OECD/G20 Base Erosion and Profit Shifting Project

Tax Challenges Arising from the Digitalisation of the Economy – Administrative Guidance on Article 9.1 of the Global Anti-Base Erosion Model Rules

Inclusive Framework on BEPS

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Executive Summary

Background

1. In October 2021 members of the OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting (Inclusive Framework) agreed a two-pillar solution to reform the international tax framework in response to the challenges of digitalisation of the economy. As part of the October Statement, Inclusive Framework members agreed to a co-ordinated system of Global anti-Base Erosion (GloBE) rules that are designed to ensure large multinational enterprises pay a minimum level of tax on the income arising in each jurisdiction where they operate. In the October Statement, it was agreed that the GloBE Rules would have the status of a common approach. Under this common approach, jurisdictions are not required to adopt the GloBE rules, but, if they choose to do so, they will implement and administer the rules in a way that is consistent with the agreed outcomes. The common approach also means that Inclusive Framework members accept the application of the GloBE rules applied by other members, including agreement as to rule order and the application of any agreed safe harbours.

2. The GloBE Model Rules were approved and released by the Inclusive Framework on 20 December 2021 *Tax Challenges Arising from Digitalisation of the Economy – Global Anti-Base Erosion Model Rules (Pillar Two): Inclusive Framework on BEPS* (OECD, 2021[1]). The GloBE Model Rules consist of an interlocking and coordinated system of rules which are designed to be implemented into the domestic law of each jurisdiction and operate together to ensure large MNE Groups are subject to a minimum effective tax rate of 15% on any excess profits arising in each jurisdiction where they operate. Consistent with the intention of the Inclusive Framework, the GloBE Rules (including the IIR and UTPR) are designed so that the imposition of top-up tax in accordance with those rules will be compatible with the provisions of the United Nations Model Double Taxation Convention between Developed and Developing Countries (the "UN Model Double Tax Convention") (UN, 2021[2]) and the *Model Tax Convention on Income and on Capital: Condensed Version 2017*, (the "OECD Model Tax Convention") (OECD, 2017[3]).

3. The Commentary to the GloBE Model Rules was first approved and released by the Inclusive Framework on 14 March 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, 2022[4]) The Commentary clarifies the interpretation and operation of the provisions in the GloBE Model Rules and includes some examples illustrating how the rules apply to specific fact patterns. The Commentary is intended to promote a consistent and common interpretation of the GloBE Model Rules in order to provide certainty for MNE Groups and to facilitate coordinated outcomes among implementing jurisdictions. Although the Commentary is detailed and comprehensive, it does not provide guidance on every aspect of the GloBE Model Rules.

4. The GloBE Model Rules envision that the Inclusive Framework may issue guidance on both the interpretation and the operation of the rules. The Inclusive Framework has provided interpretive guidance to ensure consistent and common interpretation of the GloBE Rules, provide certainty for MNE Groups and facilitate coordinated and transparent outcomes under the rules. Once agreed, the Administrative Guidance is incorporated into the Commentary as it supplements or replaces paragraphs in the Commentary or explains how to apply the language of the rules to particular fact patterns.

Administrative Guidance on Article 9.1

5. This document includes guidance on addresses the treatment of certain deferred tax assets that arose prior to the application of the global minimum tax as a result of certain governmental arrangements or following the introduction of a new corporate income tax. This Administrative Guidance will be incorporated into the Commentary.

Application of Article 9.1 to deferred tax assets arising from tax benefits provided by General Government

Introduction

1. Article 9.1 of the Model Rules provides simplified transition rules that allow deferred tax accounting attributes, including deferred tax assets resulting from prior year losses, that arose prior to the Transition Year to be used in the calculation of the ETR to prevent distortions upon an MNE Group entering into the GloBE Rules. However, the Article 9.1 transition rules are not intended to serve as a mechanism that MNE Groups or General Governments can use to engage in transactions or provide tax attributes that produce deferred tax assets that when reversed will effectively shelter all or a portion of an MNE Group's future low-taxed income from the GloBE Rules.

2. After 30 November 2021, some MNE Groups have entered into arrangements with General Governments that provided tax benefits such as tax credits or basis step-ups in advance of the GloBE Rules or a Domestic Minimum Top-up Tax (DMTT) coming into effect with respect to their jurisdiction. Some MNE Groups in receipt of these benefits have recorded them as deferred tax assets (DTAs) in the financial accounts and may intend to take them into account under the Article 9.1 transition rules for deferred tax assets and liabilities.

3. In light of these issues, the Inclusive Framework has agreed the following Administrative Guidance to further clarify the application of the Article 9.1 transitional rules, especially in relation to DTAs arising from tax benefits provided by General Government after 30 November 2021. This guidance clarifies that the deferred tax expenses arising from the reversal of DTAs arising from governmental arrangements, as well as DTAs and deferred tax liabilities (DTLs) arising from similar events such as retroactive elections or General Governments granting MNE Groups a step-up in basis when introducing a new corporate income tax regime before the GloBE Rules come into effect, but after 30 November 2021, are excluded under the transition rules in Articles 9.1. This guidance contains a Grace Period under which the deferred tax expenses, subject to a cap, can be included in the Total Deferred Tax Adjustment Amount under Article 4.4 or Simplified Covered Taxes under the Transitional CbCR Safe Harbour. Implementing Jurisdictions have agreed that they will not seek to apply their rules to neutralise the deferred tax expenses under Article 9.1 during the Grace Period (except to the extent that the deferred tax expense arises from reversals during the Grace Period exceeds the Grace Period Limitation).

Interaction with Related Benefits and qualified status

4. The GloBE Model Rules provide that a jurisdiction that has implemented a Qualified IIR, Qualified UTPR, or QDMTT must implement and administer its domestic law in a way that is consistent with the outcomes provided under the GloBE Model Rules and the Commentary and must not provide benefits

related to its rules. Therefore, if the General Government of a jurisdiction has provided such benefits, it would not have met the requirements to obtain QDMTT status under the transitional qualification mechanism.

5. The Inclusive Framework also considers that the tax benefits described in paragraph 2 would constitute a benefit related to a jurisdiction's rules ('a Related Benefit') to the extent they are provided in a jurisdiction that has implemented a DMTT and that jurisdiction does not exclude the associated deferred tax expenses through Article 9.1. Therefore, when the tax benefits described in paragraph 2 are provided by the General Government of a DMTT jurisdiction, the DMTT legislation would not be qualified. As part of agreeing this Administrative Guidance, however, the Inclusive Framework has also agreed an exceptional derogation that would allow a jurisdiction whose General Government has provided tax benefits through governmental arrangements to self-certify for transitional qualified status for the QDMTT and QDMTT Safe Harbour. This is based on the understanding that (i) the jurisdiction will apply this Administrative Guidance to neutralize a portion of the deferred tax expense arising from the tax benefits and that (ii) if the jurisdiction does not apply this Administrative Guidance, the switch-off rule in the QDMTT Safe Harbour will apply so that other Implementing Jurisdictions can neutralize the same portion of the deferred tax expense arising from the tax benefits instead.

Further work on Related Benefits

6. The GloBE Model Rules depend on an accurate measure of tax expense to compute an MNE Group's Effective Tax Rate. To that end, the definition of "Tax" in the GloBE Model Rules includes only compulsory "unrequited" payments to General Government and Adjusted Covered Taxes are reduced in respect of any refund of tax (see Article 4.1.3(c)). The Inclusive Framework is currently developing guidance to assist MNE Groups and tax administrations in identifying benefits provided by any jurisdiction that must be treated as a refund of tax that reduces Adjusted Covered Taxes. Such benefits include tax credits, government grants, and other benefits that are calculated based on income or taxes. Similar guidance is being developed in the context of benefits offered by a jurisdiction that has implemented a QDMTT, which will include a mechanism to ensure consistent outcomes are achieved by adjusting the amount of QDMTT payable and applying a switch-off mechanism that limits the operation of the QDMTT Safe Harbour where necessary.

7. In addition, the Inclusive Framework is currently developing guidance that will clarify how to identify "Related Benefits" and consider how they impact on the qualified status of a jurisdiction's rules. The Administrative Guidance will be supplemented by an ongoing monitoring process that will ensure a coordinated assessment of whether benefits are Related Benefits. This process will be designed to facilitate a coordinated and robust approach that protects the integrity of the GloBE Model Rules, and therefore will cover benefits provided by any part of the General Government, including through investment promotion agencies or subnational governmental authorities. Implementing jurisdictions will consequently involve other parts of the General Government during the ongoing monitoring process to ensure there is sufficient information to assess those benefits. The monitoring process is expected to cover all fiscal years for which the global minimum tax applies.

Revisions to Commentary

Article 9.1

8. The bold text will be added to paragraph 4 of the Commentary to Article 9.1.

> 4. To address these concerns, Article 9.1 provides for transition rules. Consistent with the general mechanism to address temporary differences contained in Article 4.4, these transition rules build on deferred tax accounting concepts. The transition rules allow existing deferred tax

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accounting attributes, including deferred tax assets resulting from prior year losses, to be used in the calculation of the ETR to prevent distortions upon entry into the GloBE regime of a Constituent Entity of a MNE Group. **However, the Article 9.1 transition rules are not intended to serve as a mechanism that MNE Groups or General Governments can use to engage in transactions or provide tax attributes that produce deferred tax assets that when reversed will effectively shelter all or a portion of an MNE Group's future low-taxed income from the GloBE Rules. While Article 9.1.1 generally takes into account the deferred tax assets and deferred tax liabilities reflected or disclosed in the financial accounts of all of the Constituent Entities in a jurisdiction for the Transition Year, Article 9.1.2 and Article 9.1.3 exclude or limit the amount of deferred tax assets that can be included in certain circumstances. This Commentary provides further explanation about the deferred tax assets and liabilities that are excluded under these Articles. While the Commentary explains the intended outcome under Article 9.1.1 through 9.1.3, implementing jurisdictions can achieve such outcomes through different methods (such as through interpretation of Article 9.1.1).** As further discussed below, the transition rules differ from the general mechanisms contained in Chapter 4 in some ways.

Article 9.1.1

9. The language in strikethrough will be deleted and the sentences in bold will be added to paragraph 6.4 of the Commentary to Article 9.1.1:

6.4. Further, except as provided in Article 9.1.2, attributes imported into the GloBE attributes pursuant to Article 9.1.1 are not subject to any adjustments to deferred tax expense under Article 4.4.1(a), (b), (c), or (d), or Article 4.4.4. Under Article 9.1.1, a Constituent Entity's tax attributes at the beginning of the Transition Year shall include any deferred tax asset that was not recognised **due to an expectation that there may be insufficient taxable income for it to be utilised in the future (or in the near future, if the Constituent Entity's accounting policy only recognizes such deferred tax assets that are expected to be used within a short time after they arise), but shall not include a deferred tax asset that cannot be reflected or disclosed under the Authorised Financial Accounting Standard used to determine the Constituent Entity's Financial Accounting Net Income or Loss (except deferred tax assets that are taken into account under paragraph 51.2 of the Commentary to Article 6.2.1 or the Commentary to Article 9.1.3)** ~~because the recognition criteria was not met~~.

Article 9.1.2

10. The text of paragraph 8 of the Commentary to Article 9.1.2 is reorganized into paragraphs 8 through 8.2. The language in strikethrough will be deleted and the sentences in bold will be added to paragraphs 8 through 8.2:

8. Article 9.1.2 provides a limitation to prevent the **exploitation** ~~triggering~~ of permanent difference**s between GloBE Income or Loss and taxable income** ~~losses before applicability of the GloBE Rules~~ **through deferred tax assets that would be reflected or disclosed in the financial accounts of a Constituent Entity for the Transition Year**. **Any deferred tax expenses attributable to the reversal of a deferred tax asset excluded by Article 9.1.2 shall not be included in the Total Deferred Tax Adjustment Amount under Article 4.4**. **The following paragraphs describe the elements that must be met in order for Article 9.1.2 to apply to a deferred tax asset. First, those deferred tax assets must arise from items excluded from the computation of GloBE Income or Loss under Chapter 3. Second, those deferred tax assets must be generated in a transaction that takes place after 30 November 2021.**

Items excluded from the computation of GloBE Income or Loss under Chapter 3

8.1. The reference to "items excluded from the computation of GloBE Income or Loss under Chapter 3" includes not only deferred tax assets attributable to the items expressly excluded under Chapter 3 but also deferred tax assets associated with non-economic expenses or losses for tax purposes. An example of this would be a Constituent Entity that triggers a domestic tax loss **in a transaction in 2022** with respect to an item that is not taken into account in the calculation of GloBE Income or Loss, such as depreciation deductions in excess of an asset's cost. Absent the Article 9.1.2 limitation, such attribute would be imported into the GloBE attributes upon becoming subject to the rules. **Also, the reference includes deferred tax assets that are not attributable to the prepayment of tax in relation to income that would or will be included in GloBE Income or Loss. Further, the reference includes tax benefits that are designed to achieve similar effects as the example described above, including tax credits based on future expenditure or activity. For the avoidance of doubt, Article 9.1.2 does not apply to a deferred tax asset relating to a tax credit if it arises independently of a governmental arrangement, as described in paragraphs 8.3 and 8.4 of the Commentary to Article 9.1.2. In addition, Article 9.1.2 does not apply to any deferred tax asset, or portion of a deferred tax asset, that is taken into account for GloBE purposes under paragraph 51.2 of the Commentary to Article 6.2.1 (relating to transactions that take place prior to the Transition Year that are subject to Article 6.2.1(c)).**

Transaction that takes place after 30 November 2021

8.2. The limitation in Article 9.1.2 applies to any deferred tax asset **related to items excluded from the computation of GloBE Income or Loss under Chapter 3 that is** generated in a transaction that takes place after 30 November 2021. **It can therefore apply to a deferred tax asset arising from a transaction that takes place after the Transition Year if the deferred tax asset was reflected or disclosed in the financial accounts for the Transition Year.** Article 9.1.2 does not have retroactive tax implications, but rather sets out rules with respect to how certain attributes are taken into account in Fiscal Years to which the GloBE Rules apply.

11. The following paragraphs will be added after paragraph 8.2 of the Commentary to Article 9.1.2:

Definition of Transaction for arrangements with General Governments, retroactive elections and enactment of CIT legislation

8.3. Article 9.1.2 is not limited to commercial transactions. For purposes of Article 9.1.2, the term "transaction" is interpreted broadly and includes any agreement, ruling, decree, grant or similar arrangement with a General Government (hereinafter referred to as governmental arrangement), as well as any amendment or modification to a pre-existing governmental arrangement. A deferred tax asset that is attributable to a governmental arrangement falls within the scope of Article 9.1.2 where such governmental arrangement provides the taxpayer with a specific entitlement to a tax credit or other tax relief (for example, a tax basis step-up) that does not arise independently of the arrangement.

8.4. For purposes of paragraph 8.3, a tax credit or other tax relief arises independently of the governmental arrangement if no critical aspect of the credit or relief, such as the eligibility or amount, relies on discretion exercised by the General Government. For example, paragraph 8.3 does not apply to a statutory entitlement to a tax credit for eligible expenditure incurred by a taxpayer, merely because the grant of that relief requires a decision or acknowledgement that the taxpayer has satisfied or is obligated to satisfy the statutory criteria for that credit or other tax relief.

8.5. For greater certainty, the operation of Article 9.1.2 means that the following tax attributes, for instance, are excluded from the Article 9.1.1 computation:

a. A deferred tax asset that is attributable to a governmental arrangement concluded or amended after 30 November 2021 where such governmental arrangement provides the taxpayer with a specific entitlement to a tax credit or other tax relief (including, for example, a tax basis step-up) that does not arise independently of the arrangement.

b. A deferred tax asset that is attributable to an election or choice exercised or changed by a Constituent Entity after 30 November 2021 and that retroactively changes the treatment of a transaction in determining its taxable income in a tax year for which an assessment by the tax authority was already made or a tax return was already filed.

c. A deferred tax asset or a deferred tax liability arising from a difference in the tax basis or value and accounting carrying value of an asset or liability if the tax basis or value was established pursuant to a corporate income tax that was enacted by a jurisdiction that did not have a pre-existing corporate income tax and that was enacted after 30 November 2021 and before the Transition Year.

8.6. Deferred tax expense attributable to a deferred tax asset or deferred tax liability described in sub-paragraph (a), (b), or (c) of paragraph 8.5 shall be excluded from the Total Deferred Tax Adjustment Amount under Article 4.4 and Simplified Covered Taxes under the Transitional CbCR Safe Harbour.

8.7. Article 9.1.2 excludes from the Article 9.1.1 computation a deferred tax asset to the extent attributable to a loss that arose more than five fiscal years preceding the effective date of a newly enacted corporate income tax by a jurisdiction that did not have a pre-existing corporate income tax. Article 9.1.2 does not apply to automatically exclude a deferred tax asset to the extent attributable to a loss in the five fiscal years preceding the effective date of a newly enacted corporate income tax. Rather, Article 9.1.2 applies to such deferred tax assets to the same extent as it applies to a deferred tax asset arising from a loss under an existing corporate income tax.

Grace Period for deferred tax attributes described in paragraph 8.5

8.8 As an exception, a portion of the deferred tax expenses attributable to the reversal of a deferred tax asset described in subparagraph (a), (b), or (c) of paragraph 8.5 can be taken into account during a Grace Period up to a Grace Period Limitation for purposes of computing the Total Deferred Tax Adjustment Amount under Article 4.4 or Simplified Covered Taxes under the Transitional CbCR Safe Harbour, whichever is applicable. The Grace Period includes:

a. for deferred tax expenses attributable to the reversal of a deferred tax asset described in subparagraph (a) or (b) of paragraph 8.5, all Fiscal Years beginning on or after 1 January 2024 and before 1 January 2026 but not including a Fiscal Year that ends after 30 June 2027, or

b. for deferred tax expenses attributable to the reversal of a deferred tax asset described in subparagraph (c) of paragraph 8.5, all Fiscal Years beginning on or after 1 January 2025 and before 1 January 2027 but not including a Fiscal Year that ends after 30 June 2028.

8.9. The maximum amount of deferred tax expense attributable to the reversal of deferred tax assets described in paragraph 8.5 that can be taken into account during the Grace Period (the Grace Period Limitation) shall be an amount that is equal to the aggregate of 20 percent of the

amount of each such deferred tax asset originally recorded and taken into account at the lower of the Minimum Rate or the applicable domestic tax rate.

8.10. Deferred tax expense attributable to the reversal of a deferred tax asset (or portion thereof) is not eligible for the Grace Period under paragraph 8.8 and is not taken into account in determining the Grace Period Limitation under paragraph 8.9 to the extent that such deferred tax asset (or a portion of a deferred tax asset) results from:

a. a governmental arrangement described in subparagraph (a) of paragraph 8.5 that is concluded or amended after 18 November 2024, or

b. an election or choice that is exercised or changed after 18 November 2024 and that has retroactive effect as described in subparagraph (b) of paragraph 8.5, or

c. a difference in the tax basis or value and accounting carrying value of an asset or liability established pursuant to a corporate income tax that was enacted after 18 November 2024.

8.11. The exception referred to in paragraph 8.8 is not designed to allow acceleration of the reversal of the deferred tax assets to increase the amount of deferred tax expenses that can be taken into account in the Grace Period. Therefore, the amount of deferred tax expenses attributable to the reversal of a deferred tax asset described in paragraph 8.5 that can be taken into account in a Fiscal Year during the Grace Period is further limited to the amount that would have reversed during the same Fiscal Year in the Grace Period under the law in effect, any election (or choice) in effect, the accounting methodology used for the deferred tax asset, and the terms of the governmental arrangement on 18 November 2024. Thus, if a change in the law, election (or choice), accounting methodology, or the terms of the arrangement after 18 November 2024 results in an increase in the amount of a deferred tax asset described in paragraph 8.5 that reverses during the Grace Period, the additional amount that reverses compared to the amount that would have reversed absent the change shall be excluded.

8.12. For the avoidance of doubt, the sum of the total amount of deferred tax expense that is attributable to the reversal of deferred tax assets described in paragraph 8.5 that a Constituent Entity may include in the Total Deferred Tax Adjustment Amount under Article 4.4 and the Simplified Covered Taxes under the Transitional CbCR Safe Harbour shall not exceed the maximum amount allowable under paragraphs 8.9 through 8.11 during the Grace Period.

Article 9.1.3

12. The bold text will be added to paragraph 10.8 of the Commentary to Article 9.1.3:

10.8. The acquiring Entity may take into account a deferred tax asset to the extent that the disposing Entity paid tax in respect of the transaction and to the extent of any deferred tax asset that would have been taken into account under Article 9.1.1 but was reversed or was not created by the disposing Entity (Other Tax Effects) because gain from the disposition was included in the taxable income of the disposing Entity. **Other Tax Effects shall not include any amount of a deferred tax asset that is described in paragraph 8.5 of the Commentary to Article 9.1.2 that reversed or was not created**. If there is a group taxation regime applicable to the disposing Entity, this paragraph shall be applied by reference to the taxes paid by the group and Other Tax Effects on the group under the group taxation regime.

Transitional CbCR Safe Harbour

13. The text in bold will be added to the end of paragraph 13 of Chapter 1 of Annex A to the Commentary:

13. Using income tax expense for the Simplified ETR calculation means including deferred taxes in the ETR numerator. Including deferred taxes aligns with the design of the GloBE Rules because it recognizes the impact of timing differences. The GloBE Rules require making certain adjustments to deferred tax expense (i.e., the net movement of deferred tax liabilities and deferred tax assets), which can give rise to additional complexity in the determination of the GloBE ETR. However, for the transitional period, it is recognized that such adjustments can be disregarded except for uncertain tax positions **and for deferred tax expenses attributable to the reversal of deferred tax assets and deferred tax liabilities described in paragraph 19 below**.

14. The following sentence will be added to the end of paragraph 19 of Chapter 1 of Annex A to the Commentary:

Simplified Covered Taxes shall exclude deferred tax expenses attributable to the reversal of deferred tax assets and deferred tax liabilities described in subparagraph (a), (b), or (c) of paragraph 8.5 of the Commentary to Article 9.1.2 in a tested Fiscal Year, except that the Simplified Covered Taxes within the Grace Period described in paragraph 8.8 of the Commentary to Article 9.1.2 can include the deferred tax expense attributable to the reversal of such deferred tax assets up to the maximum amount allowed under paragraphs 8.9 through 8.11 of the Commentary to Article 9.1.2.

QDMTT Safe Harbour

15. The following paragraphs will be added after paragraphs 38.d and 39, respectively, of Chapter 3 of Annex A to the Commentary:

e. The General Government of a QDMTT jurisdiction that provided the tax attributes described in paragraph 8.5 of the Commentary to Article 9.1.2 and the QDMTT jurisdiction does not exclude those tax attributes from Article 9.1.1 computations in determining the Total Deferred Tax Adjustment Amount or the Simplified Covered Taxes under the Transitional CbCR Safe Harbour.

39.1 When the MNE Group is required to apply the Switch-off rule in respect of a QDMTT jurisdiction, the Filing Constituent Entity shall not make an election to apply the QDMTT Safe Harbour in respect of that jurisdiction and the information provided in section 3 of the GloBE Information Return in respect of that jurisdiction shall be filled on the basis of the GloBE Model Rules and the Commentary (or on the basis of the domestic legislation of the jurisdiction that has taxing rights in respect of the QDMTT jurisdiction if there is only one jurisdiction with taxing rights other than the QDMTT jurisdiction). In addition, in circumstances where the MNE Group may be required to apply the Switch-off rule in respect of a QDMTT jurisdiction pursuant to paragraph 38.e of Chapter 3 of Annex A to the Commentary, additional information must be provided to the relevant jurisdiction(s) with taxing rights in respect of the QDMTT jurisdiction. The Inclusive Framework will develop a framework to capture the relevant information that affected MNE Groups must file in connection with their GloBE Information Return. This additional information includes the information necessary to determine whether the Switch-off rule applies and the information necessary to evaluate the correctness of a Constituent Entity's tax liability under the GloBE Rules or eligibility for the Transitional CbCR Safe Harbour, which would include the information necessary to determine the original amount of a deferred tax asset identified in paragraph 8.5 of the Commentary to Article 9.1.2 as well as the Grace Period Limitation and the amount of such deferred tax asset remaining at the beginning of the Transition Year or a tested Fiscal Year under the Transitional CbCR Safe Harbour.

16. The following paragraphs will be added after paragraph 49 of Annex A-3 to the Commentary:

Example 10 – deferred tax asset arising from negotiated agreements with General Government

49.1. Paragraph 8.5 of the Commentary to Article 9.1.2 describes certain deferred tax assets that will be excluded from the application of Article 9.1.1. Paragraphs 8.8 through 8.12 then allow a portion of the deferred tax expense associated with those deferred tax assets to be included in the Total Deferred Tax Adjustment Amount under Article 4.4. If a QDMTT jurisdiction allows the deferred tax expense associated with a deferred tax asset that has been disallowed in line with paragraph 8.5 of the Commentary to Article 9.1.2 to be taken into account in determining Adjusted Covered Taxes or the applicability of the Transitional CbCR Safe Harbour under the QDMTT, the MNE Group will be subject to a Switch-off Rule which prevents the MNE Group from applying the QDMTT Safe Harbour in relation to all Constituent Entities located or created in the QDMTT jurisdiction and requires the MNE Group to switch to the credit method for QDMTT provided under Article 5.2.3(d) of the GloBE Rules for such Constituent Entities.

Example

17. The following examples will be included in the GloBE Model Rules Examples:

Example 9.1.2 – 1

1. This example illustrates the determination of the Grace Period and Grace Period Limitation, assuming that a Constituent Entity accrues in 2023 a deferred tax asset that is disallowed under subparagraph (a) of paragraph 8.5 of the Article 9.1.2 Commentary. The original balance of that deferred tax asset is 1000, and there is no recast because the deferred tax asset is not attributable to a GloBE Loss and has been recorded at or below the Minimum Rate. The Constituent Entity records a deferred tax expense of 100 in its financial accounts associated with the reversal of such deferred tax asset each year from 2024 to 2033. See table below:

	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033
Beginning balance	1000	900	800	700	600	500	400	300	200	100
Reversal	-100	-100	-100	-100	-100	-100	-100	-100	-100	-100
End balance	900	800	700	600	500	400	300	200	100	0

2. The Profit (Loss) Before Tax as well as Simplified Covered Taxes of the Constituent Entity (before excluding deferred tax expenses attributable to the reversal of deferred tax assets and liabilities described in paragraph 8.5) are as follows:

	2024	2025	2026
Profit (Loss) before Income Tax	2000	2000	2000
Simplified Covered Taxes (before adjustment)	300	320	340
Current tax expense	200	220	240
Deferred tax expense	100	100	100
Simplified ETR (before adjustment)	15%	16%	17%

3. Under paragraphs 8.8 and 8.9 of the commentary to Article 9.1.2, the Grace Period is the 2024 and 2025 Fiscal Years, and the Grace Period Limitation is 20% of the amount of the deferred tax asset originally recorded. In this example, the Grace Period Limitation is 200.

4. In 2024, the 100 deferred tax expense is allowed in the Simplified Covered Taxes computation (because it is less than the 200 Grace Period Limitation). The Simplified ETR is 15% and the Tested Jurisdiction consequently qualifies for the Transitional CbCR Safe Harbour for that Tested Fiscal Year.
5. For the 2025 Fiscal Year, the 100 deferred tax expense is allowable in the Simplified Covered Taxes computation, because the cumulative amount of deferred tax expense attributable to the reversal of the disallowed deferred tax assets in 2024 and 2025 does not exceed the 200 Grace Period Limitation. Therefore, the Simplified ETR for 2025 is 16% and the MNE Group once again qualifies for the Transitional CbCR Safe Harbour.
6. For the 2026 Fiscal Year, the Grace Period has ended. The 100 deferred tax expense recorded in 2026 is excluded from the Simplified Covered Taxes calculation and as a result the MNE Group is not eligible for the Transitional CbCR Safe Harbour in the 2026 tested Fiscal Year. Accordingly, its Transition Year in respect of that jurisdiction is 2026. The 100 of deferred tax expense attributable to the reversal of the disallowed deferred tax asset in 2026 is excluded from the Total Deferred Tax Adjustment Amount under Article 4.4.

Example 9.1.2 – 2

1. The facts in this example are the same as Example 9.1.2 – 1, except that the MNE Group records deferred tax expense of 200 in 2024 (i.e., the full amount up to the cap) and is unable to qualify for the Transitional CbCR Safe Harbour for 2025. This example illustrates the application of the Grace Period Limitation within the Grace Period under the Transitional CbCR Safe Harbour. The original balance (as of 1 January 2024) of that deferred tax asset is 1000, and the Constituent Entity records a deferred tax expense of 200 in its financial accounts associated with the reversal of such deferred tax asset in 2024 and 100 each year from 2025 to 2032. See table below:

	2024	2025	2026	2027	2028	2029	2030	2031	2032
Beginning balance	1000	800	700	600	500	400	300	200	100
Reversal	-200	-100	-100	-100	-100	-100	-100	-100	-100
End balance	800	700	600	500	400	300	200	100	0

2. The Profit (Loss) Before Tax as well as Simplified Covered Taxes of the Constituent Entity (before excluding deferred tax expenses attributable to the reversal of deferred tax assets and liabilities described in paragraph 8.5) are as follows:

	2024	2025
Profit (Loss) before Income Tax	2000	2000
Simplified Covered Taxes (before adjustment)	300	200
Current tax expense	100	100
Deferred tax expense	200	100
Simplified ETR (before adjustment)	15%	10%

3. Under paragraphs 8.8 and 8.9 of the commentary to Article 9.1.2, the Constituent Entity may include in its Simplified Covered Taxes an amount of the deferred tax expenses attributable to the reversal of the deferred tax asset in the Grace Period, and such amount cannot exceed

the Grace Period Limitation of 20% of the amount of the deferred tax asset originally recorded. In this example, the Grace Period Limitation is 200.

4. In 2024, the 200 deferred tax expense is allowed in the Simplified Covered Taxes computation (because it does not exceed the 200 Grace Period Limitation). The Simplified ETR is 15% and the Tested Jurisdiction consequently qualifies for the Transitional CbCR Safe Harbour for that tested Fiscal Year.
5. For the 2025 Fiscal Year, the 100 deferred tax expense is not allowable in the Simplified Covered Taxes computation, because the cumulative amount of deferred tax expense attributable to the reversal of the disallowed deferred tax assets that the Constituent Entity has included in the Total Deferred Tax Adjustment Amount under Article 4.4 and the Simplified Covered Taxes under the Transitional CbCR Safe Harbour is 200, which is equivalent to the Grace Period Limitation in this case. Therefore, the Simplified ETR for 2025 is 5% and the MNE Group does not qualify for the Transitional CbCR Safe Harbour. Accordingly, its Transition Year in respect of that jurisdiction is 2025.
6. For the 2025 Fiscal Year, no deferred tax expense attributable to the reversal of the disallowed deferred tax assets can be included in the MNE Group’s GloBE computations because the Grace Period Limitation cannot be exceeded. The 100 of deferred tax expense attributable to the reversal of the disallowed deferred tax asset in 2025 is excluded from the Total Deferred Tax Adjustment Amount under Article 4.4.