

GUERNSEY STATUTORY INSTRUMENT

2024 No. 97

The Income Tax
(Approved International Agreements) (Implementation)
(OECD Pillar Two GloBE Model Rules)
Regulations, 2024

<i>Made</i>	<i>26th November, 2024</i>
<i>Coming into operation</i>	<i>1st January, 2025</i>
<i>Laid before the States</i>	<i>, 2024</i>

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The Income Tax
(Approved International Agreements) (Implementation)
(OECD Pillar Two GloBE Model Rules)
Regulations, 2024

THE POLICY & RESOURCES COMMITTEE, in exercise of the powers conferred upon it by sections 75CC(1A), 75O and 203A of the Income Tax (Guernsey) Law, 1975^a, and all other powers enabling it in that behalf, hereby makes the following Regulations:-

PART I
INTRODUCTORY

Implementation of GloBE Model Rules, DTT and MTT.

1. (1) These Regulations implement the Global Anti-Base Erosion Model Rules (Pillar Two)^b, approved by the OECD/G20 Inclusive Framework on BEPS on the 14th December, 2021, prepared for publication by the OECD Secretariat and cited as "OECD (2021), Tax Challenges Arising from the Digitalisation of the Economy – Global Anti-Base Erosion Model Rules (Pillar Two): Inclusive Framework on BEPS, OECD, Paris".

^a Ordres en Conseil Vol. XXV, p. 124. The Law has been amended.

^b An international tax measure specified for the purposes of the Law, under section 75CC(1C) thereof, by Resolution of the States of Deliberation of the 4th September, 2024 (Article III of Billet d'État No. XIII of 2024).

(2) The Model Rules described in paragraph (1), together with any provisions of those Rules (within the meaning of section 75CC(3) of the Law), are referred to in these Regulations as the "**GloBE Model Rules**".

(3) Subject to such exceptions, adaptations and modifications as may be specified in these Regulations, the GloBE Model Rules –

(a) shall extend to Guernsey and have the same force and effect as regulations made under the Law, and

(b) shall have effect in relation to –

(i) the Domestic Top-up Tax payable under the GloBE Model Rules (the "**DTT**"), and

(ii) the Multinational Top-up Tax payable under the Income Inclusion Rule of Chapter 2 of the GloBE Model Rules (the "**MTT**"),

notwithstanding the provisions of the Law and any other enactment,

and the provisions of the Law shall be construed and shall have effect accordingly.

(4) The DTT and the MTT shall be regarded respectively as a Qualified Domestic Minimum Top-up Tax and a Qualified IIR for the purposes of these Regulations.

Director to have regard to GloBE Administrative Guidance, Commentary, Examples

and Safe Harbour Rules.

2. (1) In performing the functions of the Director under or in respect of the implementation of –

- (a) these Regulations and the GloBE Model Rules, and
- (b) the provisions of the Law, so far as applicable to these Regulations and the GloBE Model Rules and the implementation thereof,

the Director shall have regard to –

- (i) the GloBE Administrative Guidance^c,
- (ii) the GloBE Commentary^d,
- (iii) the GloBE Examples, and
- (iv) the GloBE Safe Harbours Rules^e.

^c An international tax measure specified for the purposes of the Law, under section 75CC(1C) thereof, by Resolution of the States of Deliberation of the 4th September, 2024 (Article III of Billet d'État No. XIII of 2024).

^d An international tax measure specified for the purposes of the Law, under section 75CC(1C) thereof, by Resolution of the States of Deliberation of the 4th September, 2024 (Article III of Billet d'État No. XIII of 2024).

^e An international tax measure specified for the purposes of the Law, under section 75CC(1C) thereof, by Resolution of the States of Deliberation of the 4th September, 2024 (Article III of Billet d'État No. XIII of 2024).

- (2) In these Regulations –
- (a) the "**GloBE Administrative Guidance**" means the Administrative Guidance on the GloBE Model Rules approved by the OECD/G20 Inclusive Framework on BEPS, and prepared for publication by the OECD Secretariat, comprising –
- (i) the OECD (2023), Tax Challenges Arising from the Digitalisation of the Economy – Administrative Guidance on the Global Anti-Base Erosion Model Rules (Pillar Two), February 2023, OECD/G20 Inclusive Framework on BEPS, OECD, Paris,
- (ii) the OECD (2023), Tax Challenges Arising from the Digitalisation of the Economy – Administrative Guidance on the Global Anti-Base Erosion Model Rules (Pillar Two), July 2023, OECD/G20 Inclusive Framework on BEPS, OECD, Paris,
- (iii) the OECD (2023), Tax Challenges Arising from the Digitalisation of the Economy – Administrative Guidance on the Global Anti-Base Erosion Model Rules (Pillar Two), December 2023, OECD/G20 Inclusive Framework on BEPS, OECD, Paris,

- (iv) the OECD (2024), Tax Challenges Arising from the Digitalisation of the Economy – Administrative Guidance on the Global Anti-Base Erosion Model Rules (Pillar Two), June 2024, OECD/G20 Inclusive Framework on BEPS, OECD, Paris, and
 - (v) any other document promulgated by the OECD and prescribed by regulations of the Committee,
- (b) the "**GloBE Commentary**" means the Commentary to the GloBE Model Rules of the 11th March, 2022, cited as "OECD (2022), Tax Challenges Arising from the Digitalisation of the Economy – Commentary to the Global Anti-Base Erosion Model Rules (Pillar Two), First Edition: Inclusive Framework on BEPS, OECD Publishing, Paris",
- (c) the "**GloBE Examples**" means the Examples illustrating the application of the GloBE Model Rules, prepared for publication by the OECD Secretariat and cited as "OECD (2022), Tax Challenges Arising from the Digitalisation of the Economy – Global Anti-Base Erosion Model Rules (Pillar Two), Examples, OECD, Paris", as revised on the 8th February, 2024,
- (d) the "**GloBE Safe Harbours Rules**" means the Safe Harbours and Penalty Relief: Global Anti-Base Erosion

Rules (Pillar Two), approved by the OECD/G20 Inclusive Framework on BEPS on the 15th December 2022, prepared for publication by the OECD Secretariat and cited as "OECD (2022), Safe Harbours and Penalty Relief: Global Anti-Base Erosion Rules (Pillar Two), OECD/G20 Inclusive Framework on BEPS, OECD, Paris".

PART II
DOMESTIC TOP-UP TAX ("DTT")

DTT

Liability to DTT.

3. (1) A Domestic Constituent Entity of a Qualifying MNE Group is liable to DTT for each Fiscal Year of that Qualifying MNE Group.

(2) A Domestic Joint Venture and Domestic Joint Venture Subsidiary of an MNE Group is liable to DTT for each Fiscal Year of that MNE Group.

Calculation of DTT.

4. The DTT liability of –

(a) a Domestic Constituent Entity of a Qualifying MNE Group, and

(b) a Domestic Joint Venture or Domestic Joint Venture Subsidiary of an MNE Group,

shall, subject to the provisions of regulations 5 to 15, be determined in accordance with the GloBE Model Rules.

Financial accounts.

5. In computing DTT, the Financial Accounting Net Income or Loss for an Entity shall be determined in accordance with Articles 3.1.2 and 3.1.3 of the GloBE Model Rules.

Inapplicable Articles of GloBE Model Rules for DTT.

6. The following provisions of the GloBE Model Rules do not apply for the purpose of this Part –

- (a) Chapter 2 (Charging provisions),
- (b) Articles 5.2.4 and 5.2.5 (allocation of Top-up Tax), subject to regulations 10 and 11,
- (c) Article 5.4.2 (allocation of Additional Current Top-up Tax in connection with Article 5.4.1),
- (d) Article 5.4.3 (allocation of Additional Current Top-up Tax in connection with Article 4.1.5),
- (e) Article 5.4.4 (determination as Low-Taxed Constituent Entity),
- (f) Article 6.2.1(h) (application of IIR in respect of acquisition of target Entity),

- (g) Article 6.4.1(b) and (c) (application of IIR and UTPR in connection with Joint Venture and Joint Venture Subsidiaries),
- (h) Article 6.5.1(e) and (f) (application of IIR and UTPR in connection with Multi-Parented MNE Groups),
- (i) Article 7.3 (Eligible Distribution Tax Systems),
- (j) Article 8.1 (GloBE Information Return filing obligation),
- (k) Article 8.3 (Administrative Guidance), and
- (l) Article 9.4 (which amends Article 8.1 re filing obligation in transitional year).

Modified Articles of GloBE Model Rules for DTT.

7. (1) The following provisions of the GloBE Model Rules are modified as follows for the purposes of this Part –

- (a) Article 4.3 (allocation of covered taxes from one Constituent Entity to another Constituent Entity) is amended in accordance with regulations 8 and 9,
- (b) in Article 5.2.3 (formula for computing Jurisdictional Top-up Tax) –
 - (i) exclude the deduction of “Domestic Top-up Tax” from the formula, and

- (ii) disregard Article 5.2.3(d),
- (c) Article 9.3 (exclusion from UTPR of MNE groups in initial phase of their international activity) must be construed such that –
 - (i) Article 9.3 applies for the purposes of DTT, but
 - (ii) only in situations where none of the Ownership Interests in the Domestic Constituent Entities are held by a Parent Entity subject to a Qualified IIR.

(2) The definition of "Qualified Domestic Minimum Top-up Tax" in Article 10.1 of the GloBE Model Rules does not apply except for the purpose of determining whether Article 9.1.3 of the GloBE Model Rules applies to a transfer of assets to a Domestic Constituent Entity.

Exclusion of certain foreign taxes on domestic income.

8. The Adjusted Covered Taxes for a Domestic Constituent Entity, Domestic Joint Venture and Domestic Joint Venture Subsidiary are to be calculated excluding any tax accrued by a Constituent Entity owner located in another jurisdiction –

- (a) in respect of the GloBE Income of a Domestic Constituent Entity, Domestic Joint Venture and Domestic Joint Venture Subsidiary which would otherwise be allocated to that Entity under Article 4.3.2(a), 4.3.2(c) or 4.3.2(d) of the GloBE Model Rules,

and

- (b) that is allocable to a distributing Domestic Constituent Entity, Domestic Joint Venture or Domestic Joint Venture Subsidiary under Article 4.3.2(e) of the GloBE Model Rules,

but paragraph (b) does not apply to a withholding tax imposed by Guernsey.

Exclusion of domestic taxes on certain domestic income.

9. The Adjusted Covered Taxes for each Domestic Constituent Entity, Domestic Joint Venture and Domestic Joint Venture Subsidiary are to be calculated excluding tax accrued by all such Entities in respect of the income of, or dividends received from, Entities located in another jurisdiction.

Aggregate DTT liability and allocation between Entities.

10. (1) The Jurisdictional Top-up Tax of a Qualifying MNE Group for a Fiscal Year must be equal to the aggregate of the DTT determined for all Domestic Constituent Entities of the Qualifying MNE Group.

(2) The allocation of DTT liability amongst Domestic Constituent Entities is determined in accordance with regulation 11.

(3) The provisions of this regulation also apply with the necessary modifications in respect of a Domestic Joint Venture Group.

Allocation of DTT liability between Entities.

11. (1) Subject to paragraph (2), the allocation of DTT amongst Constituent Entities must be determined in accordance with Articles 5.2.4 and 5.2.5 of

the GloBE Model rules.

(2) A Domestic Filing Entity may elect that the allocation of DTT liability should be made in accordance with paragraph (4) rather than paragraph (1).

(3) An election under paragraph (2) must be made in the relevant DTT return or in such other form and manner and by such means as the Director may determine.

(4) Where this paragraph applies, DTT shall be allocated amongst Domestic Constituent Entities by applying the following steps –

- (a) Step 1: Allocate DTT amongst all Domestic Constituent Entities in accordance with Articles 5.2.4 and 5.2.5 of the GloBE Model Rules.
- (b) Step 2: If the Revised Effective Tax Rate, as defined in paragraph (5), of each Domestic Constituent Entity does not exceed 15%, then end process. Otherwise, proceed to Step 3.
- (c) Step 3: If, following Steps 1 and 2, no Entities have a Revised Effective Tax Rate of less than 15%, then end process. Otherwise, proceed to Step 4.
- (d) Step 4: For each Domestic Constituent Entity where the Revised Effective Tax Rate following Step 1 exceeds 15%, reduce the allocation of DTT to that entity under Step 1 by an amount that is the lower of –

- (i) the amount required to reduce the Revised Effective Tax Rate to 15%, and
 - (ii) the amount of DTT allocated to that Entity.
- (e) Step 5: Aggregate all reductions computed under Step 4 (the Total Reduction).
- (f) Step 6: Further allocate the Total Reduction amongst all Domestic Constituent Entities that after Step 1 have a Revised Effective Tax Rate below 15%, using the following formula –

Further allocation to a Domestic Constituent Entity	=	Total Reduction	x	GloBE Income of the Constituent Entity / Aggregate GloBE Income of all Constituent Entities that have a Revised Effective Tax Rate of below 15%
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applying the definitions in article 5.2.4 of the GloBE Model Rules.

- (g) Step 7: If, following Step 6, either –
- (i) none of the entities have a Revised Effective Tax Rate of above 15%, or

- (ii) the only Entities with a Revised Effective Tax Rate above 15% do not have any DTT allocated to them,

then end process. Otherwise, proceed to Step 8.

- (h) Step 8: If, following Steps 6 and 7, none of the Entities have a Revised Effective Tax Rate of below 15%, then end process. Otherwise, proceed to Step 9.
- (i) Step 9: Repeat Steps 4 to 8 until instructed to end process.

(5) For the purposes of paragraph (4), the Revised Effective Tax Rate of an Entity is computed in accordance with the following formula –

Revised effective tax rate	=	Sum of the Adjusted Covered Taxes of the Entity + the DTT allocated to the Entity in accordance with the preceding steps of paragraph (4)	/	Net GloBE Income of the Entity
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with the Adjusted Covered Taxes of the Entity and Net GloBE Income of the Entity computed in accordance with the GloBE Rules.

Stateless Constituent Entities and Securitisation Entities.

12. This Part does not apply to –

- (a) a Flow-through Entity within the meaning of article 10.2

of the GloBE Model Rules that is treated as a stateless Entity under Article 10.3.2 of those Rules, or

- (b) a Securitisation Entity.

Inapplicable Safe Harbours.

13. The GloBE Commentary on the Qualified Domestic Minimum Top-up Tax Safe Harbour does not apply for the purposes of this Part.

Transition Year Rule

Transition Year.

14. Except where regulation 15 applies, the Transition Year for Guernsey is the earlier of –

- (a) the Fiscal Year in which the MNE Group first becomes subject to these Regulations, and
- (b) the first Fiscal Year in which the Domestic Constituent Entities, Domestic Joint Ventures and Domestic Joint Venture Subsidiaries of the MNE Group become subject to a Qualified IIR or Qualified UTPR in another jurisdiction.

Later Transition Year; and effect of change in Transition Year.

15. (1) This regulation applies when the Transition Year under regulation 14 was the first Fiscal Year in which –

- (a) the MNE Group became subject to these Regulations,

and

- (b) its Domestic Constituent Entities were not subject to a Qualified IIR.

(2) Where a Domestic Constituent Entity, Domestic Joint Venture or Domestic Joint Venture Subsidiary becomes subject to a Qualified IIR for a subsequent Fiscal Year in another jurisdiction, the Transition Year for Guernsey must be revised to the Fiscal Year in which the Entity first became subject to a Qualified IIR for that and all subsequent Fiscal Years.

(3) When there is a revision of the Transition Year pursuant to this regulation, paragraphs 118.49.1 and 118.49.2 of the GloBE Commentary apply.

PART III

MULTINATIONAL TOP-UP TAX ("MTT")

MTT

Liability to MTT.

16. (1) A Domestic Constituent Entity of a Qualifying MNE Group is liable to MTT for each Fiscal Year of that Qualifying MNE Group.

(2) A Domestic Joint Venture and Domestic Joint Venture Subsidiary of an MNE Group is liable to MTT for each Fiscal Year of that MNE Group.

Inapplicable articles of GloBE Model rules for MTT.

17. The following provisions of the GloBE Model Rules do not apply for the purpose of this Part –

- (a) Articles 2.4 to 2.6 (UTPR charging provisions), and
- (b) Article 9.3 (exclusion from UTPR of MNE Groups in initial phase of international activity).

PART IV
DOMESTIC FILING ENTITY AND REGISTRATION

Domestic Filing Entity

Appointment of Domestic Filing Entity.

- 18. (1) Subject to paragraphs (5) to (10) –
 - (a) a Qualifying MNE Group must appoint a Domestic Entity of the Group as Domestic Filing Entity, but
 - (b) an MNE Group that does not include a Domestic Constituent Entity but includes a Domestic Joint Venture or Domestic Joint Venture Subsidiary must appoint a Domestic Joint Venture or Domestic Joint Venture Subsidiary of the Group as Domestic Filing Entity.
- (2) An MNE Group must have one, and only one, Domestic Filing Entity appointed at any time.
- (3) A Domestic Filing Entity for an MNE Group may, with the consent of another Domestic Entity of the Group, appoint that other Entity to replace

it as Domestic Filing Entity.

(4) Appointment of an Entity as Domestic Filing Entity for an MNE Group will continue until –

- (a) another Entity is appointed in its place as Domestic Filing Entity for the Group,
- (b) the Domestic Filing Entity ceases to be a member of the Group, or
- (c) the Group de-registers in accordance with regulation 22.

(5) If an MNE Group expects no longer to have any Domestic Entities, the Domestic Filing Entity for the Group may, with the consent of another Entity of the Group located outside Guernsey, appoint that other Entity to replace it as Domestic Filing Entity.

(6) Where an MNE Group ceases to have any Domestic Entities and an Entity of the Group located outside Guernsey has not been appointed as Domestic Filing Entity, the Ultimate Parent Entity of the Group shall be deemed to be immediately appointed by the Group as Domestic Filing Entity.

(7) Where an Entity located outside Guernsey has been appointed as Domestic Filing Entity for an MNE Group, that Entity may request the Director to accept, with the consent of another Entity of the Group, the appointment of that other Entity as Domestic Filing Entity.

(8) For the avoidance of doubt, an Entity appointed as Domestic

Filing Entity for an MNE Group may not continue to be Domestic Filing Entity for the Group after ceasing to be a member of the Group.

(9) The Director may, in any case, in the Director's absolute discretion, appoint an Entity of an MNE Group to act as Domestic Filing Entity for the Group; and an appeal against an appointment made by the Director under this paragraph lies to the Guernsey Revenue Service Tribunal in accordance with regulation 40.

(10) An appointment under paragraph (9) supersedes any previous appointment in respect of the MNE Group.

(11) Appointment of a Domestic Filing Entity must be –

- (a) notified to the Director in such form and manner, by such means and at such times or intervals, and
- (b) accompanied by such information and documents,

as the Director may require.

Authorisation of, and provision of information to, Domestic Filing Entity.

19. (1) On the appointment of a Domestic Filing Entity under regulation 18, the following Entities within the MNE Group must give the Domestic Filing Entity the authority specified in paragraph (2) –

- (a) the Domestic Constituent Entities,
- (b) the Domestic Joint Ventures, and

- (c) the Domestic Joint Venture Subsidiaries.
- (2) The authority to be given is authority to –
- (a) register the Entity with the Director in accordance with regulation 20,
 - (b) update registration details,
 - (c) submit returns and notifications,
 - (d) make self-assessments of liabilities,
 - (e) make payments on its behalf,
 - (f) receive any refunds from the Director under the provisions of these regulations,
 - (g) appoint another Entity as Domestic Filing Entity, and
 - (h) comply with all other requirements of the Director.

(3) The Entities specified in paragraph (1)(a) to (c) must provide the Domestic Filing Entity with all information and documents necessary for the purposes of enabling compliance with, and the correct application of, these Regulations and the GloBE Model Rules.

Registration

Registration.

20. (1) A Domestic Constituent Entity of a Qualifying MNE Group and a Domestic Joint Venture and Domestic Joint Venture Subsidiary of an MNE Group must be registered with the Director before the end of the periods, or before the events, specified in regulation 21.

(2) The Domestic Filing Entity of the MNE Group is responsible for registering all Domestic Constituent Entities, Domestic Joint Ventures and Domestic Joint Venture Subsidiaries of that Group.

(3) Registration must -

(a) be made in such form and manner, and by such means,
and

(b) be accompanied by such information and documents,

as the Director may require.

(4) If any information provided upon registration is not or is no longer correct and complete, the Domestic Filing Entity shall as soon as is reasonably practicable provide correct and complete information to the Director, specifying the manner in which the registered information has changed.

Deadline for registration.

21. Registration of an Entity under regulation 20 must be effected -

(a) subject to subparagraph (b), before the end of whichever

of the following periods is the last to end –

- (i) 12 months from the start of the first Fiscal Year commencing on or after the 1st January 2025 of the MNE Group of which the Entity is a member,
 - (ii) 6 months from the date that the Entity becomes a member of the MNE Group, or
- (b) before the Entity –
- (a) enters liquidation, dissolution, any other form of winding up or administration, or
 - (b) ceases to be located in Guernsey.

De-registration.

22. (1) This regulation applies where a Domestic Filing Entity has registered the Domestic Entities of an MNE Group (collectively referred to as the "**Registered Group**") under regulation 20.

(2) The Director may issue the Registered Group's Domestic Filing Entity with a de-registration notice.

- (3) The effect of a de-registration notice is to treat –
- (a) each Domestic Entity of the MNE Group as ceasing to be registered, and

- (b) the Domestic Filing Entity as ceasing to have been appointed,

from the date specified in the notice.

(4) The de-registration notice does not affect the validity of an Entity's registration for the purposes of these Regulations or the GloBE Model Rules in respect of periods prior to the date specified under paragraph (3).

(5) The Director may issue a de-registration notice only if –

- (a) the Domestic Filing Entity has requested such a notice, and

- (b) it appears to the Director that the Registered Group will not –

- (i) be a Qualifying MNE Group, or

- (ii) have any Domestic Joint Venture or Domestic Joint Venture Subsidiary,

in any Fiscal Year in the foreseeable future.

(6) An appeal against a de-registration notice issued by the Director under paragraph (2) lies to the Guernsey Revenue Service Tribunal in accordance with regulation 40.

PART V

RETURNS, NOTIFICATIONS AND ELECTIONS

Submission of returns and notifications

Submission of GloBE Information Return.

23. (1) This regulation applies for Fiscal Years of an MNE Group when the provisions of Part III of these Regulations (MTT) are applicable in respect of that Group.

(2) Subject to paragraph (4), a Domestic Filing Entity of an MNE Group that is within scope of the GloBE Model Rules in a Fiscal Year by virtue of Article 1.1 of those Rules must submit a GloBE Information Return to the Director.

(3) The GloBE Information Return must be –

(a) submitted in such form and manner, by such means and at such times or intervals, and

(b) accompanied by such information and documents,

as the Director may require.

(4) A Domestic Filing Entity is not obliged to submit a GloBE Information Return to the Director if such a Return has been submitted for that Fiscal Year to another jurisdiction with which Guernsey has a Qualifying Competent Authority Agreement in force in respect of that period.

(5) Where paragraph (4) applies, the Domestic Filing Entity must submit a notification to the Director –

- (a) containing details of the Entity that has filed the GloBE Information Return,
- (b) specifying the jurisdiction in which that Entity is located and in which the Return was filed, and
- (c) accompanied by such other information and documents as the Director may require.

Submission of DTT returns.

24. (1) A Domestic Filing Entity of an MNE Group that is within scope of the GloBE Model Rules in a Fiscal Year by virtue of Article 1.1 of those Rules must submit a DTT return to the Director in respect of that Fiscal Year on behalf of –

- (a) all Domestic Constituent Entities of the Group, in the case of a Qualifying MNE Group, and
- (b) all Domestic Joint Ventures and Domestic Joint Venture Subsidiaries of the Group, in the case of any MNE Group.

(2) The DTT return is a return containing a self-assessment by the Domestic Filing Entity as to –

- (a) the Entities listed in paragraph (1) that are chargeable to DTT (including those with nil liability), and
- (b) the amount of DTT that is chargeable to each such

Entity.

- (3) The DTT return –
 - (a) must be –
 - (i) submitted in such form and manner, by such means and at such times or intervals, and
 - (ii) accompanied by such information and documents,
- as the Director may require, and
- (b) must include a declaration by the person making the return that the return is, to the best of that person's knowledge and belief, correct and complete.

Submission of MTT returns.

25. (1) This regulation applies for Fiscal Years of an MNE Group when the provisions of Part III of these Regulations (MTT) are applicable in respect of that Group.

(2) A Domestic Filing Entity of an MNE Group that is within scope of the GloBE Model Rules in a Fiscal Year by virtue of Article 1.1 of those Rules must submit an MTT return to the Director in respect of that Fiscal Year.

(3) The MTT return is a return containing a self-assessment by the Domestic Filing Entity as to the amount of MTT that is chargeable.

- (4) The MTT return –
 - (a) must be –
 - (i) submitted in such form and manner, by such means and at such times or intervals, and
 - (ii) accompanied by such information and documents,

as the Director may require, and
 - (b) must include a declaration by the person making the return that the return is, to the best of that person’s knowledge and belief, correct and complete.

Below-threshold notification.

26. (1) A Domestic Filing Entity of a Registered Group that is not within scope of the GloBE Model Rules in a Fiscal Year by virtue of Article 1.1 of those Rules must submit a below-threshold notification to the Director.

- (2) The below-threshold notification must be –
 - (a) submitted in such form and manner, by such means and at such times or intervals, and
 - (b) accompanied by such information and documents,

as the Director may require.

Deadline for submitting returns and notifications.

27. (1) The returns and notifications specified in –
- (a) regulation 23 (submission of GloBE Information Return),
 - (b) regulation 24 (submission of DTT returns),
 - (c) regulation 25 (submission of MTT returns), and
 - (d) regulation 26 (below-threshold notification),

must be submitted on or before the time specified in paragraph (2).

- (2) The time specified is –
- (a) the expiration of a period of 15 months immediately following the end of the Fiscal Year to which the return or notification relates, or
 - (b) the expiration of a period of 18 months immediately following the end of the Fiscal Year to which the return or notification relates, but only if –
 - (i) that Fiscal Year is the first one in which the MNE Group or Domestic Joint Venture Group is liable to DTT or MTT, and

- (ii) the MNE Group or Domestic Joint Venture Group has not been required to file a GloBE Information Return in another jurisdiction in a previous Fiscal Year.

Notice following failure by Domestic Filing Entity.

28. (1) If a Domestic Filing Entity fails to submit a return, notification or other document required under these Regulations or the GloBE Model Rules, the Director may issue a notice requiring any Entity of the Registered Group or any director of any such Entity to submit the return, notification or document.

(2) A person who without reasonable excuse fails to comply with any provision of the notice is guilty of an offence and liable on summary conviction to a fine not exceeding twice level 5 on the uniform scale and to a further fine not exceeding level 3 on the uniform scale for each day on which the failure to comply continues after the date of conviction.

(3) In paragraph (1) a "**director**" of an Entity includes –

- (a) any person who occupies the position of or fulfils the role of director, by whatever name called,
- (b) the chief executive and any member of the board, committee or other similar governing body,
- (c) any secretary or other officer of the Entity who is bound to fulfil any duty of which the offence under subsection (2) is a breach,

- (d) in the case of a partnership -
 - (i) any partner (not being a limited partner of a limited partnership), or
 - (ii) any member (in the case of a limited liability partnership),
- (e) in the case of a foundation, any foundation official,
- (f) in the case of a trust, any trustee.

Elections

Elections under GloBE Model Rules.

29. An election under the GloBE Model Rules, other than an election under regulation 11 (allocation of DTT liability between Entities), may be made only –

- (a) by giving written notice to the Director in a GloBE Information Return submitted under regulation 23, or
- (b) in such other form and manner, and by such means, as the Director may require.

PART VI ADMINISTRATION OF DTT AND MTT

DTT provisions

Amendments to DTT return by Domestic Filing Entity.

30. (1) Subject to paragraph (2), a Domestic Filing Entity may amend a DTT return previously submitted in respect of the MNE Group.

(2) An amendment may not be made to a DTT return under paragraph (1) after the expiration of a period of 6 years immediately following the end of the Fiscal Year to which the DTT return relates.

(3) A notice of amendment to a DTT return must be –

(a) submitted to the Director in such form and manner and by such means, and

(b) accompanied by such information and documents,

as the Director may require.

Inquiry by Director into DTT return.

31. (1) An inquiry into a DTT return must be made in accordance with the following process –

(a) after a DTT return has been submitted, the Director may give the Domestic Filing Entity written notice of intent to inquire into the return,

(b) the notice under paragraph (a) must be given within a period of 6 years immediately following the later of –

- (i) the DTT return due date,
- (ii) the date on which the DTT return was filed, or
- (iii) the date of any amendment to the return under regulation 30.

(2) The Director may (without prejudice to any power conferred by the provisions of the Law) require any person to produce such information and documents in support of the DTT return as the Director considers necessary for the purposes of the inquiry under paragraph (1).

(3) If as a result of the inquiry the Director considers that the submitted return is false, misleading, inaccurate or incomplete, the Director may by notice in writing to the Domestic Filing Entity make such adjustments to the self-assessment set out in the return as are in the Director's opinion appropriate for the purposes of ensuring compliance with, and the correct application of, these Regulations and the GloBE Model Rules.

(4) An appeal against an adjustment made by the Director under paragraph (3) lies to the Guernsey Revenue Service Tribunal in accordance with regulation 40.

Determination by Director.

32. (1) If an MNE Group fails to submit a DTT return for a Fiscal Year by the due date the Director may, within the permitted time specified in paragraph (4), issue to any Entity of that Group a notice of determination in respect of the DTT chargeable.

(2) The determination is a determination by the Director, which may be made in whole or in part on an estimated basis, of the total amount of DTT chargeable, in the opinion of the Director, for a Fiscal Year of the Entity.

(3) The Director may revise a notice of determination within the permitted time.

(4) The permitted time is a period of 6 years immediately following the end of the Fiscal Year to which the notice of determination applies.

(5) A notice of determination for a Fiscal Year made under paragraph (1) may be replaced by a revised notice of determination if, within a period of 12 months immediately following the date of the original notice, a DTT return for that Fiscal Year is submitted.

(6) Where a Domestic Filing Entity has been appointed in respect of an MNE Group, the Director must give notice to the Domestic Filing Entity of all determinations issued by the Director to Entities within that Group.

(7) An appeal against a notice of determination issued by the Director under paragraph (1) or a revision thereof under paragraph (3) lies to the Guernsey Revenue Service Tribunal in accordance with regulation 40.

Discovery assessments.

33. (1) If as respects any Fiscal Year of an Entity the Director discovers that -

- (a) an amount of DTT that ought to have been assessed has not been assessed, or

- (b) an assessment to DTT is or has become insufficient,

the Director may make an assessment (a "**discovery assessment**") on the Entity in an amount which in the opinion of the Director ought to be charged to make good the loss of DTT.

- (2) The Director must make a discovery assessment –

- (a) before the expiration of a period of 6 years immediately following the later of the DTT return due date or the date on which the DTT return was submitted or amended under regulation 30, or

- (b) where the non-assessment or insufficiency is attributable to –

- (i) negligence by or on behalf of the MNE Group or any Entity thereof, before the expiration of a period of 20 years immediately following the later of those two dates, or

- (ii) fraud by or on behalf of the MNE Group or any Entity thereof, at any time.

(3) Where a Domestic Filing Entity has been appointed in respect of an MNE Group, the Director must give notice to the Domestic Filing Entity of any discovery assessment made by the Director on an Entity within that Group.

(4) An appeal against a discovery assessment made by the Director under paragraph (1) lies to the Guernsey Revenue Service Tribunal in accordance with regulation 40.

Overpayment claims.

34. (1) A Domestic Filing Entity of an MNE Group may make a claim to the Director for the repayment of DTT which has been overpaid by the Group or any Entity thereof.

(2) A claim under this regulation –

(a) must be made within a period of 6 years immediately following the end of the Fiscal Year in respect of which the DTT was paid, and

(b) must be made in such form and manner, and by such means, and must be accompanied by such information and documents, as the Director may require.

(3) The claimant must provide the Director with all information and documents required by the Director properly to determine the claim.

(4) If the claimant satisfies the Director that the amount of DTT paid exceeds the amount properly chargeable, the person who has paid the excess is entitled to have the amount refunded.

(5) The Director may make any necessary adjustments to give effect to a refund of excess DTT under paragraph (4), including by the making of assessments.

(6) This regulation does not apply to any DTT paid which has been determined on appeal in accordance with regulation 40.

Cessations, etc.

35. (1) This regulation applies to –
- (a) an Entity of a Registered Group, and
 - (b) an Entity of a Group required to be registered under these Regulations but not so registered.
- (2) Before an Entity to which this regulation applies –
- (a) enters liquidation, dissolution, any other form of winding up or administration, or
 - (b) ceases to be located in Guernsey,

the Domestic Filing Entity of the Group must notify the Director of the estimated DTT liabilities for all relevant periods that will be allocated to the Entity in the relevant DTT returns and the Entity must make payment on account of the estimated amounts.

- (3) For the purposes of paragraph (2) and regulation 36, "**relevant period**" means –
- (a) all Fiscal Years for which a DTT return has not yet been submitted by the Domestic Filing Entity, and

(b) the period commencing on the day immediately following the end of the most recent completed Fiscal Year and ceasing with the date of the event referred to in paragraph (2).

(4) The Director may require such additional information and documents in support of the estimated liability as the Director thinks fit.

(5) If the Director is not satisfied with the estimated liability, the Director may issue a payment on account notice to an Entity in accordance with regulation 36.

(6) The Director may, at the Director's sole discretion, decline to require a payment on account under paragraph (2) if another Entity of the MNE Group has agreed to meet the DTT liabilities of the Entity.

(7) A payment under paragraph (2) is due no later than the earlier of –

(a) the expiration of a period of 30 days immediately following the notification to the Director referred to in paragraph (2), or

(b) the date of the event referred to in paragraph (2)(a) or (b).

Payment on account notice.

36. (1) The payment on account notice issued under regulation 35(5) must be in such amount as the Director estimates to be the expected DTT liability for

all relevant periods (as defined in regulation 35(3)) and is payable within a period of 30 days immediately following the date of the notice.

(2) Where a Domestic Filing Entity has been appointed in respect of a Group, the Director must give notice to the Domestic Filing Entity of any payment on account notice issued by the Director to an Entity within the Group.

(3) An appeal against a payment on account notice issued by the Director lies to the Guernsey Revenue Service Tribunal in accordance with regulation 40.

Liability of Domestic Filing Entity for DTT liability.

37. (1) Where regulation 35 (cessations, etc) applies in respect of an Entity of a Registered Group, the Domestic Filing Entity of the Group -

(a) is liable to pay any additional DTT in respect of a Fiscal Year in excess of any amount paid under regulations 35 and 36 in respect of that Entity,

(b) is entitled to receive any refund from the Director in respect of the excess of any amount paid under regulations 35 and 36 over the amount chargeable to that Entity by virtue of the DTT return submitted for the relevant Fiscal Years.

(2) Subparagraph (1)(a) does not apply to the extent that the Domestic Filing Entity can demonstrate to the satisfaction of the Director that -

(a) the Entity itself would have been unable to pay the

additional DTT when it was identified as being due, and

(b) no person took any steps with a view to avoiding any amount due under paragraph (1)(a).

(3) If the Domestic Filing Entity and Director are unable to reach agreement as to the amount of –

(a) any additional liability to DTT under paragraph (1)(a),
or

(b) any refund from the Director in respect of an excess described in paragraph (1)(b),

having regard (where relevant, and without limitation) to the provisions of paragraph (2), the Director may determine the amount of the additional liability or, as the case may be, the refund.

(4) An appeal against a determination of the Director under paragraph (3) lies to the Guernsey Revenue Service Tribunal in accordance with regulation 40.

Joint and several liability for DTT liability.

38. (1) In relation to the Domestic Constituent Entities of a Qualifying MNE Group, each Domestic Constituent Entity is jointly and severally liable to pay DTT for each Fiscal Year of that Qualifying MNE Group.

(2) In relation to the Domestic Joint Ventures and Domestic Joint Venture Subsidiaries of an MNE Group, each Domestic Joint Venture and Domestic

Joint Venture Subsidiary is jointly and severally liable to pay DTT for each Fiscal Year of that MNE Group.

(3) This regulation has effect in addition to, and not in derogation from, any other provision of these Regulations or the GloBE Model Rules.

MTT provisions

Application of Part VI to MTT.

39. The following regulations apply for the purposes of MTT with necessary modifications –

- (a) regulation 30 (amendments to DTT return by Domestic Filing Entity),
- (b) regulation 31 (inquiry by Director into DTT return),
- (c) regulation 32 (determination by Director),
- (d) regulation 33 (discovery assessments),
- (e) regulation 34 (overpayment claims), and
- (f) regulation 38 (joint and several liability).

PART VII

APPEALS, PENALTIES AND OFFENCES

Appeals

Appeals against decisions of Director.

40. A Domestic Filing Entity or, with leave of the Guernsey Revenue Service Tribunal, any other person aggrieved by a decision of the Director –

- (a) under regulation 18(9), to appoint an Entity to act as Domestic Filing Entity for an MNE Group,
- (b) under regulation 22(2), to issue a de-registration notice,
- (c) under regulation 31(3), following an inquiry into a DTT return or MTT return, to make adjustments to the self-assessment set out in the return,
- (d) under regulation 32, to issue a notice of determination in respect of DTT or MTT chargeable, or a revised such notice,
- (e) under regulation 33(1), to make a discovery assessment in respect of DTT or MTT, or an assessment thereto,
- (f) under regulation 35(5), to issue a payment on account notice to an Entity in accordance with regulation 36,
- (g) under regulation 37(3), determining the amount of –
 - (i) an additional liability to DTT, or
 - (ii) a refund of an excess,

may appeal to the Guernsey Revenue Service Tribunal on giving to the Director notice in writing, stating the grounds of appeal, within a period of 30 days beginning on the date of the notice of the decision.

Grounds of appeal.

41. The sole grounds of appeal to the Guernsey Revenue Service Tribunal under regulation 40 are that –

- (a) in the case of an appeal against a decision of the Director under regulation 18(9) to appoint an Entity to act as Domestic Filing Entity for an MNE Group –
 - (i) the Entity appointed is not an Entity of the MNE Group, or
 - (ii) the decision was unreasonable as a matter of law, having regard to all facts and circumstances of the case,
- (b) in the case of an appeal against a decision of the Director under regulation 22(2) to issue a de-registration notice, the decision was unreasonable as a matter of law, having regard to all facts and circumstances of the case,
- (c) in the case of an appeal against a decision of the Director under regulation 31(3), following an inquiry into a DTT return or MTT return, to make adjustments to the self-assessment set out in the return, the decision was based

on a miscalculation or was otherwise wrong,

(d) in the case of an appeal against a decision of the Director under regulation 32 to issue a notice of determination in respect of DTT or MTT chargeable, or a revised such notice –

(i) the decision was based on a miscalculation or was otherwise wrong, or

(ii) the MNE Group to an Entity of which the notice or revised notice was issued was not within scope of the GloBE Model Rules by virtue of Article 1.1 of those Rules in the Fiscal Year concerned,

(e) in the case of an appeal against a decision of the Director under regulation 33(1) to make a discovery assessment in respect of DTT or MTT, or an assessment thereto –

(i) the decision was based on a miscalculation or was otherwise wrong, or

(ii) the Entity on which the discovery assessment was made was not within scope of the GloBE Model Rules by virtue of Article 1.1 of those Rules in the Fiscal Year concerned,

(f) in the case of an appeal against a decision of the Director

under regulation 35(5) to issue a payment on account notice to an Entity in accordance with regulation 36 -

- (i) the decision was based on a miscalculation or was otherwise wrong,
 - (ii) the decision was unreasonable as a matter of law, having regard to all facts and circumstances of the case, or
 - (iii) the Entity to which the payment on account notice was issued was not within scope of the GloBE Model Rules by virtue of Article 1.1 of those Rules in the relevant periods (as defined in regulation 35(3)) concerned,
- (g) in the case of an appeal against a decision of the Director under regulation 37(3) determining the amount of an additional liability to DTT or a refund of an excess, the decision -
- (i) was based on a miscalculation or was otherwise wrong, or
 - (ii) was unreasonable as a matter of law, having regard to all facts and circumstances of the case.

Determination of appeals.

42. (1) In disposing of an appeal, the Guernsey Revenue Service

Tribunal may -

- (a) confirm, annul or vary the decision of the Director, or
 - (b) set the decision of the Director aside and, if the Tribunal considers it appropriate to do so, remit the matter to the Director with such directions as the Tribunal thinks fit, including without limitation a direction to make a fresh decision after making such further inquiry as -
 - (i) the Director thinks fit, or
 - (ii) the Tribunal may direct.
- (2) In paragraph (1) "**vary**" includes to reduce or increase.

Other provisions relating to appeals.

43. (1) The Guernsey Revenue Service Tribunal may admit an appeal under regulation 40 after the expiration of the 30 day period specified therein if satisfied that owing to absence, sickness or other reasonable cause a person was prevented from giving notice of appeal within that period.

(2) Subject to section 80 of the Law (case for opinion of Royal Court), the decision of the Guernsey Revenue Service Tribunal is final and conclusive.

(3) This regulation applies to the exclusion of sections 76 and 79 of the Law.

(4) Sections 77, 78, 78A and 80 of the Law apply in relation to an

appeal under regulation 40 as they apply in relation to an appeal under section 76 of the Law.

Penalties and offences

Civil penalties for contraventions of Regulations and Model Rules.

44. (1) Section 191 of the Law (penalties for negligence in return as to income) applies in respect of the making of a return, notification or disclosure, or the provision of any document or information, to the Director in accordance with the provisions of these Regulations or the GloBE Model Rules as if -

- (a) references in that section -
 - (i) to a return of income included references to a return, notification or disclosure required to be made, or any document or information required to be provided, by or under the provisions of these Regulations or the GloBE Model rules, and
 - (ii) to the delivery of a return of income included references to the making to the Director of such a return, notification or disclosure or the provision to the Director of any such document or information,
- (b) the sentence immediately preceding the proviso were omitted,
- (c) section 200(1) and (4) were not applicable to that section,

and

(d) section 200(5) and (6) were applicable to that section.

(2) Section 193 of the Law (penalties in respect of returns not relating to income) applies in respect of a failure to make a return, notification or disclosure, or to provide any document or information, to the Director in accordance with the provisions of these Regulations or the GloBE Model Rules as if -

(a) references in subsections (1) and (2) of that section -

(i) to a return other than a return of income included references to a return, notification or disclosure required to be made, or any document or information required to be provided, by or under the provisions of these Regulations or the GloBE Model rules, and

(ii) to the delivery to the Director of a return included references to the making to the Director of such a return, notification or disclosure or the provision to the Director of any such document or information,

(b) references in subsection (1) of that section to the time prescribed included references to the time prescribed by or under the provisions of these Regulations or the GloBE Model Rules,

- (c) for "£50" in subsection (1) there were substituted "£50 (rising to £1,000 after the 30th day of default)",
- (d) the proviso to subsection (1) were omitted,
- (e) subsection (3) of that section were omitted,
- (f) section 200(1) and (4) were not applicable to that section as modified by this regulation, and
- (g) section 200(5) and (6) were applicable to that section as modified by this regulation.

Offences of falsifying documents and false statements, etc.

45. (1) Without prejudice to the application of regulation 65, section 75L of the Law (offences in relation to falsification, etc, of documents) applies in respect of these Regulations and the GloBE Model Rules as if –

- (a) references in subsection (1) of that section to a document required by a notice under section 75A or 75B to be delivered or made available for inspection included references to a return, notification, other document or information required to be provided by or under -
 - (i) these Regulations, or
 - (ii) the GloBE Model Rules,
- (b) paragraphs (b) and (c) of subsection (2) were omitted,

and

- (c) subsection (3), and the reference thereto in subsection (4), were omitted.

(2) Section 201 of the Law (discretion to prosecute in cases involving fraud, etc.) applies in respect of these Regulations and the GloBE Model Rules as if –

- (a) in subsections (4)(a) and (5)(b) after the words "or other document" there were inserted ", disclosure or information", and
- (b) references in subsections (4) and (5) of that section to regulations under the Law included references to the GloBE Model Rules as they have effect by virtue of these regulations.

Offence of failure to register.

46. (1) An Entity which is not registered with the Director in accordance with regulations 20 and 21, and the Domestic Filing Entity of such an Entity, are each guilty of an offence and liable –

- (a) on summary conviction, to a fine not exceeding twice level 5 on the uniform scale,
- (b) on conviction on indictment, to a fine,

and in either case to a further fine not exceeding level 3 on the uniform scale for each

day on which the failure to be registered continues after the date of conviction.

(2) An Entity or Domestic Filing Entity is not guilty of an offence under this regulation if it can establish reasonable excuse for the default.

Civil penalties for failure to keep records and failure to register.

47. (1) The Director may by order impose a penalty not exceeding £2,500 on a person ("A") if in the Director's opinion –

- (a) A has failed to make, maintain, keep or retain a record or document which A is required by or under these Regulations or the GloBE Model Rules to make, maintain, keep or retain, and
- (b) that failure is likely to prejudice the performance by the Director of the Director's functions under the Law, these Regulations or the GloBE Model Rules.

(2) The Director may by order impose a penalty not exceeding the following amounts on an Entity ("E") and on the Domestic Filing Entity of E if in the Director's opinion E is not registered with the Director in accordance with regulations 20 and 21 –

- (a) £10,000, if the failure to register was occasioned by the negligence of E or the Domestic Filing Entity of E:

Provided that if E or the Domestic Filing Entity of E effect registration before the Director institutes enquiries which reveal the failure, they are not liable to

a penalty under this paragraph,

(b) £20,000, if the failure to register was occasioned by the fraud of E or the Domestic Filing Entity of E.

(3) A penalty imposed by the Director under this regulation shall be regarded –

(a) for the purposes of Part VII of the Law ("appeals"), as a penalty imposed by the Director under the Law, and

(b) for the purposes of section 200 of the Law ("proceedings in respect of penalties"), as a pecuniary penalty under section 190,

and the provisions of the Law shall apply accordingly in respect of a penalty imposed by the Director under this regulation.

Offences of failure to keep, and falsification of, records, etc.

48. (1) A person who without reasonable excuse fails to make, maintain, keep or retain a record or document which that person is required by or under these Regulations or the GloBE Model Rules to make, maintain, keep or retain is guilty of an offence and liable on summary conviction to a fine not exceeding twice level 5 on the uniform scale.

(2) For the purposes of paragraph (1) records and documents which are incomplete, illegible or indecipherable shall be regarded as not having been made, maintained, kept or (as the case may be) retained for the purposes of these Regulations or the GloBE Model Rules.

(3) A person who intentionally falsifies, conceals, destroys or otherwise disposes of, or causes or permits the falsification, concealment, destruction or disposal of, a record or document which that person is required by or under these Regulations or the GloBE Model Rules to make, maintain, keep or retain is guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding two years, to a fine not exceeding twice level 5 on the uniform scale, or to both.

(4) For the avoidance of doubt, the provisions of this regulation are in addition to and not in derogation from the provisions of regulation 47 and sections 75L, 75P, 193 and 201 of the Law.

Corporate liability clauses.

49. For the avoidance of doubt, the provisions of section 208A (criminal liability of directors, etc) and 208AA (criminal proceedings against unincorporated bodies) of the Law apply in respect of offences under the provisions of these Regulations.

PART VIII

FURTHER ADMINISTRATIVE PROVISIONS

General

Protected cell companies.

50. (1) For the purposes of these Regulations and the GloBE Model Rules –

(a) a protected cell company (a "PCC") is not to be regarded

as an Entity, and

(b) each cell of the PCC and its core are to be treated as separate Entities distinct from the others.

(2) Accordingly –

(a) the fact that an Entity is a cell or core of a PCC is irrelevant to determining whether the Entity is a member of a Group, and

(b) the accounts of the PCC are not to be regarded as Consolidated Financial Statements.

(3) In this regulation, "protected cell company", "cell" and "core" have the meanings respectively given by the Companies (Guernsey) Law, 2008^f.

Currency of tax payment.

51. (1) The currency in which DTT and MTT is payable under these Regulations is pounds sterling.

(2) To the extent that the presentation currency of the Consolidated Financial Statements of the Ultimate Parent Entity is a currency other than pounds sterling, the tax payable must be converted to pounds sterling based on the average foreign exchange rate for the Fiscal Year in question.

^f Order in Council No. VIII of 2008; the Law has been amended.

Payment, collection and recovery of DTT and MTT.

52. Payments of DTT and MTT for each Entity –

(a) are due on or before the time specified in regulation 27(2),

(b) must be made –

(i) in the same manner as income tax due pursuant to a final assessment to income tax under the Law, and

(ii) by the person in respect of whom the relevant assessment or other charge under these Regulations was made,

in accordance with the provisions of the Law, and

(c) are collectable and recoverable by the Director, and any liability thereto is enforceable, in the same manner as in the case of income tax due under the Law.

Qualified status of other jurisdictions' IIR rules and DTT.

53. (1) The rules of any jurisdiction which are a Qualified IIR for the purposes of the GloBE Model Rules shall be regarded as a Qualified IIR for the purposes of these Regulations.

(2) A tax imposed by the domestic law of any jurisdiction which is a Qualified Domestic Minimum Top-up Tax for the purposes of the GloBE Model

Rules shall be regarded as a Qualified Domestic Minimum Top-up Tax for the purposes of these Regulations.

(3) Without prejudice to the application of paragraphs (1) and (2), the Committee may by regulations prescribe, for the purposes of these Regulations and the GloBE Model Rules and with effect from such date as the regulations may specify (which may be earlier than the date of the making of the regulations) –

- (a) the Qualified status of another jurisdiction's IIR, and
- (b) the Qualified status of another jurisdiction's Domestic Minimum Top-up Tax,

where the Committee is satisfied that the other jurisdiction's IIR or Domestic Minimum Top-up Tax are a Qualified IIR or a Qualified Domestic Minimum Top-up Tax, as the case may be, for the purposes of the GloBE Model Rules.

"Submission" of returns and notifications.

54. (1) A return or notification shall not be regarded as having been submitted to the Director for the purposes of these Regulations or the GloBE Model Rules unless and until -

- (a) it is submitted in such form and manner and by such means, and
- (b) it is accompanied by such information and documents,

as the Director may require.

(2) "**Submitted**" includes filed, provided, supplied, and any related expression.

Record keeping requirements.

55. (1) Any Entity of -

(a) a Registered Group, or

(b) a Group the Domestic Entities of which are required to be registered under regulation 20 but any of which are not so registered,

must keep such records as may be necessary to enable the delivery of correct and complete returns and notifications under these Regulations and the GloBE Model Rules and preserve those records in accordance with this regulation.

(2) The records must be preserved until the later of -

(a) the expiration of a period of 6 years immediately following the end of the Fiscal Year to which the records relate, or

(b) if a DTT or MTT return relating to that Fiscal Year is submitted and a notice of intent to inquire into that return has been given under regulation 31 before the date referred to in subparagraph (a), the expiration of a period of 6 months beginning on the date of written notice from the Director that the Director's inquiries are at an end:

Provided that if at any time the Director gives written notice to any person that the Director is undertaking inquiries into a return made by that person in respect of any Fiscal Year then, notwithstanding the provisions of subparagraph (a), the records must be preserved until the later of -

- (i) the expiration of the period referred to in subparagraph (a), or
- (ii) the end of the Fiscal Year in which the Director gives written notice to that person that the Director's inquiries are at an end.

(3) The duty to preserve records may be satisfied –

- (a) by preserving them in any form and by any means, or
- (b) by preserving the information contained in them in any form and by any means.

(4) This regulation is without prejudice to the provisions of -

- (a) the Income Tax (Keeping of Records, etc) Regulations, 2006 (and those regulations shall have effect as if references in them to persons who, pursuant to section 68 of the Law, are under a duty to deliver to the Director a return as to their income included references to persons required to submit to the Director a return or notification under these Regulations or the GloBE

Model Rules), and

- (b) any other enactment relating to the making, maintenance, keeping and retention by any person of records, returns, notifications and other documents in respect of tax and liability thereto.

(5) Paragraphs (3) and (4) are subject to subject to such conditions, requirements, adaptations, exceptions or modifications as may be specified by notice of the Director.

*Guidance notes
and disclosure of documents*

Guidance notes.

56. (1) The Director may issue guidance notes for the purpose of providing practical guidance in respect of, and in connection with the implementation of –

- (a) these Regulations and the GloBE Model Rules, and
- (b) the provisions of the Law, so far as applicable to these Regulations and the GloBE Model Rules and the implementation thereof.

(2) Guidance notes -

- (a) shall come into force on such date as the Director may appoint,

- (b) may contain such consequential, incidental, supplementary and transitional provision as may appear to be necessary or expedient,
- (c) shall be published in such manner as the Director considers appropriate, and
- (d) may be revoked or revised by the Director (and the provisions of this paragraph apply to any such revocation or revision).

(3) The Director must, without limitation, take guidance notes into account in performing the functions of the Director under or in respect of the implementation of –

- (a) these Regulations and the GloBE Model Rules, and
- (b) the provisions of the Law, so far as applicable to these Regulations and the GloBE Model Rules and the implementation thereof.

(4) In any legal proceedings, criminal or otherwise, whether or not under these Regulations or the GloBE Model Rules or the provisions of the Law (including, for the avoidance of doubt, proceedings before the appropriate body under section 76 of the Law), guidance notes are admissible in evidence, and if any provision of guidance notes appears to the court or other tribunal before which the proceedings are being conducted to be relevant to any question arising in the proceedings, then -

- (a) the provision may be taken into account in determining that question, and
- (b) the provision may be relied on as tending to support or, as the case may be, defeat any representation or submission of any party to the proceedings.

(5) The powers conferred by paragraph (1) are without prejudice to any power conferred by the Law to issue statements of practice.

(6) Section 203A(2) of the Law applies in respect of guidance notes as it applies in respect of regulations.

Form and manner of disclosure for purposes of Model Rules, etc.

57. (1) Disclosures required to be made and documents and information required to be provided by or under these Regulations or the GloBE Model Rules must be made or provided –

- (a) in such form and manner (including, without limitation and for the avoidance of doubt, by being set out in or appended to a return or notification under these Regulations or the GloBE Model Rules),
- (b) by such means, and
- (c) at such times, intervals or places and in respect of such periods,

as the Director may by notice require.

(2) For the purposes of, but without prejudice to the generality of, paragraph (1), a notice of the Director referred to therein -

(a) may require a person to register with, to use and to make disclosures or provide documents and information by means of an electronic portal specified in the notice for that purpose,

(b) may be given or published in such form and manner, by such means and at such times or intervals and for such period as the Director thinks fit, including (without limitation) -

(i) by publication on the official website of the States of Guernsey Revenue Service, or

(ii) by being set out in guidance notes issued under regulation 56.

(3) This regulation is in addition to and not in derogation from the provisions of -

(a) the Law, or

(b) these Regulations or the GloBE Model Rules,

in respect of the disclosure, provision and submission of documents and information.

PART IX
EXCEPTIONS, ADAPTATIONS AND MODIFICATIONS
TO GLOBE MODEL RULES

Application of GloBE Model Rules.

58. In their application to Guernsey, the GloBE Model Rules shall have effect subject to the following exceptions, adaptations and modifications -

- (a) for the expression "[insert name of implementing jurisdiction]" wherever appearing substitute "Guernsey (as defined in the Income Tax (Guernsey) Law, 1975)", and
- (b) the UTPR set out in Articles 2.4 to 2.6 shall not have effect.

PART X
EXCEPTIONS, ADAPTATIONS AND MODIFICATIONS
TO THE LAW

References to tax and taxpayers, etc.

59. (1) Any reference in the provisions of the Law, however expressed, to "income tax" or "tax" shall, unless the context requires otherwise, include references to the DTT, and references in those provisions to "taxation", "taxpayer" and other related expressions shall be construed accordingly.

(2) Without prejudice to the generality of subparagraph (1), the DTT and MTT are hereby specified for the purposes of paragraph (b)(ii) of the definition of "tax" in section 75O of the Law.

References to regulations.

60. Without prejudice to the generality of regulation 1(3), any reference in the provisions of the Law, however expressed, to regulations shall, unless the context requires otherwise, include references to the GloBE Model Rules as they have effect in Guernsey by virtue of these Regulations.

Application of legal avoidance provisions.

61. Section 67 of the Law (general provision against legal avoidance), applies for the purposes of these Regulations and the GloBE Model Rules as if –

- (a) references in that section, however expressed, to "tax under this Law" or "tax" included references to DTT and MTT,
- (b) references to a year of charge included references to a Fiscal Year, and
- (c) subsection (5) were omitted.

Application of provisions as to returns.

62. Section 68 of the Law (returns as to income) applies in relation to a person required to submit a return under these Regulations or the GloBE Model Rules as it applies in relation to a person required by notice of the Director to deliver a return as to income under that section.

Application of provisions as to service of notice.

63. Section 68(1AAA) of the Law (giving of notice from the Director) applies in relation to a notice of the Director given under or in respect of the

implementation of these Regulations or the GloBE Model Rules as it applies in relation to a notice of the Director requiring a person to deliver a return as to income, and references (however expressed) in these Regulations or the GloBE Model Rules to the giving or receipt of such a notice shall be construed accordingly.

Application of duty to submit in electronic form and by electronic means.

64. Section 68AA of the Law ("returns to be submitted in electronic form and by electronic means") applies in respect of these Regulations and the GloBE Model Rules as if -

- (a) references in subsections (1) and (2) of that section to section 68 included references to these Regulations and the GloBE Model Rules,
- (b) references in section 68AA(1) to a return as to a person's income included references to a disclosure, or any document, notification or information, required or authorised to be made or provided by, under or in respect of the implementation of these Regulations or the GloBE Model Rules, and
- (c) paragraph (a) of subsection (1) of that section and, in paragraph (b) thereof, the words "in the case of a company" were omitted.

Application of information powers.

65. (1) Section 75A of the Law ("power to call for documents, etc, from taxpayer") applies in respect of these Regulations and the GloBE Model Rules as if there were added at the end of subsection (1)(a)(iii) the words "and/or compliance

with the Income Tax (Approved International Agreements) (Implementation) (OECD Pillar Two GloBE Model Rules) Regulations, 2024 and the GloBE Model Rules implemented thereby", and sections -

- (a) 75D ("sections 75A and 75B: supplementary"),
- (b) 75E ("court orders for delivery of documents, etc, from taxpayer"),
- (c) 75G ("court orders under sections 75E and 75F: supplementary"),
- (d) 75H ("court orders under sections 75E and 75F: notice and procedure"),
- (e) 75I ("entry with warrant to obtain material"),
- (f) 75J ("procedure where documents etc, are removed"),
- (g) 75K ("right of appeal to Royal Court"),
- (h) 75L ("offences in relation to falsification, etc, of documents"),
- (i) section 75M ("duties of confidentiality, liens, and self-incrimination"), and
- (j) 75N ("constitution of Royal Court under sections 75E and 75F"),

of the Law, apply accordingly.

(2) Section 75B of the Law ("power to call for documents, etc, relating to taxpayer") applies in respect of these Regulations and the GloBE Model Rules as if there were added at the end of subsection (2)(c) the words "and/or compliance with the Income Tax (Approved International Agreements) (Implementation) (OECD Pillar Two GloBE Model Rules) Regulations, 2024 and the GloBE Model Rules implemented thereby", and sections -

- (a) 75CB ("notices under section 75B: ancillary provision"),
- (b) 75D ("sections 75A and 75B: supplementary"),
- (c) 75F ("court orders for delivery of documents, etc, relating to taxpayer"),
- (d) 75G ("court orders under sections 75E and 75F: supplementary"),
- (e) 75H ("court orders under sections 75E and 75F: notice and procedure"),
- (f) 75I ("entry with warrant to obtain material"),
- (g) 75J ("procedure where documents etc, are removed"),
- (h) 75K ("right of appeal to Royal Court"),

- (i) 75L ("offences in relation to falsification, etc, of documents"),
- (j) 75M ("duties of confidentiality, liens, and self-incrimination"), and
- (k) 75N ("constitution of Royal Court under sections 75E and 75F"),

of the Law, apply accordingly.

(3) Section 75C of the Law ("notices under section 75A and 75B: requests for information") also applies in respect of these Regulations and the GloBE Model Rules as if -

- (a) references in that section to an approved international agreement included references to an international tax measure, and
- (b) references to a competent authority of a requesting state included references to a competent authority designated by the Director for the purposes of these Regulations and the GloBE Model Rules.

Use of statements in evidence, etc.

66. Section 75M of the Law ("duties of confidentiality, liens, and self-incrimination") applies in respect of these Regulations and the GloBE Model Rules as if in subsection (4)(b)(ii)(A) of that section after the words "section 75L(3)" there was inserted "or section 201(1) by virtue of a contravention of section 201(4)".

Application of surcharge and supplement provisions.

67. (1) Section 199 of the Law applies in respect of these Regulations and the GloBE Model Rules as if –

- (a) DTT or MTT were amounts due under the Law,
- (a) subsections (6), (10), (11)(b) and (12) of that section were omitted.

(2) For the purposes of these Regulations and the GloBE Model Rules section 199A of the Law does not apply in respect of DTT or MTT and overpayments thereof.

General modification of provisions of Law.

68. For the purposes of these Regulations and the GloBE Model Rules, and without prejudice to any other provision of these Regulations -

- (a) any reference in the provisions of the Law to the Law (whether by use of the expression "**this Law**" or otherwise), or to any of the provisions of the Law, has effect as if the reference were to the Law or those provisions as modified in their application by these Regulations, and
- (b) the provisions of the Law shall be construed and shall have effect subject to those modifications.

SUPPLEMENTARY

Interpretation.

69. (1) In these Regulations, unless the contrary intention appears -

"**Adjusted Covered Taxes**" : see Article 4.1.1 of the GloBE Model Rules,

"**Committee**" means the States Policy & Resources Committee,

"**Competent Authority**" means a person, body or authority designated as a competent authority by the Director for the purposes of these Regulations or the GloBE Model Rules,

"**Consolidated Financial Statements**" means –

- (a) the financial statements prepared by an Entity in accordance with an Acceptable Financial Accounting Standard, in which the assets, liabilities, income, expenses and cash flows of that Entity and the Entities in which it has a Controlling Interest are presented as those of a single economic unit,
- (b) where an Entity meets the definition of a Group under Article 1.2.3 of the GloBE Model Rules, the financial statements of the Entity that are prepared in accordance with an Acceptable Financial Accounting Standard,
- (c) where the Ultimate Parent Entity has financial statements described in paragraph (a) or (b) that are not

prepared in accordance with an Acceptable Financial Accounting Standard, the financial statements are those that have been prepared subject to adjustments to prevent any Material Competitive Distortions, and

- (d) where the Ultimate Parent Entity does not prepare financial statements described in the paragraphs above, the Consolidated Financial Statements of the Ultimate Parent Entity are those that would have been prepared if such Entity were required to prepare such statements in accordance with International Financial Reporting Standards or the generally accepted accounting principles of the United Kingdom or the United States of America,

"Constituent Entity" : see Article 1.3 of the GloBE Model Rules,

"Director" means the Director of the Revenue Service, the Deputy Director of the Revenue Service or such other person, body or authority as the Director may by notice specify for the purposes of these Regulations or the GloBE Model Rules,

"DTT" means the Domestic Top-up Tax payable under the GloBE Model Rules,

"DTT return" : see regulation 24,

"Domestic Constituent Entity" means a Constituent Entity that -

- (a) is located in Guernsey,
- (b) is a member of an MNE Group, and
- (c) is not an Investment Entity or Insurance Investment Entity,

"Domestic Entity" means an Entity that –

- (a) is located in Guernsey, and
- (b) is a member of an MNE Group,

"Domestic Filing Entity" means the Entity appointed in accordance with regulation 18,

"Domestic Joint Venture" means a Joint Venture that for the Fiscal Year

-

- (a) is located in Guernsey,
- (b) is not an Investment Entity or Insurance Investment Entity, and
- (c) has its financial results reported under the equity method in an MNE Group that is within scope of the GloBE Model Rules by virtue of Article 1.1. of those Rules,

"Domestic Joint Venture Group" means the members of a Joint Venture Group that -

- (a) are located in Guernsey,
- (b) are not Investment Entities or Insurance Investment Entities, and
- (c) have their financial results reported under the equity method in an MNE Group that is within scope of the GloBE Model Rules by virtue of Article 1.1 of those Rules,

"Domestic Joint Venture Subsidiary" means a Joint Venture Subsidiary that -

- (a) is located in Guernsey,
- (b) is not an Investment Entity or Insurance Investment Entity, and
- (c) has its financial results reported under the equity method in an MNE Group that is within scope of the GloBE Model Rules by virtue of Article 1.1 of those Rules,

"Entity" means -

- (a) a legal person (other than a natural person), or

- (b) an arrangement that prepares separate financial accounts, such as a partnership or trust,

"Fiscal Year" : see Article 10.1 of the GloBE Model Rules,

"GloBE Administrative Guidance" : see regulation 2(2)(a),

"GloBE Commentary" : see regulation 2(2)(b),

"GloBE Examples" : see regulation 2(2)(c),

"GloBE Information Return" means a return containing the following-

- (a) general information on the MNE Group as a whole, including its corporate structure,
- (b) detailed information on the application of the GloBE Model Rules and determination of the DTT payable in Guernsey, and
- (c) such other information and documents as the Director may reasonably require,

"GloBE Model Rules" : see regulation 1(2),

"GloBE Safe Harbours Rules": see regulation 2(2)(d),

"Group" : see Article 1.2 of the GloBE Model Rules,

"**IIR**" means the rules set out in Article 2.1 to Article 2.3 of the GloBE Model Rules,

"**the Law**" means the Income Tax (Guernsey) Law, 1975,

"**location**" of an Entity or a Permanent Establishment : see Article 10.3 of the GloBE Model Rules,

"**MNE Group**" : see Article 1.2.1 of the GloBE Model Rules,

"**MTT**" means the Multinational Top-up Tax payable under the Income Inclusion Rule of Chapter 2 of the GloBE Model Rules,

"**OECD**" means the Organisation for Economic Co-operation and Development,

"**the provisions of the Law**" means the provisions of the Law and of any Ordinance, regulation or resolution made under it,

"**Qualifying MNE Group**" means an MNE Group that -

- (a) is within scope of the GloBE Model Rules by virtue of Article 1.1 of those Rules, and
- (b) has at least one Domestic Constituent Entity,

"**Registered Group**" means the Domestic Entities of an MNE Group which have been registered by the Group's Domestic Filing Entity under

regulation 20,

"**return**" means a GloBE Information Return, a DTT return or an MTT return,

"**Safe Harbour**" means an exception provided in Article 8.2.1 of the GloBE Model Rules whose design and eligibility conditions have been approved by the OECD/G20 Inclusive Framework on BEPS and set out in –

- (a) the GloBE Safe Harbours Rules,
- (b) the GloBE Administrative Guidance, and
- (c) any other document promulgated by the OECD and prescribed by regulations of the Committee,

"**Securitisation Arrangement**" means an arrangement which satisfies the following conditions –

- (a) it is implemented for the purpose of pooling and repackaging a portfolio of assets (or exposures to assets) for investors that are not Constituent Entities of the MNE Group in a manner that legally segregates one or more identified pools of assets, and
- (b) it seeks through contractual agreements to limit the exposure of those investors to the risk of insolvency of an Entity holding the legally segregated assets by controlling the ability of identified creditors of that

Entity (or of another Entity in the arrangement) to make claims against it through legally binding documentation entered into by those creditors,

"**Securitisation Entity**" means a participant in a Securitisation Arrangement which satisfies all of the following conditions –

- (a) the Entity only carries out activities that facilitate one or more Securitisation Arrangements,
- (b) it grants security over its assets in favour of its creditors (or the creditors of another Securitisation Entity),
- (c) it pays out all cash received from its assets to its creditors (or the creditors of another Securitisation Entity) on an annual or more frequent basis, other than –
 - (i) cash retained to meet an amount of profit required by the documentation of the Arrangement, for eventual distribution to equity holders (or equivalent),
 - (ii) cash reasonably required under the terms of the Arrangement for either (or both) of the following purposes -
 - (A) to make provision for future payments which are required, or will likely be

required, to be made by the Entity under the terms of the Arrangement, or

- (B) to maintain or enhance the creditworthiness of the Entity,

provided that an Entity shall not be treated as a Securitisation Entity for the purposes of these Regulations unless any profit referred to in paragraph (c)(i) is negligible relative to the revenues of the Entity,

"**submission**" of a return or notification : see regulation 54,

"**UTPR**" means the rules set out in Article 2.4 to Article 2.6 of the GloBE Model Rules.

(2) Other expressions, to the extent that they are defined therein, have the meanings given in the GloBE Model Rules; and any expressions not defined in these Regulations or in the GloBE Model Rules have the same meanings as in the Law.

(3) A reference in these Regulations to the GloBE Model Rules, the GloBE Administrative Guidance, the GloBE Commentary, the GloBE Examples or the GloBE Safe Harbour Rules is a reference thereto as from time to time -

- (a) amended or otherwise modified, supplemented, updated or revised, or
- (b) re-enacted or replaced (with or without modification, supplementation, updating or revision).

- (4) However, notwithstanding the provisions of paragraph (3) –
- (a) that paragraph does not apply to (and therefore does not implement on an ambulatory basis) any amendments to the definition of "minimum rate" in Article 10.1.1 of the GloBE Model Rules, and
 - (b) the GloBE Model Rules shall be applied, in respect of any time within a Fiscal Year, consistently with the version of those Rules, the GloBE Administrative Guidance, the GloBE Commentary, the GloBE Examples and the GloBE Safe Harbours Rules in force in Guernsey immediately before the commencement of that Fiscal Year.

Citation.

70. These Regulations may be cited as the Income Tax (Approved International Agreements) (Implementation) (OECD Pillar Two GloBE Model Rules) Regulations, 2024.

Commencement and application.

71. (1) These Regulations shall come into force on the 1st January, 2025.
- (2) These Regulations and the GloBE Model Rules apply in respect of Fiscal Years beginning on or after the 1st January, 2025.

Dated this 26th day of November, 2024



DEPUTY L. TROTT

President of the Policy & Resources Committee

For and on behalf of the Committee

EXPLANATORY NOTE

(This note is not part of the regulations)

These Regulations implement and enable the administration and enforcement in Guernsey domestic law of the OECD (2021) Global Anti-Base Erosion Model Rules (Pillar Two): Inclusive Framework on BEPS (the "**GloBE Model Rules**") which have been specified for the purposes of the Income Tax (Guernsey) Law, 1975 as an international tax measure by Resolution of the States of Deliberation of the 4th September, 2024.

The Model Rules are part of the Two-Pillar Solution to address the tax challenges of the digitalisation of the economy that was agreed by 137 member jurisdictions of the OECD/G20 Inclusive Framework on BEPS (ie, base erosion and profit shifting) and endorsed by the G20 Finance Ministers and Leaders in October 2021.

The Rules are designed to ensure that large multinational enterprise Groups ("**MNE Groups**") pay a minimum level of tax on the income arising in each jurisdiction where

they operate (a Group being a collection of entities related through ownership or control which includes at least one entity or permanent establishment that is not located in the jurisdiction of the ultimate parent entity).

MNE Groups that either have no foreign presence or have less than EUR 750 million in consolidated revenues are not in scope of the Rules. MNE Groups in scope of the Rules calculate their effective tax rate for each jurisdiction where they operate and pay top-up tax for the difference between their effective tax rate per jurisdiction and the 15% minimum rate.

The top-up taxes are referred to as the domestic top-up tax (the "DTT") and the multinational top-up tax payable under the Income Inclusion Rule (the "MTT").

The implementation of the GloBE Model rules by regulation of the Policy & Resources Committee follows the model used for the implementation of other significant international tax-related obligations such as the common reporting standard, economic substance requirements, and the FATCA agreements with the Governments of the United Kingdom and the United States of America.
