



Senate Standing Committees on Economics
PO Box 6100
Parliament House
Canberra ACT 2600

Email: economics.sen@aph.gov.au

19 July 2024

Dear Sir or Madam

Taxation (Multinational—Global and Domestic Minimum Tax) Imposition Bill 2024 [Provisions] and related bills

PwC welcomes the opportunity to make this submission to the Senate Economics Legislation Committee regarding the provisions of the *Taxation (Multinational—Global and Domestic Minimum Tax) Imposition Bill 2024*, the *Taxation (Multinational—Global and Domestic Minimum Tax) Bill 2024* and the *Treasury Laws Amendment (Multinational—Global and Domestic Minimum Tax) (Consequential) Bill 2024* (the Bills).

At the outset, PwC supports the measures proposed by these Bills which aim to implement significant international reforms in Australia as part of the global commitment of the OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting (the Inclusive Framework) to Address the Tax Challenges Arising from the Digitalisation of the Economy under the Two-Pillar Solution.

We acknowledge the significant legislative undertaking represented by the implementation of global and domestic minimum taxes in Australia, coordinated with the release of similar rules in numerous countries around the world. We also commend the work of the Treasury in undertaking and responding to the earlier consultation around the development of this package of legislation.

These reforms are significant for any multinational enterprise which will need to work through multiple jurisdictions' laws and timeframes for adoption. We have had experience in working with many taxpayers in not only informing and educating them about the new framework and how the rules may apply in Australia, but largely in assisting clients with understanding the impacts of the rules and in developing their data, process, operational and compliance readiness for the Pillar Two reforms. Our submission on the various aspects set out below has been informed by these experiences.

PricewaterhouseCoopers, ABN 52 780 433 757
One International Towers Sydney, Watermans Quay, Barangaroo NSW 2000, GPO BOX 2650 Sydney NSW 2001
T: +61 2 8266 0000, F: +61 2 8266 9999, www.pwc.com.au

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Ongoing consultation on rule design

This package of Bills seeks to impose the Australian Domestic Minimum Tax (DMT), Australian Income Inclusion Rule (IIR) tax and Australian Undertaxed Profits Rule (UTPR) tax; implement the legislative framework for the imposition of those taxes and to make necessary consequential and miscellaneous amendments necessary for their administration. This should be and broadly is consistent with the Global Anti-Base Erosion Model Rules (GloBE Rules).

We note however, that these Bills are just part of the process to implement the measures and further work remains to be done prior to the finalisation of the rules in Australia. This includes the development of the subordinate legislation (the Rules) which are to be made by legislative instrument under Part 4 of the *Taxation (Multinational—Global and Domestic Minimum Tax) Bill 2024* and also the administrative compliance aspects of the filing obligations, including development by the Commissioner of Taxation of the relevant returns to be lodged in relation to each of the taxes and any other necessary forms and elections.

Although the Rules cannot be made by the Minister and finalised until enactment of the Bill, it is imperative that there continues to be suitable consultation on the development of these Rules and that affected taxpayers have the opportunity to see the final form of such Rules prior to them being made. This is particularly relevant where the OECD continues to release Administrative Guidance on the interpretation of the GloBE Rules which may need to be reflected in the drafting of the Rules. The Rules are the crucial element of the reform that enables the calculation and determination of any resulting tax liability for in-scope taxpayers in Australia. In the absence of these Rules, there can be no Australian liability to DMT, IIR tax or UTPR tax.

Interaction with other provisions

We also consider there are still some issues specific to Australian income tax laws which need to be considered as part of the development of the Rules (for example, tax consolidation, stapled structures and joint ventures (involving both taxpaying and flow-through entities) and the Australian non-refundable research and development tax incentive).

Financial reporting obligations

With the commencement date of the DMT and the IIR tax set to apply for fiscal years commencing on or after 1 January 2024, affected entities are already within the application period of the rules resulting in the need to consider current period financial reporting obligations for fiscal years ending 31 December 2024 and after. Although the Bills propose an extended transitional deadline for the lodgement of the relevant GloBE Information Return, Australian IIR/UTPR tax return or DMT tax return and payment of any resulting taxes to no earlier than 30 June 2026 (item 68 of *Treasury Laws Amendment (Multinational—Global and Domestic Minimum Tax) (Consequential) Bill 2024*), affected entities still need to calculate and report the impact in their relevant financial statements prior to this time. As such, it is important that the release of the final form of the Rules are not delayed significantly such that taxpayers are in a position to both assess the implications of the Rules from a financial



reporting perspective in addition to confirming the extent of their reporting obligations having regard to the timing of substantive enactment, or enactment, of the rules.

Compliance and administration

Our clients, and our global network experience in preparing for the implementation of the GloBE Rules, tell us that these rules are extremely complex and can be practically challenging to apply for a large multinational enterprise that operates in many jurisdictions. A large aspect of the complexity is driven by the requirement to identify and compile the many relevant data points in a form that is ready to meet each applicable jurisdiction's filing requirements, i.e. becoming compliance ready.

In relation to matters of compliance and administration, we note that the Australian Taxation Office (ATO) is already taking steps to progress how it might administer the new taxes before it becomes law. This includes designing domestic returns and developing the systems required to administer the measure. These aspects are not covered by the Bills but are important elements that under the framework should continue to be matters for further consultation.

In addressing such issues, a key message that we are hearing from our clients is that managing the compliance aspects of the Australian GloBE taxes should be as streamlined as possible. For example, the GloBE Information Return, Australian IIR/UTPR tax return and/or DMT tax return returns should not result in duplicated information, and where appropriate, single consolidated filing for entities in the Australian group should be allowed or where there is no actual liability, no tax return should be required to be lodged (proposed section 127-35(5) of Schedule 1 of the *Taxation Administration Act 1953* as provided by the *Treasury Laws Amendment (Multinational—Global and Domestic Minimum Tax) (Consequential) Bill 2024* provides the Commissioner with the ability to specify circumstances where a return is not required). These administrative issues should be subject to separate and ongoing consultation with the Commissioner.

A further avenue available to assist affected taxpayers with managing the compliance aspects of the rules lies in the development of permanent safe harbours, a concept that the OECD has established within the framework of the GloBE Rules, but one which has yet to be drafted and established. The purpose of establishing a permanent safe harbour is to simplify compliance with the GloBE Rules by reducing the number and complexity of calculations the groups are required to make, while at the same time ensuring that these simplified calculations do not undermine the consistency and transparency of outcomes under the GloBE Rules. We encourage ongoing efforts to develop such a safe harbour in conjunction with the OECD.

Further guidance and/or refinements

We also envisage that ATO public advice and guidance would play a key role to support taxpayers in helping ensure that they meet their obligations on time and appropriately. For example, guidance that helps taxpayers navigate their reporting and filing obligations in relation to each of the Australian GloBE taxes would be very beneficial, particularly given the high penalties that can apply for failing to meet these obligations. Also, guidance on the qualification for the Transitional Country by Country



Safe Harbour relief, as many of our clients have told us that they intend to rely on this transitional safe harbour, where possible.

Given the complexity of understanding and practically applying the new rules in Australia and globally, it is expected that over time, particularly in the early years of application, there likely will be new issues that arise that directly impact the application of the rules in Australia and/or in their interaction with existing laws. It may be the case that after the measures are enacted in Australia, there may be the need for potential further refinement of the legislation in Australia.

We welcome the opportunity to provide this submission and engage in the development of significant international reforms in Australia.

Yours sincerely

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Chris Morris
Australian Tax and Legal Leader