



## US Inbound Corner | Navigating complexity

### Pillar Two and US inbound companies: Why it matters

Companies headquartered outside the United States with operations in the US ("US inbound companies") should monitor closely OECD Pillar Two activities to make sure that they anticipate as much as possible the potential impact on their organization. This is not an easy exercise as the rules are complex and not finalized yet. After a quick reminder of the current environment and where we are today, it might be interesting to identify, directionally and without entering into details at this stage, the potential impact on two subgroups within US inbound companies: (1) companies headquartered outside the United States that have US subsidiaries, which in turn have non-US subsidiaries, typically referred to as "sandwich" structures, and (2) companies headquartered outside the United States that have US subsidiaries that do not have non-US holdings under them.

In December 2021, the OECD Inclusive Framework released Model Rules (the "Globe Rules") with respect to "Pillar Two," followed by detailed commentaries in March 2022. The Globe Rules impose a minimum 15% tax on the operations of multinational enterprises (MNEs) with global revenues in excess of €750 million. The European Union (EU) lost no time in proposing a directive to implement Pillar Two, which, in its current form, would be effective with respect to the Income Inclusion Rule (IIR) in 2024 and the Undertaxed Profits Rule (UTPR) in 2025. At a high level, the Globe Rules will require MNEs to determine the effective rates of tax (ETR) they pay in every jurisdiction in which they operate, under special globe tax accounting rules. In the event that the ETR in a jurisdiction falls below 15%, then the MNE will owe a "top-up tax" to other jurisdictions under either the IIR or the UTPR. Special

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rules may apply with respect to MNEs with US operations. For the moment, all eyes are on the EU and whether it can achieve the unanimity of EU Member States necessary for implementation in the EU. Other countries are also gearing up to implement the Globe Rules.

In the case of sandwich structures, companies will need to understand the interaction of the Globe Rules with the US GILTI regime, which, in itself, is a form of minimum tax under current law that does not conform to the Globe Rules. Companies in these structures may be liable to both the GILTI regime and the Globe Rules, and it will be important to understand how the two interact.

## Calendars to watch

Each edition, be sure to mark your calendars for some of the more important events (recent and upcoming) as well as tax developments making an impact on businesses investing in the United States.

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