Tax Insights

Pillar Two: ATO releases guidance on transitional CbC reporting safe harbour

On 22 October 2025, the Australian Taxation Office (ATO) released new guidance on its website in respect of the application of the transitional country-by-country (CbC) reporting safe harbour provisions ("transitional safe harbour") contained in the Pillar Two rules in Australia (referred to as "the guidance" in this article).

The guidance aligns with the OECD model rules as published on 20 December 2021 and relevant consolidated commentary regarding the application of the transitional safe harbour. In addition, it provides helpful clarifications such as the use of consolidated financial data at the jurisdiction level when preparing the CbC report and the issue of whether a deduction/non-inclusion arrangement can arise with respect to certain transactions occurring within an Australian income tax consolidated group, as summarised below.

Qualified CbC report and financial statements—Use of consolidated financial data

A prerequisite for using the transitional safe harbour is that its two primary data sources—i.e., the CbC report and the financial statements—are both "qualified," which is assessed per jurisdiction.

The qualified financial statements could broadly be described as the reporting packages used to prepare the consolidated financial statements or the statutory financial statements, prepared in accordance with an authorised or acceptable accounting standard.

OECD BEPS action 13 contemplates that CbC reporting will, in principle, occur on an aggregate basis at a jurisdictional level. However, where the jurisdiction of the ultimate parent entity (UPE) has a system of taxation for corporate groups which includes consolidated reporting for tax purposes, as is the case for Australia, and the consolidation eliminates intragroup transactions at the level of individual line items, CbC reporting groups may prepare the CbC report using consolidated data at the jurisdictional level.

The guidance confirms that:

- Where CbC reports are prepared using consolidated data at the jurisdictional level in accordance with the requirements of the CbC regime of the filing jurisdiction, the qualified financial statements for the multinational enterprise (MNE) group for the purposes of the transitional safe harbour are those statements or accounts that are prepared on a consolidated basis for the jurisdiction.
- For the purposes of the transitional safe harbour, and subject to any adjustments specifically required under section 8-70 of the Taxation (Multinational–Global and Domestic Minimum Tax) Rules 2024, no further adjustments are required to the data drawn from qualified financial statements or the qualified CbC report where the qualified CbC report is prepared based on:
  - Financial accounts of constituent entities used in preparing the consolidated financial statements of the UPE, where those accounts eliminate items of income and expense from intragroup transactions between entities located in the same jurisdiction; or
  - The consolidated financial statements of a constituent entity (which may cover a subgroup of entities of the MNE group located in the same jurisdiction) prepared in accordance with acceptable or authorised financial accounting standards.
- A group may prepare its consolidated financial statements in various ways, and adjustments may be made at various stages of the consolidation process. The guidance applies regardless of the point at which consolidation adjustments are made in the process of preparing the CbC report.

Hybrid arbitrage arrangements—Intragroup arrangements within tax consolidated groups

Certain expenses and losses reflected in the profit or loss before income tax may need to be excluded for transitional safe harbour purposes if the expense or loss arose as a result of certain hybrid arbitrage arrangements (HAA), i.e., a deduction/non-inclusion (DNI) arrangement, a duplicate loss arrangement, or a duplicate tax recognition arrangement that was entered into after 15 December 2022.

What constitutes a DNI arrangement can be quite wide in practice and can apply to various domestic intragroup financing arrangements given the broad drafting of this anti-abuse rule.

The guidance discusses the particular issue of whether a DNI arrangement can arise with respect to certain transactions occurring within an Australian income tax consolidated group. In these transactions, a constituent entity provides credit or otherwise invests in another constituent entity that is part of the same tax consolidated group. That credit or investment results in an accounting expense in the financial statements of the recipient. There is no corresponding taxable income for the investor due to the application of the income tax consolidation single entity rule and, as a result, arguably this constitutes a DNI arrangement. If the HAA rules were to apply to these arrangements, the effect would be to increase the MNE group's profit or loss before income tax for the Australian jurisdiction, thereby decreasing Australia's simplified effective tax rate.

As mentioned above, the guidance confirms that where the MNE group's CbC report is prepared using consolidated data at the jurisdictional level in accordance with the requirements of the CbC regime of the filing jurisdiction, the qualified financial statements are those consolidated statements or accounts. As there would be no expense (or income) relating to the intragroup arrangement between members of the income tax consolidated group reflected in those accounts or statements, those items will not need to be recognised in the MNE group's profit or loss before income tax for the purposes of the transitional safe harbour. Therefore, the HAA rules will not apply because there would not be any expense from the arrangement in the qualified financial statements.

The guidance also notes that where the applicable CbC regime does not allow for jurisdictional reporting on a consolidated basis and instead requires data to be reported on an aggregated basis, the qualified financial statements may not eliminate items of income and expense relating to intragroup transactions between entities in the same jurisdiction. In these circumstances, there may be an interest expense in the qualified financial statements and the MNE group would need to consider the potential application of the HAA rules relating to DNI arrangements. Nonetheless, the guidance confirms that, subject to any further guidance from the OECD, the ATO will not apply compliance resources to test the application of the DNI rules to an intragroup financing arrangement where:

- The MNE group prepares its qualified CbC report for the Australian jurisdiction on an aggregated basis;
- An intragroup arrangement involving the provision of credit or making of an investment by an investor occurs between members of an Australian tax consolidated group or multiple entry consolidated group that results in an expense in the qualified financial statements; and
- The net effect of the intragroup financing arrangement on the profit or loss before income tax for Australia for the fiscal year in the qualified CbC report is the same as it would have been had the qualified CbC report been prepared and filed using consolidated data for the jurisdiction.

In practice, therefore, where the above conditions are satisfied, no adjustment should be required to the profit or loss before income tax in relation to the intragroup financing arrangement for transitional safe harbour purposes. This is a particularly helpful clarification for MNE groups that have tax consolidated groups.

Effect of transitional safe harbour

Taxpayers do not need to apply the full Pillar Two top-up tax computational rules for the jurisdiction in which the safe harbour applies. However, even where the transitional safe harbour applies, the global information return, and an Australian income inclusion rule (IIR)/undertaxed profits rule (UTPR) return and Australian domestic minimum tax (DMT) return showing Australian IIR, UTPR, and DMT tax amounts of zero must still be lodged unless exempted under the draft legislative instrument (Taxation Administration (Exemptions from Requirement to Lodge Australian IIR/UTPR tax return and Australian DMT tax return) Determination 2025).

ATO’s compliance approach

The ATO may ask taxpayers to provide information to confirm their eligibility for the transitional CbC reporting safe harbour as part of the ATO’s client engagement approach for Pillar Two. This includes providing information confirming that amounts used for the relevant computations are sourced from qualified CbC reports or directly from qualified financial statements.

Next steps

The guidance provides welcome clarification for taxpayers and advisors as they navigate through the application of the transitional safe harbour.

Taxpayers in Australia must ensure they understand their compliance requirements even if the transitional safe harbour is expected to be satisfied and ensure that appropriate evidence and documentation are maintained to support that the data and information used are “qualified.”

26 October 2025

Contacts

David Schultz
Partner
Tel: +61 2 9322 3620
dschultz@deloitte.com.au

Amelia Teng
Partner
Tel: +61 3 8486 1118
amteng@deloitte.com.au