Inland Revenue
Te Tari Taake

POLICY AND STRATEGY

Tax policy report: **Global Anti-Base Erosion tax rules for New Zealand – Cabinet approval**

Date:	9 February 2023	**Priority:**	Medium
Security level:	In Confidence	**Report number:**	IR2022/466

Action sought

	Action sought	Deadline
Minister of Revenue	**Sign** and **refer** the attached Cabinet Paper to Cabinet Office	2 March 2023
Minister of Finance	**Sign** and **refer** the attached Cabinet Paper to Cabinet Office	2 March 2023

Contact for telephone discussion (if required)

Name	Position	Telephone
Casey Plunket	Special Policy Advisor	[redacted]

In Confidence

9 February 2023

Minister of Revenue
Minister of Finance

Global Anti-Base Erosion tax rules for New Zealand – Cabinet approval

1. On 22 September Treasury and Inland Revenue officials presented the tax policy report "OECD Pillar Two: GloBE rules for New Zealand – summary of consultation and officials' recommendations" (the Tax Policy Report). You agreed with officials that New Zealand should enact GloBE rules and that the design and delivery follow the recommendations in the Tax Policy Report.

2. On 13 October Inland Revenue officials submitted a Cabinet paper to be referred to the Cabinet Office which covered the recommendations you agreed to in the Tax Policy Report. This paper noted that the funding of the build and ongoing administrative costs required by the GloBE initiative, as well as other international initiatives, had not been determined and we would modify this paper if any changes were necessary, prior to referral to the Cabinet Office.

3. The funding decisions for the international initiatives have now been considered by Inland Revenue and the Treasury and the Cabinet paper has been modified to request Cabinet approval for the one-off and ongoing administration costs for Vote Revenue, covering the GloBE rules and country by country reporting (CbCR).

4. CbCR costs are included as Pillar Two leverages off the existing reporting requirements under CbCR. This is done to minimise the additional compliance costs for in-scope entities. Inland Revenue will incorporate the current CbCR into START and streamline the process. This provides a sustainable solution to ensure Inland Revenue can meet its international obligations.

Capacity constraints

5. Inland Revenue is committed to deliver the current policy initiatives agreed to by Cabinet including the ones in this paper. We have assessed that the Government's current tax and social policy work programme will use up most of our specialist design and delivery capacity over the next three years. Upcoming proposals in the next two omnibus taxation bills are also absorbing these same resources. In addition, if the initiatives that Ministers are currently seeking advice on proceed this will put further pressure on this capacity and will require reprioritisation and/or rescheduling of the existing work programme. Any further reduction in Inland Revenue's Budget 23 cost pressure bid will likely exacerbate this pressure.

6. Inland Revenue is undertaking work to try to reduce its capacity constraints and continually looking at whether a reprioritisation of Inland Revenue's existing and future commitments will be required to enable delivery of any new policy initiatives, in this timeframe, including this one. This means Inland Revenue may be unable to deliver on policy options that Ministers have already agreed to or wish to progress. Inland Revenue will report back to the Ministers of Finance and Revenue on options to reprioritise if this becomes necessary.

Globe updates

OECD updated economic impact assessment

7. On 18 January 2023, the OECD presented an updated economic impact assessment for the GloBE rules. The OECD estimates that the GloBE rules will increase global corporate income tax by approximately 9% or US $220 billion. This is up from 6-

7.5% or US $130-180 billion from the 2021 economic impact assessment. The rationale for the increase is:

- Better data on global low-taxed profit
- Increase in low-taxed profit over time
- Modelling a consistent application of GloBE rules across jurisdictions

8. The New Zealand revenue estimate from GlobE remains unchanged from our previous analysis. This is because we used CbCR data to calculate the expected New Zealand revenue from GloBE, which provides a more accurate picture for New Zealand, whilst utilising the underlying assumptions the OECD used in its estimate. As these underlying assumptions have not changed in the updated economic impact assessment our revenue did not need to be revised.

OECD release of further technical guidance on the GloBE rules

9. On 2 February 2023 the OECD released further technical guidance on the Pillar 2 GloBE rules. Of note for the government is further detail on the mechanics of the domestic minimum tax (DMT). The DMT is calculated using the GloBE rules, but only on local (in-country) profits. It has priority over the Income Inclusion Rule (IIR) and the Undertaxed Profits Rule (UTPR).[1]

10. The DMT guidance confirms that, if an in-scope MNE pays a DMT which gives rise to an imputation credit, this will not result in the DMT being non-qualifying. Consequently, for NZ MNEs whilst GloBE taxes paid under an IIR or UTPR will not give rise to an imputation credit, GloBE tax paid under the DMT will attract an imputation credit.

Country updates

11. On 15 December 2022, the Council of the European Union reached unanimous agreement to implement Pillar Two. The EU Directive requires Member States to transpose the rules into domestic law by 31 December 2023. The Directive states the IIR will be effective for periods on or after 31 December 2023 and the UTPR on or after 31 December 2024.

Recommendations

12. We recommend that you sign the attached Cabinet paper and refer it to the Cabinet Office. The Cabinet paper is consistent in all respects with the recommendations you agreed to in the Tax Policy Report.

13. The Cabinet paper needs to be lodged with the Cabinet Office by 10am on Thursday 2 March 2023 for consideration by the Cabinet Economic Development Committee on Wednesday 8 March 2023.

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[1] The IIR applies on a top-down basis, giving the ultimate parent entity country, or an intermediate parent entity country, the right to collect GloBE top-up tax where the income is earned, if it has not been taxed under a DMT.

The UTPR is a back-up rule which allocates GloBE top-up tax in proportion to the group's payroll costs and tangible asset values in each country with GloBE rules. This ensures that if the country where an MNE has its headquarters decides not to implement the GloBE rules, the MNE will still have to pay top-up tax if it operates in countries that have GloBE rules.

Recommended action

We recommend that you:

a) **Note** that Inland Revenue has assessed that the delivery of the Government's current tax and social policy work programme will use up most of their specialist design and delivery capacity over the next three years and is undertaking work to reduce its capacity constraints and continually looking at whether a reprioritisation of Inland Revenue's existing and future commitments.

b) **Lodge** and **refer** the attached Cabinet paper on *Global Anti-Base Erosion Tax Rules* to the Cabinet Office by 10.00am, Thursday 2 March 2023 for the Cabinet Economic Development Committee to consider at its meeting on Wednesday 8 March 2023.

Signed and referred | Signed and referred

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Casey Plunket
Special Policy Advisor
Policy and Regulatory Stewardship

Hon Grant Robertson
Minister of Finance
/ /2023

Hon David Parker
Minister of Revenue
/ /2023