- NV: “**Dat kan niet worden bevestigd**. Op grond van de definitie in artikel 1.2 (onderdeel a) moet sprake zijn van een vaste inrichting in de zin van een toepasselijk belastingverdrag én moet de staat waarin die vaste inrichting is gelegen, het aan die vaste inrichting toerekenbare inkomen in de belastingheffing betrekken.”

Commentary to Model Rules

- “In this case, the GloBE Rules acknowledge the existence of a PE in accordance with the Tax Treaty **provided that the source country taxes** in accordance with a provision similar to Article 7 of the OECD Model Tax Convention.”

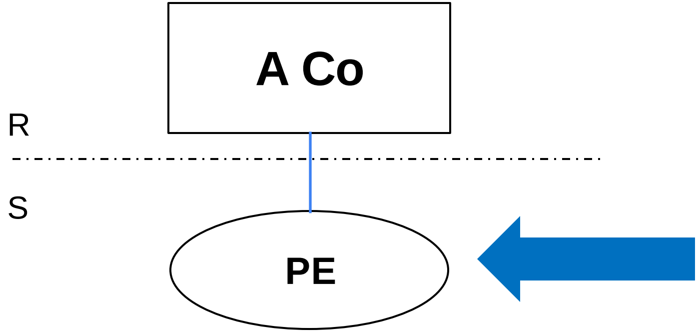
Permanent Establishment

View of Dutch legislator

- A **Tax Treaty PE** requires that the Source State **effectively taxes** the PE

- **If that is not the case**, what kind of PE is it then?

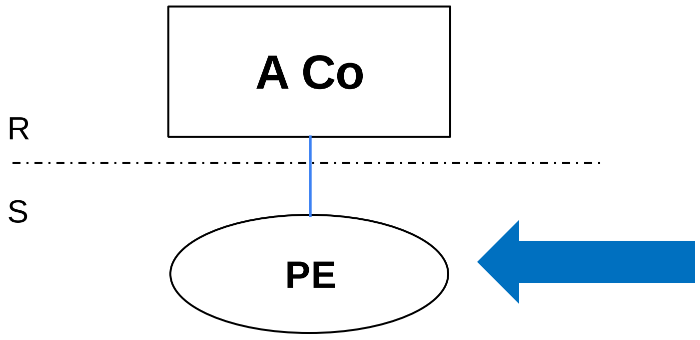
1. Unilateral Source State PE?
2. Fictitious OECD Model PE?
3. Unilateral Residence State PE?



Permanent Establishment

Unilateral Source State PE

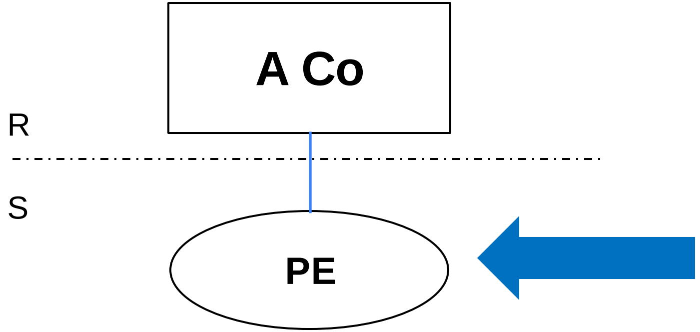
- This requires that (i) there is no Double Tax Treaty and (ii) the Source State under it domestic law sees a domestic PE
- In case the Source State does not tax, then it is probably not a **Unilateral Source State PE**



Permanent Establishment

Fictitious OECD Model PE

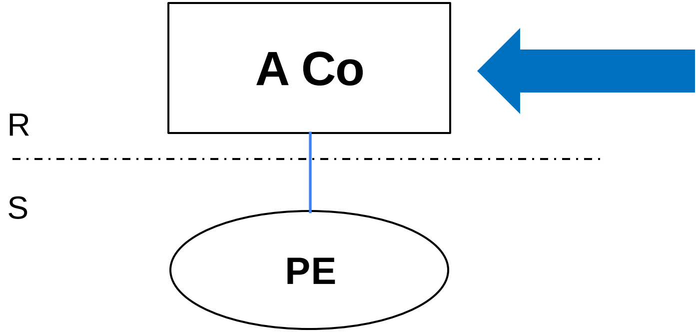
- This requires that the Source State has no Corporate Income Tax system
- Then, we deem that the OECD Model Convention is in place
- If under the OECD Model a place of business in the Source State would be considered a PE, then there is a **Fictitious OECD MC PE**
- In this case the Source State does not tax for other reasons
- Therefore, it is probably also not a **Fictitious OECD MC PE**



Permanent Establishment

Unilateral Residence State PE

- This is the **last resort**
- It requires that (i) there is no Tax Treaty PE, Unilateral Source State PE or Fictitious OECD Model PE and (ii) that the **Residence State exempts** foreign operations **as if** it sees a **foreign PE**
- In this case the **Residence State** sees a PE which it may exempt
- As a result, there probably is a **Unilateral Residence State PE**



Poll

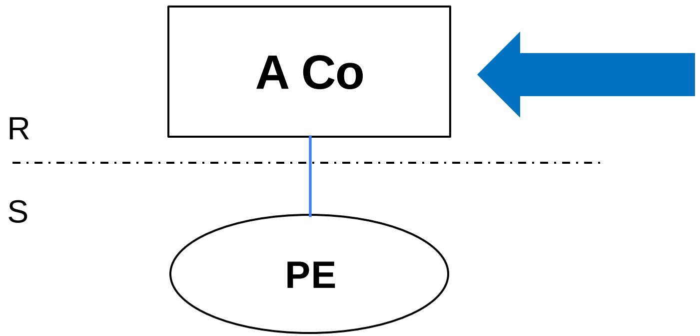
Heeft een Unilateral Residence State PE een vestigingsplaats voor Pijler 2-doeleinden?

1. Ja
2. Nee
3. Het ligt genuanceerd

Permanent Establishment

Is a Unilateral Residence State PE awarded a Location?

- No
- A **Unilateral Residence State PE** is a **Stateless Entity** (Art. 10.3.3(d))
- A Unilateral Residence State PE is also referred to as a **Stateless PE** in the Commentary to (Art. 10.1.1)
- A **Stateless Entity** is **not eligible** for the CbCR Safe Harbours
- **Separate calculations** are also required. i.e. no jurisdictional blending

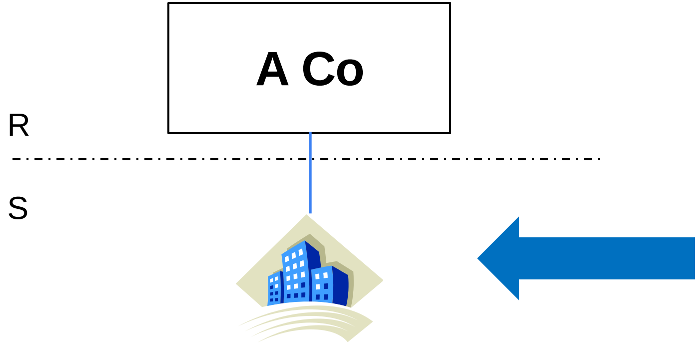


Permanent Establishment

How to deal with Real Estate?

- A Co directly holds **Real Estate** in another State (State B) which is rented out
- Typically, the **Source State will tax** Real Estate income and the Residence State will exempt it
- So, the requirement of the Dutch government, that Source State taxes, is met
- Still so, what kind of PE is it?

1. Tax Treaty PE?
2. Unilateral Source State PE?
3. Fictitious OECD Model PE?
4. Unilateral Residence State PE?



Poll

Wat voor vaste inrichting is vastgoed voor Pijler 2-doeleinden?

1. Tax Treaty PE?
2. Unilateral Source State PE?
3. Fictitious OECD Model PE?
4. Unilateral Residence State PE?
5. None of the above?

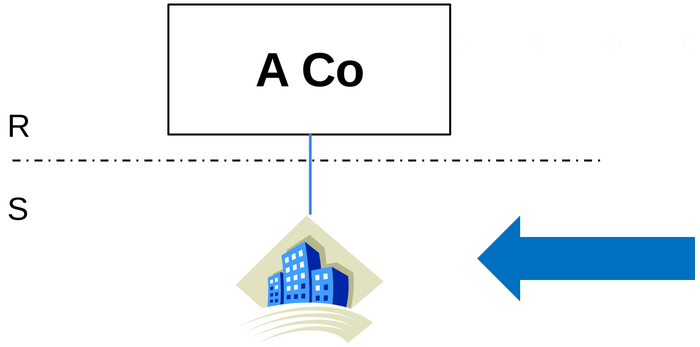
Permanent Establishment

How to deal with Real Estate?

- **Real Estate** is governed by Art. 6 OECD Model
- A **Permanent Establishment** is governed by Art. 5 and 7 OECD Model
- What is it for Pillar 2 purposes?

1. Real Estate?
2. Tax Treaty PE?
3. Unilateral Source State PE?
4. Fictitious OECD Model PE?
5. Unilateral Residence State PE?

- Note, a **Unilateral Residence State PE** is a Stateless Entity
- A **Stateless Entity** is **not eligible** for the CbCR Safe Harbours

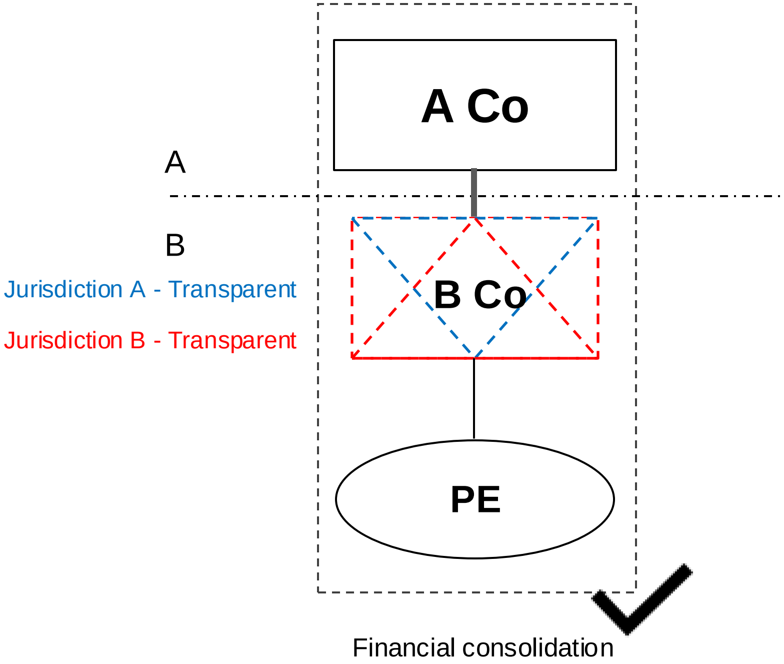


Art. 10.1.1 Model Rules
Permanent Establishment means:
(d) a place of business (or a deemed place of business) that is not already described in paragraphs (a) to (c) through which operations are conducted outside the jurisdiction where the Entity is located provided that such jurisdiction exempts the income attributable to such operations.

Combo of Flow-through Entity and PE

P2 creates a new reality

- You may think you have an **Ownership Interest in a Limited Partnership**, but you may also have a branch/PE
- You may think you have a **branch/PE**, but you may also have an Ownership Interest in a Limited Partnership
- **Let's explore this later**



Prior Year Tax Adjustments - accounting

Prior Year Tax Adjustments

Assume that:

- Company X performed a tax provision calculation for the Year 2023 and calculated an estimated tax expense/liability of EUR 50M in its 2023 Financial Statements.
- During 2024, the Company filed its 2023 CIT return and concluded that the final 2023 CIT position amounts to EUR 35M expense/liability.
- For the delta between the provision (EUR 50M tax liability) and filed tax position (EUR 35M tax liability), the Company records a **Prior Year Tax Adjustment** of EUR 15M (i.e., tax benefit).
- For 2024, the Company also included a tax expense based on the tax calculation of EUR 20M (PBT EUR 100M multiplied by local CIT rate of 20%) in the 2024 financial statements.

Local CIT rate: 20%, in EUR Millions	**Example P&L of the Company for the year 2024**
Revenue	250
Cost of Goods Sold	-150
IFRS Profit before Tax (a)	**100**
Current tax – current year (a * 20%)	-20
Current tax – prior year adj.	15
Deferred tax	0
IFRS Total Income Tax Expense (b)	**-5**
IFRS Profit after Tax (a+b)	**95**
IFRS Effective Tax Rate (-b/a)	**5%**

Poll

Wat is de kwaliteit van het tax provisioning proces binnen uw multinationale groep?

1. Goed – de ingediende aangiftepositie (actual) verschilt nauwelijks van de provision (estimate)
2. Gemiddeld – belastingcorrecties t.a.v. voorgaande jaren komen voor en kunnen wel eens groot zijn
3. Niet goed – we krijgen regelmatig uit de buitenlanden enorme belastingcorrecties t.a.v. voorgaande jaren
4. Geen idee

Post-Filing Tax Adjustments – Pillar 2

Post filing adjustments (article 4.6.1 P2 Model Rules)

What:
Adjustments related to the amount of Covered Taxes after the filing of the GIR (i.e., GloBE post-filing adjustments).

How:

- If positive post-filing adjustment (i.e., **tax expense**): take the post-filing tax expense in the **current year's P2 ETR computation**;
- If negative post-filing adjustment (i.e., **tax benefit**) and >1M; exclude the post-filing tax benefit from the current year's ETR computation and **recompute the prior year's P2 ETR** by taking into account the tax benefit in that year. Any TuT due under this recalculation is considered as a Additional TuT of the current year (i.e., no need to amend and re-file the GIR of the prior year);
- If negative post-filing adjustment (i.e., **tax benefit**) and <1M; in principle the same rule as for the >1M adjustments. However, upon election, such "immaterial" tax benefits are taken into account in **the current year's P2 ETR computation**.

Observation:

- This rule does not apply if the adjustment relates to a fiscal year prior to the application of the GloBE Rules to the CE;
- But how to treat accounting Prior Year Tax Adjustments booked in 2024 that relate to 2023?

PY Tax Adjustments – example (1/2)

Local CIT rate: 20%, in EUR Millions	Scenario 1	Scenario 2
	Article 4.6.1 applicable	Article 4.6.1 not applicable
IFRS Profit before tax	**100**	
Current tax – current year	-20	
Current tax – prior year	15	
Deferred tax	0	
IFRS Profit after tax	**95**	
GloBE Income (a)	**100**	
IFRS Current tax expense	-5 (-20+15)	
IFRS Deferred tax expense	0	
Post-filing adjustment re article 4.6.1 P2 MR	-15	
Adjusted covered taxes (b)	**-20**	
IFRS ETR	**5%**	
Pillar 2 ETR (c=-b/a)	**20%**	
Top-up Tax % (d=15%-c)	**0**	
Top-up Tax (a*d)	**0**	

PY Tax Adjustments – example (1/2)

Local CIT rate: 20%, in EUR Millions	Scenario 1	Scenario 2
	Article 4.6.1 applicable	Article 4.6.1 not applicable
IFRS Profit before tax	**100**	**100**
Current tax – current year	-20	-20
Current tax – prior year	15	15
Deferred tax	0	0
IFRS Profit after tax	**95**	**95**
GloBE Income (a)	**100**	**100**
IFRS Current tax expense	-5 (-20+15)	-5 (-20+15)
IFRS Deferred tax expense	0	0
Post-filing adjustment re article 4.6.1 P2 MR	-15	N/A
Adjusted covered taxes (b)	**-20**	**-5**
IFRS ETR	**5%**	**5%**
Pillar 2 ETR (c=-b/a)	**20%**	**5%**
Top-up Tax % (d=15%-c)	**0**	**15% - 5% = 10%**
Top-up Tax (a*d)	**0**	**100 * 10% = 10**

PY Tax Adjustments – example (2/2)

Pillar 2 treatment of accounting Prior Year Tax Adjustments is unclear, see also the question raised by the Dutch Association of Tax Advisors in June 2023:

Maakt het voor de beantwoording van de vraag nog uit of de bijheffing-informatieaangifte ('BIA') al is ingediend? (VRAAG 46) Artikel 7.6 Wet minimumbelasting 2024 lijkt te suggereren (titel: 'aanpassingen na indiening van de bijheffing-informatieaangifte', BIA) dat het alleen van toepassing is op het moment dat de BIA al is ingediend.

Als dat klopt, wat betekent dat dan voor een correctie van de acute belastinglast uit voorgaande jaren die is gemaakt voordat de BIA voor het voorgaande jaar is ingediend? (VRAAG 47) Een belastingplichtige met een jaareinde in december stelt een acute belastingberekening op eind 2024. Eind 2025, na het indienen van lokale Vpb-aangifte, boekt het de correctie in de financiële verslaggeving om de werkelijk verschuldigde belastingen weer te geven. Stel dat de belastingplichtige zijn BIA voor 2024 pas in juni 2026 indient. Wat moet de belastingplichtige doen met de 2025 correctie die is gemaakt voordat de BIA over verslagjaar 2024 is ingediend? Dient de belastingplichtige de correctie dan te verwerken als onderdeel van de betrokken belasting over het verslagjaar 2024 of 2025? (VRAAG 48) Indien die keuze wordt geboden, dan zou de belastingplichtige er voor kunnen kiezen om de betrokken belasting toe te rekenen aan het jaar waarin ook het inkomen is verwerkt voor accountingdoeleinden, in dit geval verslagjaar 2025, zodat het geen verstorend effect op de berekening van het effectieve belastingtarief heeft.

PY Tax Adjustments – P2 CbCR Safe Harbour

Prior Year Tax Adjustments under the Transitional CbCR Safe Harbor

- December 2023 Administrative Guidance (“AG”) implicitly confirms that Prior Year Tax Adjustments are considered in the calculation of the total income tax expense amount for the purpose of calculating the Simplified Effective Tax Rate:

  Page 17 paragraph 24 December 2023 AG:

  > *“22. Uncertain tax positions can be material and can overstate a jurisdiction’s ETR in comparison to GloBE. Removing uncertain tax positions from the income tax expense does not increase the compliance burden of the MNE Group since the income tax expense and uncertain tax positions are recorded in distinct line items in an MNE Group’s trial balances that are used to prepare its Qualified Financial Statement and accompanying notes.* ***Where the income tax expense includes an adjustment to bring the amount reported for a prior year’s income tax expense in line with the final amount of the expense (sometimes referred to as a return to provision), the effect of any uncertain tax position reflected in that adjustment must be removed.”***

- Only the effect of any UTPs reflected in the Prior Year Tax Adjustment must be removed.

Prior Year Tax Adjustments - conclusion

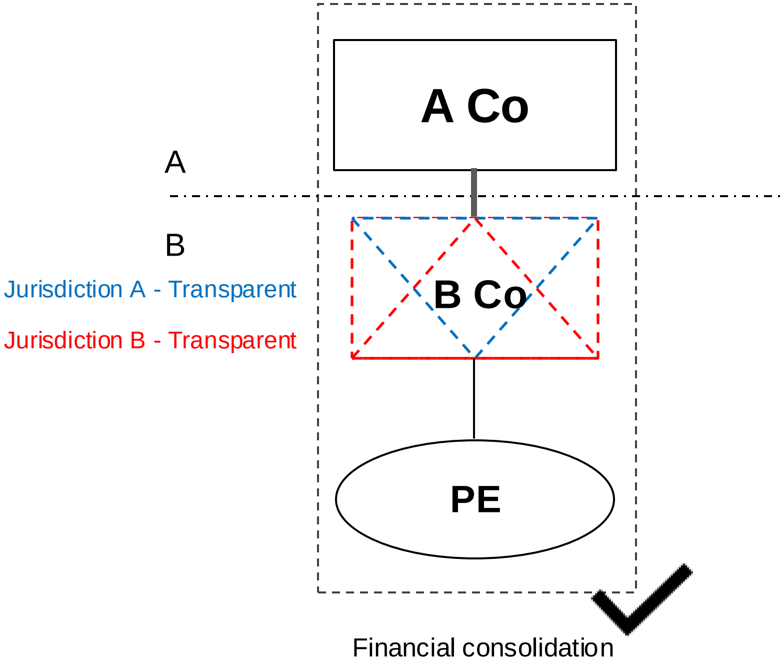
Prior Year Tax Adjustments – concluding remarks

- Common pitfall for Transitional CbCR Safe Harbour (i.e., not meeting the Simplified ETR Test).
- Treatment under the detailed Pillar 2 calculations is still unclear.
- Tax provisioning process will become even more important.

Combo of Flow-through Entity and PE

P2 creates a new reality

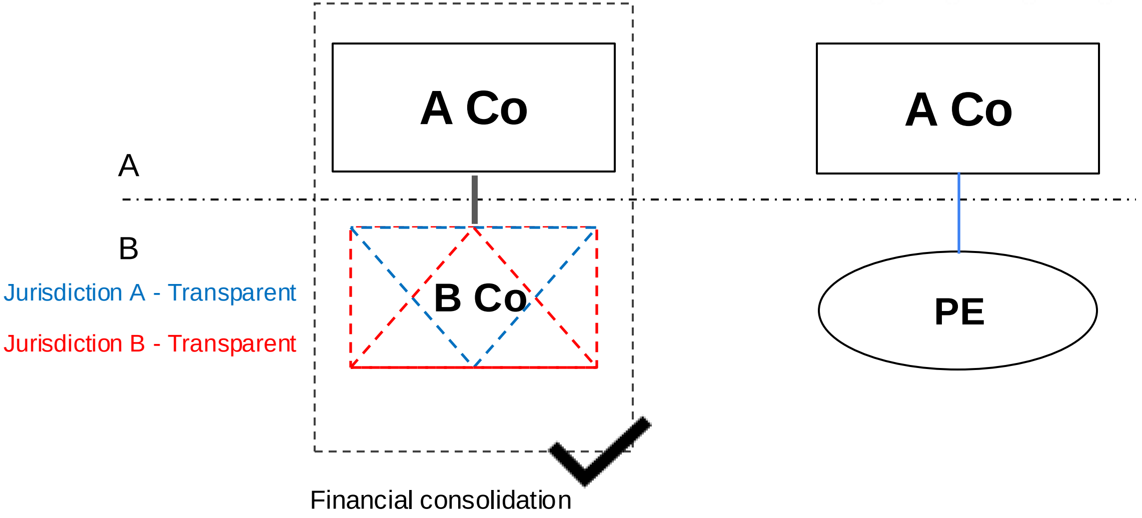
- You may think you have an **Ownership Interest in a Limited Partnership**, but you may also have a branch/PE
- You may think you have a **branch/PE**, but you may also have an Ownership Interest in a Limited Partnership
- **Let's now examine this from different points of view** as in the P2 world you must switch between **different perspectives**



Combo of Flow-through Entity and PE

Different points of view

- **Legal point of view:** what happens in your Financial Statements?
- **Corporate Tax point of view:** what happens in your CIT return?
- **CBCR point of view:** what happens in your CBCR report?
- **P2 point of view:** what happens in your GIR, IIR calculation and QDMTT calculation?

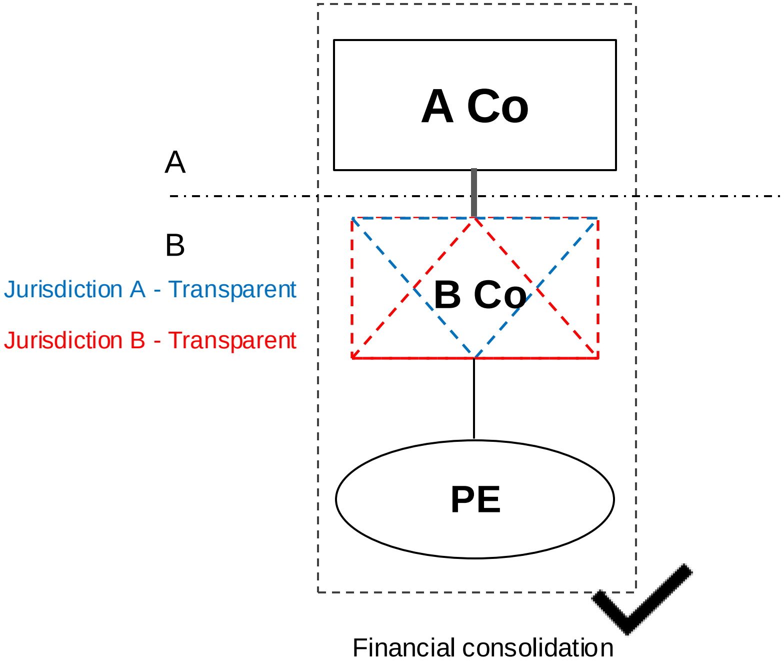


Combo of Flow-through Entity and PE

Different points of view

- **Legal point of view:** what happens in your **Financial Statements**?
- **A Co** has an Ownership Interest in B Co, an LP
- **B Co** has its own Financial Statements
- **PE** will likely not have own Financial Statements

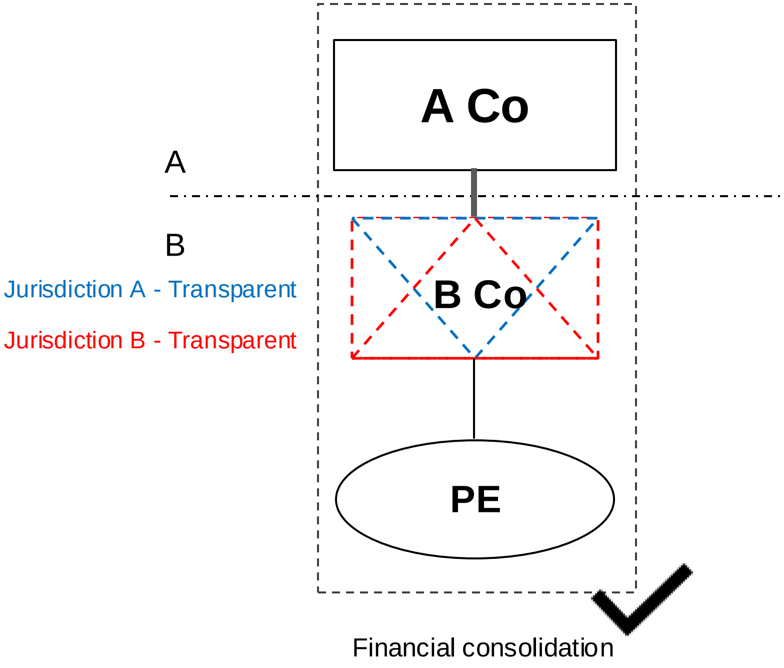
- **Corporate tax point of view:** what happens in your CIT return?
- State A State B disregards **B Co** and views that **A Co** has a **PE** in State B and exempts PE or provides credit
- State B disregards **B Co**
- State B taxes **A Co** as a foreign taxpayer for its **PE**



Combo of Flow-through Entity and PE

Different points of view

- **CBCR point of view:** what happens in your CBCR report?
- **Income** is reported in **State B**
- **Taxes** are reported in **State B**

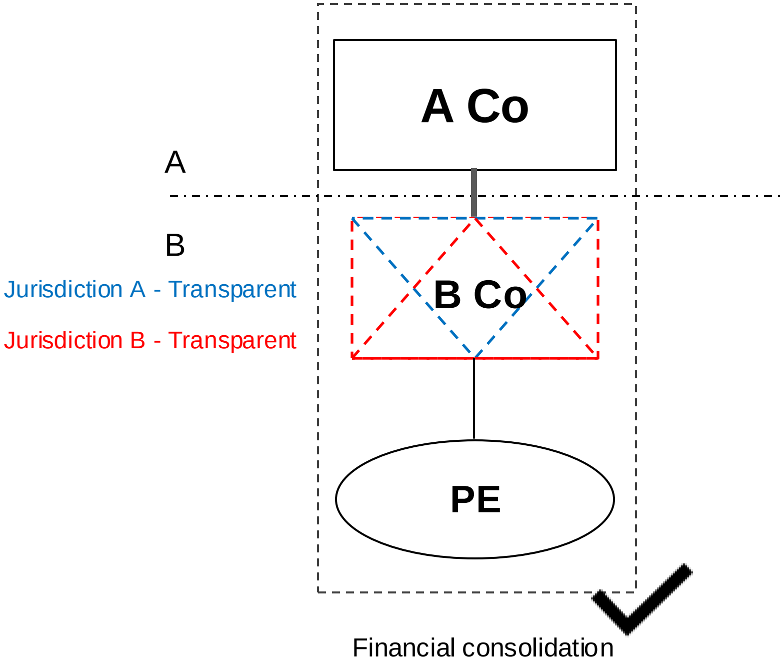


Combo of Flow-through Entity and PE

Different points of view

- **P2 point of view:** what happens in your GIR, IIR calculation and QDMTT calculation?
- **Deconsolidate**!

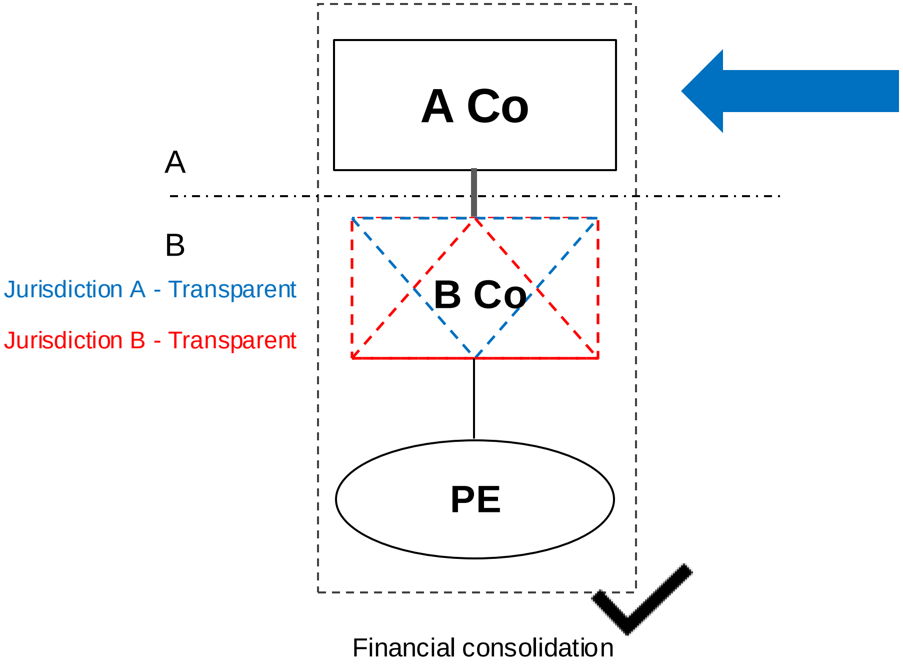
- **A Co** has an Ownership Interest in B Co that gives rise to Income and Taxes
- **B Co** is a separate CE that (i) has its own Income and Taxes and (ii) holds an Ownership Interest in PE
- **PE** is a separate CE that has it own Income and Taxes



Combo of Flow-through Entity and PE

P2 point of view State A (A Co)

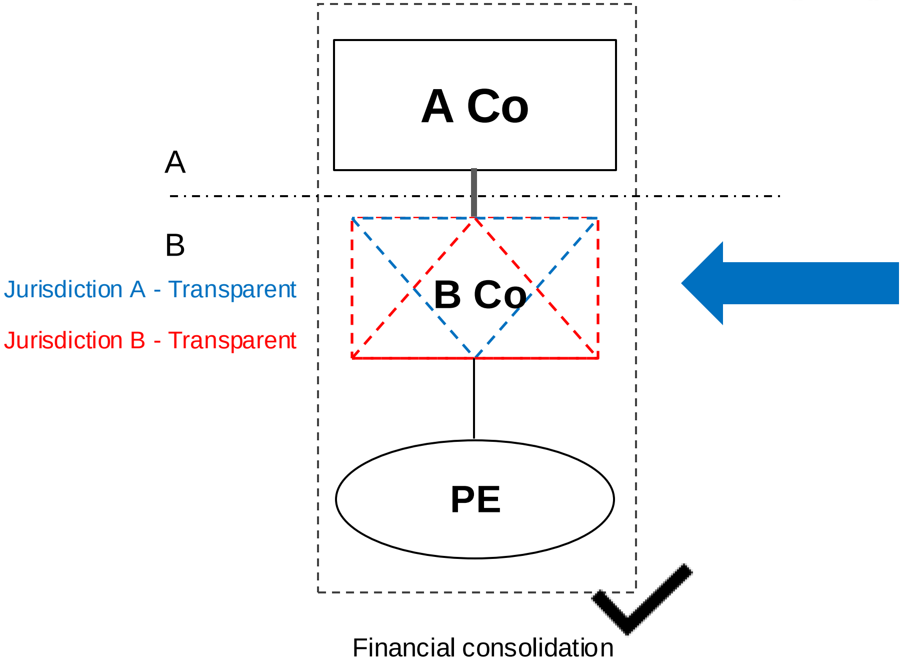
- **A Co** is a **separate CE** holding an **Ownership Interest** in B Co that gives rise to Income and Taxes
- **A Co** reports financial accounting net income or loss (**FANIL)** if dividends are received or if it revalues/sells its Ownership Interest
- **A Co's** Financial Statements include **Source State B CIT** for the PE
- If A Co **Excludes Income** per Art. 3.2.1(b) or Art. 3.2.1(c), then the symmetry rule per Art. 4.1.3(a) requires A Co to **Exclude Taxes** too



Combo of Flow-through Entity and PE

P2 point of view State B (B Co)

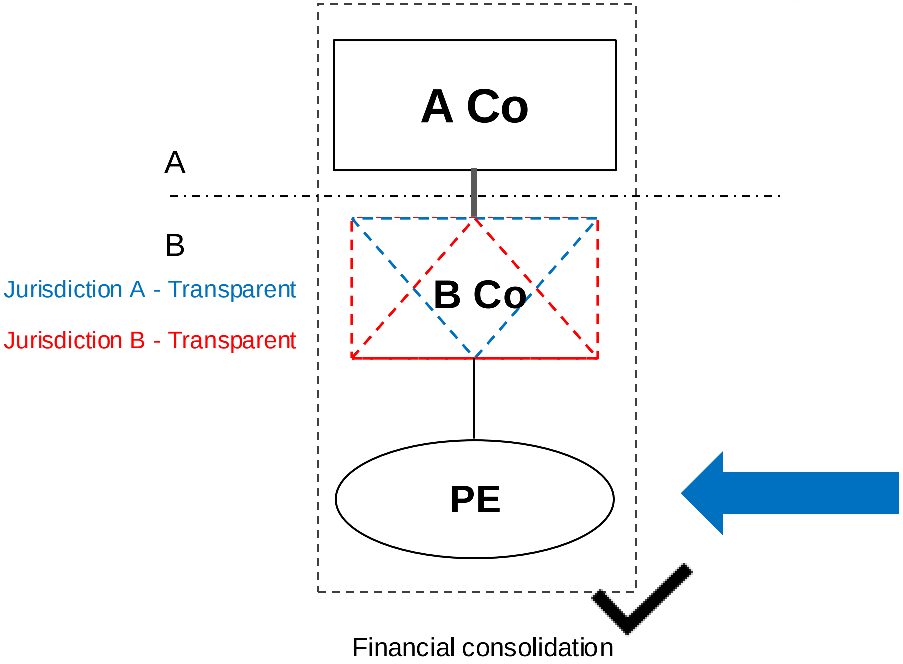
- **B Co** is a **separate CE** that (i) has its own Income and Taxes and (ii) holds an Ownership Interest in PE
- Since B Co is a **Flow-through Entity** in the form of a **Tax Transparent Entity** it is **not eligible** for the CbCR Safe Harbours
- **B Co**'s **FANIL** will include the Income of PE
- **B Co**'s **Financial Statements** will not include the CIT levied from A Co
- The **disposition of PE** may be an Excluded Equity Gain or Loss per Art. 3.2.1(c)
- If so, then the symmetry rule per Art. 4.1.3(a) requires B Co to **Exclude Taxes** too
- However, there will likely not be CIT at B Co level (as transparent)



Combo of Flow-through Entity and PE

P2 point of view State B (PE)

- **PE** is a **separate CE** that has Income and Taxes
- PE may be a **Tax Treaty PE** as Source State B **effectively taxes** the PE
- As a result, PE is **eligible** for the CbCR Safe Harbours
- If PE has **no own Financial Statements**, how to solve?

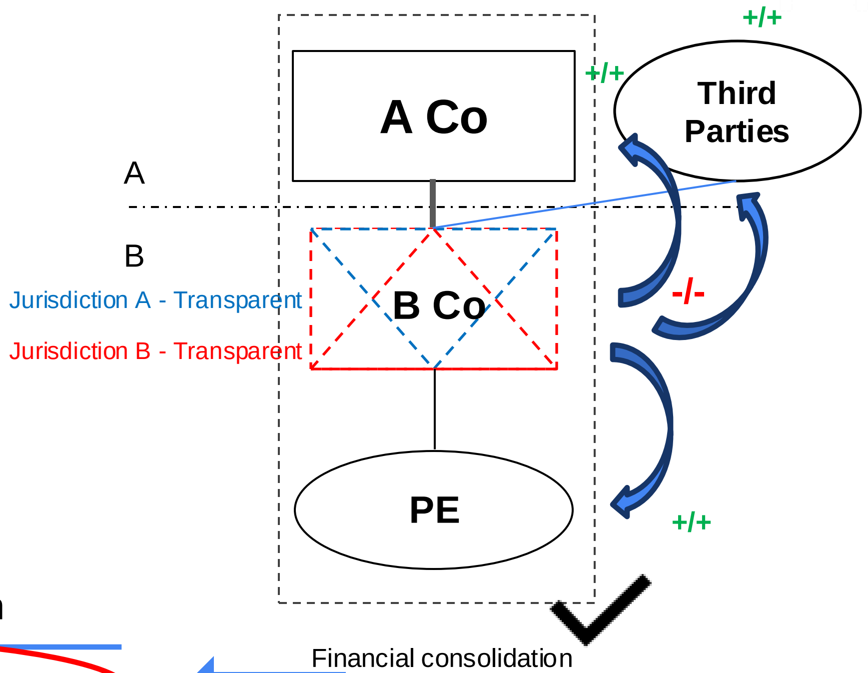


Combo of Flow-through Entity and PE

Allocation of Income under P2

- **Three step approach** of Art. 3.5 MR/6.14 WMB 2024

1. **Allocate** income of B Co to **Third Parties** in accordance with their Ownership Interest
2. **Allocate** income of B Co to a **PE**, if any
3. **Allocate** income of B Co its **Constituent Entity-owners** (in State A) in accordance with their Ownership Interest



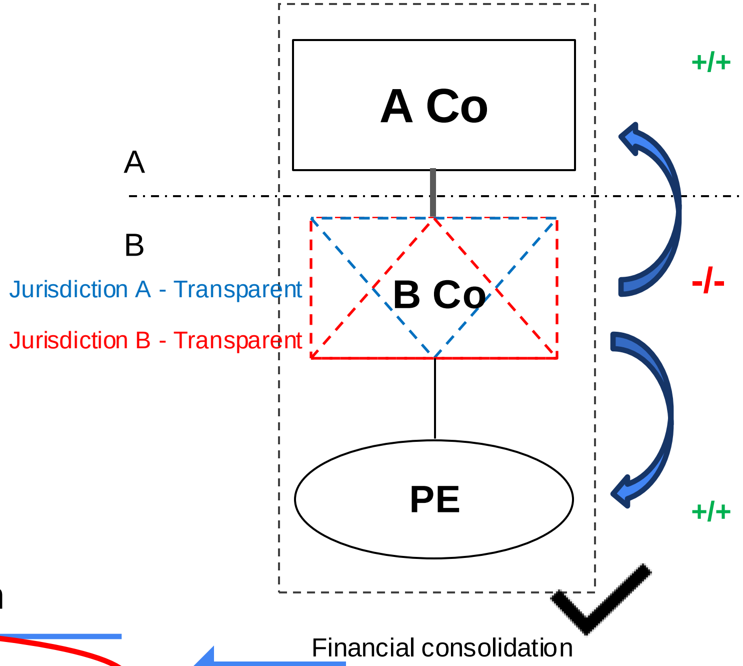
$$\textbf{ETR} = \frac{\text{Covered Taxes in jurisdiction}}{\text{GloBE Income or Loss in jurisdiction}}$$

Combo of Flow-through Entity and PE

Allocation of Income under P2

- Three step approach applied
- **Step 1** is not applicable, as there are no Third Parties
- **Step 2** is to allocate income of B Co to PE
- **Step 3** is to allocate any remaining income of B Co to A Co
- As a result, **B Co's income is emptied out**, and is allocated to PE!

- PE now has Income
- Does it also have Covered Taxes?

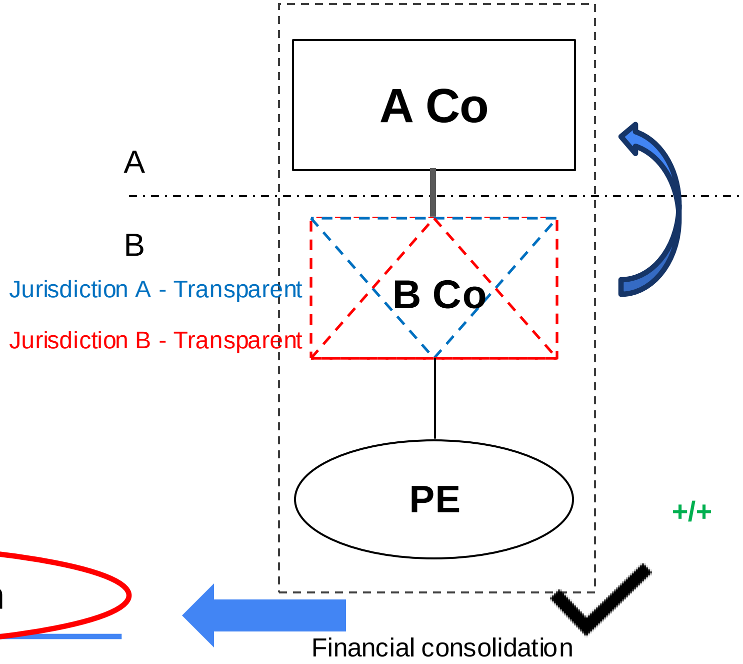


$$\textbf{ETR} = \frac{\text{Covered Taxes in jurisdiction}}{\text{GloBE Income or Loss in jurisdiction}}$$

Combo of Flow-through Entity and PE

Allocation of Taxes under P2

- **Covered Taxes** of a **Tax Transparent Entity** are allocated **to CE-owners**, i.e. A Co
- This means that CT of B Co is reduced under Article 4.3.2(b) MR
- This means that CT of A Co is increased under Article 4.3.2(b) MR
- **Still, no taxes at PE**

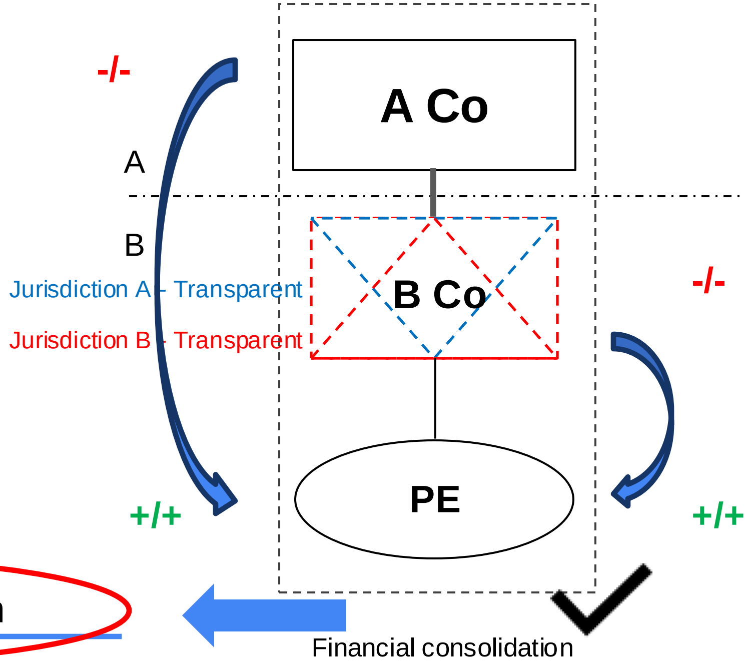


$$\textbf{ETR} = \frac{\text{Covered Taxes in jurisdiction}}{\text{GloBE Income or Loss in jurisdiction}}$$

Combo of Flow-through Entity and PE

Allocation of Taxes under P2

- **Covered Taxes** from a Constituent Entity with respect to a **PE** are **allocated to the PE**
- This means that CT of **B Co** are **reduced** under Article 4.3.2(a) MR
- This means that CT of **PE** are **increased** under Article 4.3.2(a) MR
- This also means that CT of **A Co** are **reduced** under Article 4.3.2(a) MR
- This also means that CT of **PE** are increased under Article 4.3.2(a) MR
- **PE now has Income and Covered Taxes**
- **So all is fine, right?**

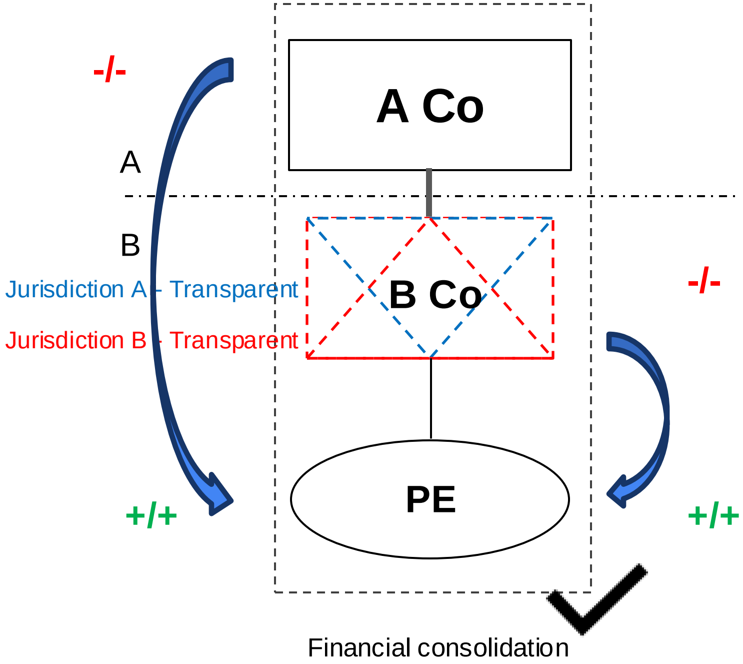


$$\textbf{ETR} = \frac{\text{Covered Taxes in jurisdiction}}{\text{GloBE Income or Loss in jurisdiction}}$$

Combo of Flow-through Entity and PE

Allocation of Taxes under P2

- Under a **QDMTT** the allocation of Covered Taxes is disregarded
- See para 118.30 to Art. 10.1.1 on the definition of QDMTT
- "For purposes of computing the ETR, a QDMTT shall exclude Covered Tax expense of: … (ii) a Main Entity that is allocable under Article 4.3.2(a) to a Permanent Establishment located in the jurisdiction".
- Who is **Main Entity**? Can we allocate A Co's taxes to **PE**?
- If not, Covered Taxes included in the financial accounts of A Co are not allocated to PE in State B for QDMTT purposes
- See Art. 7.5(9) WMB 2024



Combo of Flow-through Entity and PE

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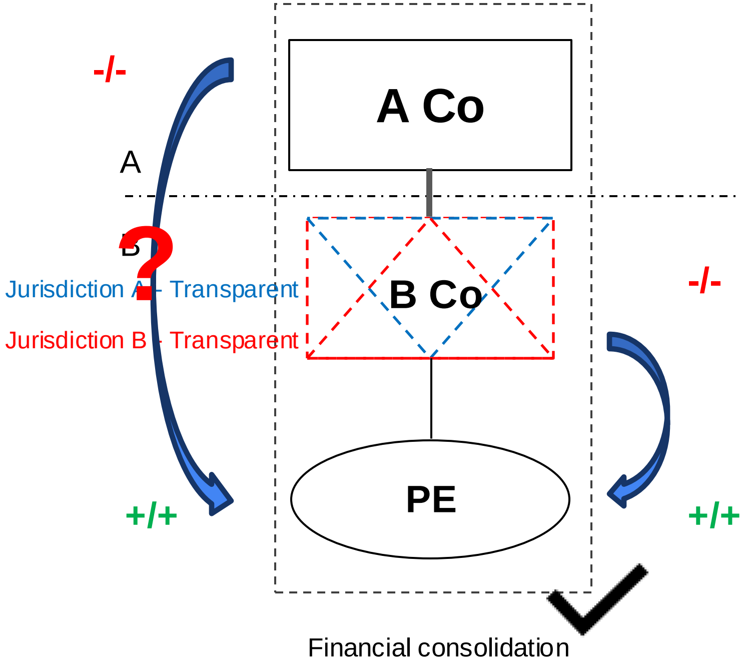
- “For purposes of computing the ETR, a QDMTT shall exclude Covered Tax expense of: … (ii) a Main Entity that is allocable under Article 4.3.2(a) to a Permanent Establishment located in the jurisdiction”.
- Who is **Main Entity**? Can we allocate A Co’s taxes to **PE**?
- If not, Covered Taxes included in the financial accounts of A Co are not allocated to PE in State B for QDMTT purposes
- See Art. 7.5(9) WMB 2024



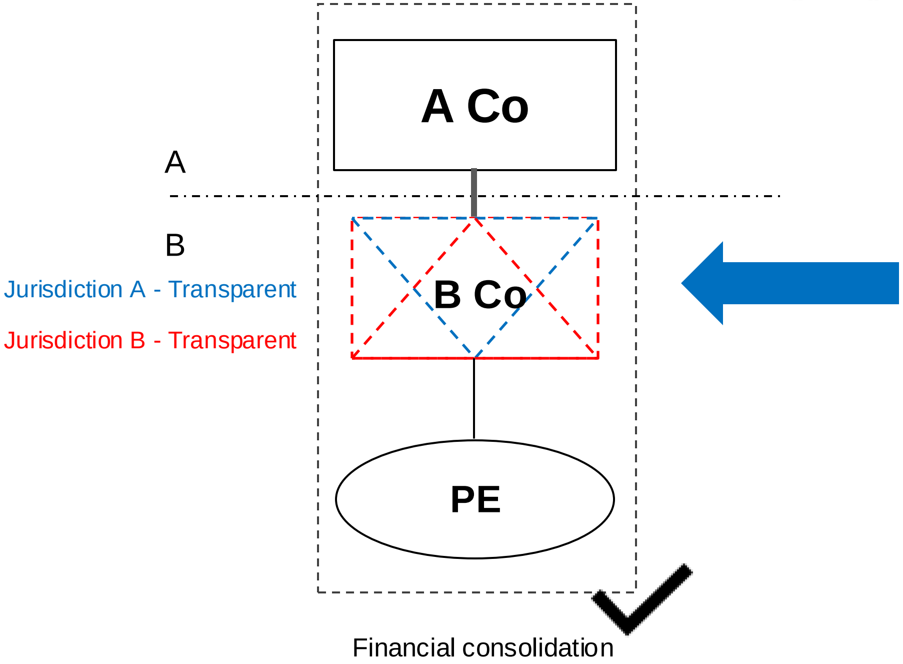
Combo of Flow-through Entity and PE

End result

- You may think you have an **Ownership Interest in a Limited Partnership**, but you may also have a branch/PE
- You may think you have a **branch/PE**, but you may also have an Ownership Interest in a Limited Partnership

Key takeaway

- Beware of Stateless Entities
- Full GloBE calculations can be difficult, or not?



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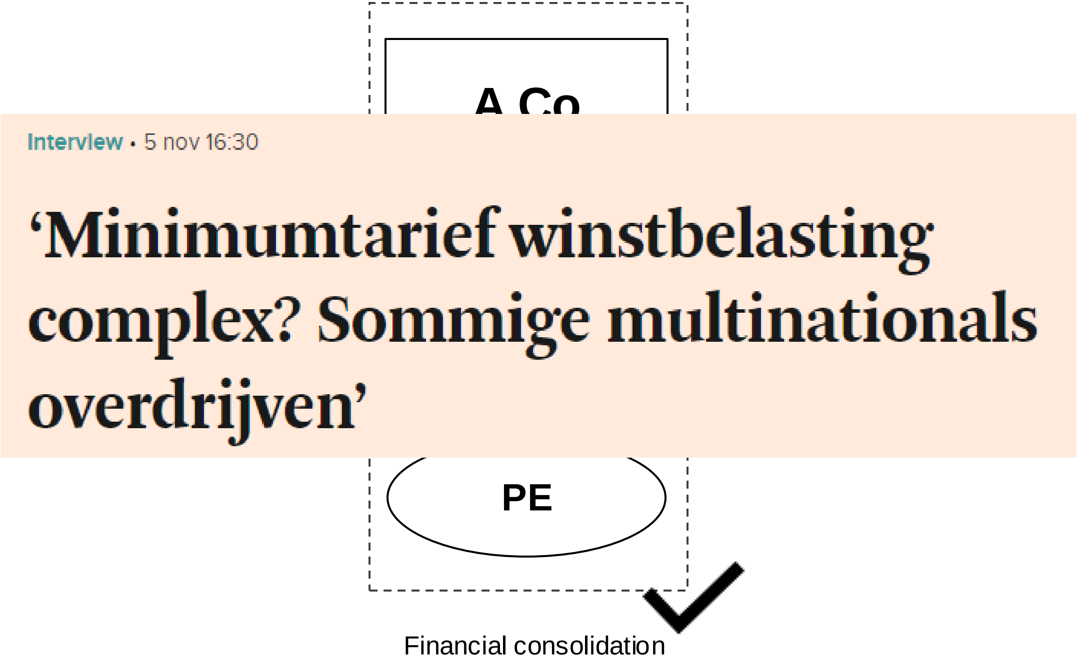


Interview • 5 nov 16:30

‘Minimumtarief winstbelasting complex? Sommige multinationals overdrijven’

03

Next steps/key takeaways

Pillar Two timeline

Assuming Calendar Year

FY24 (1st reporting year) → 18 months → **FY24 filing deadline – June 30, 2026**

FY25 (2nd reporting year) → 15 months → **2nd reporting year filing deadline – March 31, 2027**

Pillar Two provisioning
starting quarterly

2024

- Quarterly estimates for FS purposes

- **FY24 QDMTT interim payments** (e.g., Belgium)
- Pillar Two **registrations** (e.g., Belgium)

2025

- FY24 Year End
- Quarterly estimates for FS purposes
- Pillar Two registration in Germany (28 February 2025)

- **FY25 QDMTT interim payments**
- Other formal Pillar Two compliance obligations (e.g., registrations)
- Note: filing deadline FY24 QDMTT is 1 December 2025 in Belgium.

2026

- FY25 Year End
- Quarterly estimates for FS purposes

- **FY26 QDMTT interim payments**
- **FY24 QDMTT/IIR/UTPR return**
- Up to 30 June 2026 (* 31 March for following FYs) **FY24 GloBE Information Return (GIR)**

Pillar Two tax compliance requirements per MNE (others may apply as local rules are implemented):

- GloBE Information Return (GIR)
- Notifications to local authorities about which entity is submitting the GIR
- IIR and UTPR top-up tax returns
- Local QDMTTs (if applicable in territories where the MNE has presence)
- Pillar Two interim payments
- Local registrations of entities subject to the rules

Key takeaways

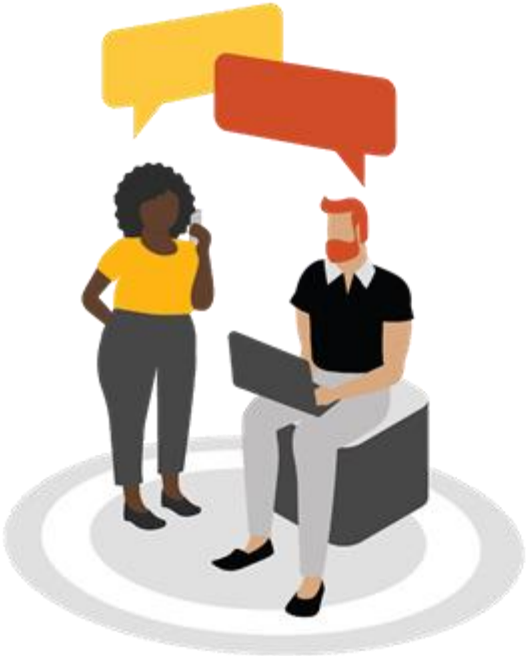
Transitional CbCR Safe Harbour is not only performing numerical calculations

Entity classification is important, ensure you have a solid assessment in place

Full GloBE calculations can be challenging

Next to focusing on 2024 year-end, be mindful of any other formal Pillar 2 compliance requirements during that period

Vragen?



Afsluiting

- **Vragen?** Neem dan contact op met uw PwC-adviseur of laat het weten bij de evaluatie.
- Bekijk deze webcast of presentatie in een later stadium
- Blijf op de hoogte: meld u aan voor onze PwC Belasting nieuwsbrief op pwc.nl
- Kijk op pwc.nl/evenementen voor de overige onderwerpen van ‘State of Tax, Legal People’
- Wilt u het evaluatieformulier invullen?

Evaluatie

- Hoe waardeert u dit webinar op een schaal van 1 tot 10?
- De inhoud was relevant (Geheel mee eens / Mee eens / Neutraal / Mee oneens / Geheel mee oneens)
- Heeft u nog opmerkingen of suggesties voor ons?
- Heeft u nog specifieke vragen waarvoor u wilt dat wij contact met u opnemen?

Contact

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Bedankt!