An aerial photograph of a vast, clear turquoise ocean. In the lower-left quadrant, a small white motorboat is moving across the water, leaving a white wake. The water's clarity reveals a complex pattern of dark, rocky reefs and sandbars scattered across the seabed. In the far distance, a small island with buildings and a few palm trees is visible on the horizon under a bright blue sky with scattered white clouds.

# Deloitte Insurance Week

## Bermuda and U.S. Tax Update

May 13, 2025

## Presenters



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# Agenda

1. US/Global Tax Updates
2. Bermuda Corporate Income Tax: Overview
3. Update on Bermuda Budget
4. Annual Adjustments and Elections
5. Foreign Tax Credits
6. Permanent Establishments
7. OECD Guidance on Pillar Two: Potential Impact on Bermuda CIT
8. Actions: What are MNE Groups Doing?

An aerial photograph of a vast, clear turquoise ocean. In the lower-left quadrant, a small white motorboat is moving across the water, leaving a white wake. The water's clarity reveals a complex reef system with various shades of green and brown. In the far distance, a small island with buildings is visible on the horizon under a bright blue sky with scattered white clouds.

# US/Global Tax Updates

# US Tax Legislative Updates

The U.S. Administration and House Republicans are separately considering **U.S. tax increases** on investors from countries that impose **UTPRs** or **DSTs** on US citizens or corporations.

- On January 20, 2025, President Trump issued **two memoranda relating to Pillar 2** (the “OECD Global Tax Deal”).
  - One memo nullifies any former US commitments to the deal.
  - The other orders Treasury to investigate and report by April 1 whether any foreign countries are imposing discriminatory or extraterritorial taxes on U.S. citizens or corporations within the meaning of IRC §891, which gives the President the power to **double US income tax rates** on citizens and corporations of any such country.
- On January 21, 2025, Chairman Jason Smith and all Republican members of Ways & Means introduced **H.R. 591**.
  - The bill would add §899 to the Code, mandating **increased tax rates** on citizens and corporations of countries imposing extraterritorial or discriminatory taxes. It would also increase US **withholding tax rates** on payments to such persons.

The details of the two provisions differ significantly.

# January 2025 Actions

## Memoranda of January 20, 2025

### 1. **OECD Global Tax Deal**, 90 Fed Reg 8483 (January 30, 2025)

“... clarifying that the OECD Global Tax Deal has no force or effect in the United States.”

§1: Treasury and Permanent Representative to the OECD shall notify the OECD that any commitments made by the prior administration have no force or effect within USA absent an act by Congress. Treasury and USTR “shall take all additional necessary steps within their authority to otherwise implement the findings of this memorandum.”

§2: Treasury and USTR shall—

- investigate whether any foreign countries are not in compliance with any US tax treaty or have tax any rules in place, or are likely to put tax rules in place, that are extraterritorial or disproportionately affect American companies
- develop and present to President a list of options for protective measures or other actions that the USA should adopt or take in response to such non-compliance or tax rules.

Treasury shall deliver findings and recommendations to the President within 60 days.

### 2. **America First Trade Policy**, 90 Fed Reg 8471 (January 30, 2025)

§2(j): Treasury, in consultation with Commerce and USTR, shall investigate whether any foreign country subjects US citizens or corporations to discriminatory or extraterritorial taxes pursuant to IRC §891.

# US Tax Legislative Updates

- Many key tax provisions of the Tax Cuts and Jobs Act are subject to unfavorable change/phase out absent legislative intervention
  - GILTI tax rate increases from 10.5% to 13.125% in 2026
  - BEAT tax rate increases from 10% to 12.5% in 2026
  - Gradual phaseout of “bonus” depreciation beginning in 2023
  - Required capitalization and amortization of R&D beginning in 2022
  - Significant tax benefits to individuals
- Tax reform through the reconciliation process
- Significant costs of extending expired/expiring provisions and new individual tax cuts (e.g. no tax on tips or overtime)
- Potential pay-fors?

An aerial photograph of a tropical island with vibrant turquoise water and a small boat in the foreground. The text "Bermuda Corporate Income Tax" is overlaid in the center.

# Bermuda Corporate Income Tax

# Bermuda Corporate Income Tax | Overview

- In December 2023, the Bermuda Government enacted a 15% corporate income tax (CIT) **that is effective for years beginning on or after January 1, 2025.**
- The CIT applies to Bermuda Constituent Entities (Bermuda CE) in a multinational entity (MNE) group with annual revenue of at least EUR 750m in at least two of the four preceding fiscal years.
- CIT applies to Bermuda Tax Resident Entities and Bermuda Permanent Establishments.
- Financial Accounting Net Income or Loss (e.g. GAAP, IFRS) - starting point for determining taxable income.
- Bermuda CIT rules incorporate key foundational definitions from the OECD Pillar Two GloBE model rules.
- CIT framework does not incorporate the Pillar Two income inclusion rule (IIR) or undertaxed profits rule (UTPR).

Bermuda CE Groups are subject to Bermuda CIT on their aggregated group net taxable income, less group tax loss carryforwards and applicable tax credits on an annual basis.

CIT regime provides flexibility in form of elections that can be made at the discretion of taxpayer – e.g., fiscal transparency, economic transition adjustment, realization election.

Various Bermuda CEs can be out of scope – investment funds, <80% owned by UPE, branch exemption election.

**Current State:** Entities are assessing financial reporting impacts, compliance obligations, and tax planning considerations in relation to which elections to adopt.

# Bermuda CIT Key Features

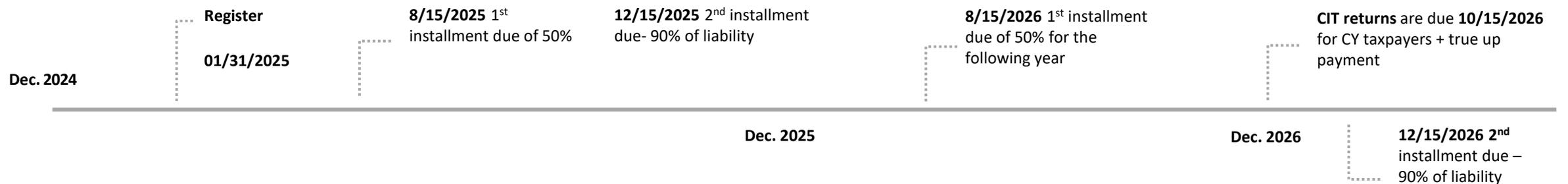
## OECD Pillar Two

Bermuda CIT	Pillar Two
<b>Economic Transition Adjustment (ETA) (Section 33):</b> Step up in tax basis of each asset and liability (with the exception of goodwill) as of Sept. 30, 2023.	Feature of Bermuda CIT not included in GloBE Rules
<b>Opening Tax Loss Carryforward (Section 6):</b> provides the ability to bring in a five-year opening tax loss carryforward attribute.	Feature of Bermuda CIT not included in GloBE Rules
<b>Exclusion for Groups with Limited International Presence (Section 13):</b> MNE Group with CEs in 6 or less jurisdictions may be out of scope for five years.	Largely aligned with GloBE Rules UTPR exclusion – different application for BDA CIT
<b>Exclusion for Partially-Owned Entities (Section 9(2)(b)):</b> entity less than 80% owned (by value), directly or indirectly, by the UPE is not treated as a Bermuda CE.	Feature of Bermuda CIT not included in GloBE Rules
<b>Foreign Tax Credits (Section 16)</b> - a credit is allowed for a BCE's non-Bermuda covered taxes consistent with GloBE.	Similar to application of Covered Taxes in GloBE Rules
<b>Excluded Entities (Section 10)</b> – governmental entity, international organization, non-profit organization, pension fund, investment fund that is a UPE, or a real estate investment vehicle that is a UPE.	Largely aligned with GloBE Rules

# Current Status

## Regulations and Administrative Guidance

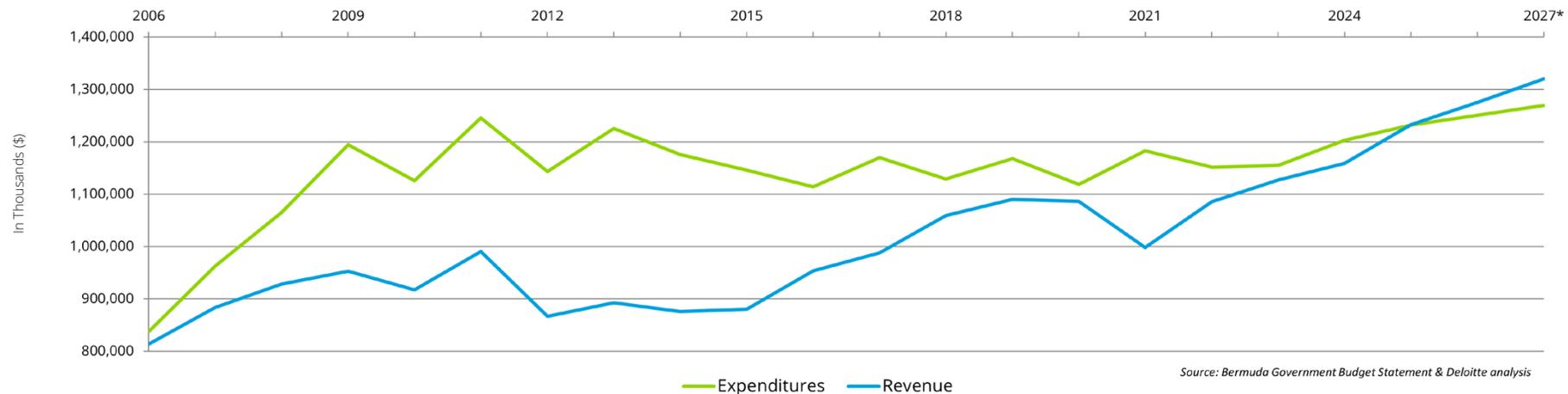
- Bermuda government has issued guidance on key determinations and interpretative matters in the form of frequently asked questions (FAQs).
- CIT Agency Act 2024 became law on July 22, 2024
  - **Establishment of Bermuda CIT Agency which will oversee administration of CIT laws, under the direction of the Ministry of Finance.**
- Bermuda government has released various public consultation papers on administrative provisions related to the CIT.
  - **Most recent administrative guidance consultation paper issued Feb 17, 2025. Admin guidance covers:**
    - **Registration: Entities are required to register via Bermuda Registrar of Companies as part of their existing annual declaration form.**
    - **Installment payments: Entities will need to make estimated installment payments over the course of the year.**
    - **Enquiries: four-year statute of limitation to raise an enquiry, with scope for extension of this window.**
    - **CIT return filing: Entities would be required to file a CIT return and amendments to the return will be permissible.**
    - **Penalties and interest: Underpayment of tax may accrue interest and penalties.**
- QRTCs? Changes to related frameworks e.g., economic substance rules? Bermuda tax treaties?



# Update on Bermuda Budget – May 2, 2025

- 2025/26 Bermuda budget statement released May 2, 2025
- Budget marked “a turning point for Bermuda” with the 2024/25 Consolidated Fund surplus resulting in the first surplus in 21 years.
- 2024/25 revenue \$16.1 million higher than estimated, driven by increased payroll tax receipts
- Bermuda CIT forecasted receipts of \$187.5 million for fiscal year which are projected to help generate a budget surplus of \$43 million for 2025/26 after considering total expenditure increase of \$118 million.
- International business continues to be engine of Bermuda’s economy, driving job creation and projected tax revenues from payroll tax and CIT.
- Budget includes series of tax relief measures such as lower energy taxes, reduced customs duties, and cuts to vehicle and land taxes designed to ease the cost of living.
- Government plans to accelerate infrastructure upgrades, including roadworks, bridge replacements, and improvements to waste management and educational facilities.
- Looking forward, Premier Burt emphasized the importance of carefully managing the introduction of the CIT to safeguard Bermuda’s global competitiveness and focusing on broadening economic opportunities and ensuring that the benefits of growth are widely shared.

## Revenue & Expenditures



# Update on Bermuda Budget – May 2, 2025

## Taxes

- **No changes to employer/employee payroll tax bands or rates.**
- Customs duty on building materials and supplies capped at 10.0% effective July 1, 2025.
- Duty exemption for returning residents increased to \$300.
- The base rate on land tax reduced to \$150 effective January 1, 2026.
- Licensing fees for private cars reduced by 10.0% effective April 1, 2026.
- Corporate income tax effective January 1, 2025 with receipts expected to commence in August 2025.
- **Tax Administration Platform (TAP)** will be the interface and collection vehicle for taxpayers and provide a digital interface to liaise with the CITA
- Corporation Income Tax Agency (CITA) has been set up to administer the CIT regime and has been granted \$4.8 million for 2025/26 which is expected to be in line with the current year operating expenses.

## Significant Capital Initiatives

- Capital expenditure provision for the fiscal year is \$149.8 million, an increase of \$37 million compared to the 2024/25 original estimate, and the largest investment since 2008.
- Key capital projects for fiscal year 2025/26 include:
  - Bermuda Housing Corporation capital and housing grant: \$17.0 million
  - Tynes Bay upgrades and maintenance: \$13.1 million
  - New ferries and pilot boat: \$8.8 million
  - Government technology investments: \$6.5 million
  - Education upgrades and maintenance: \$6.3 million

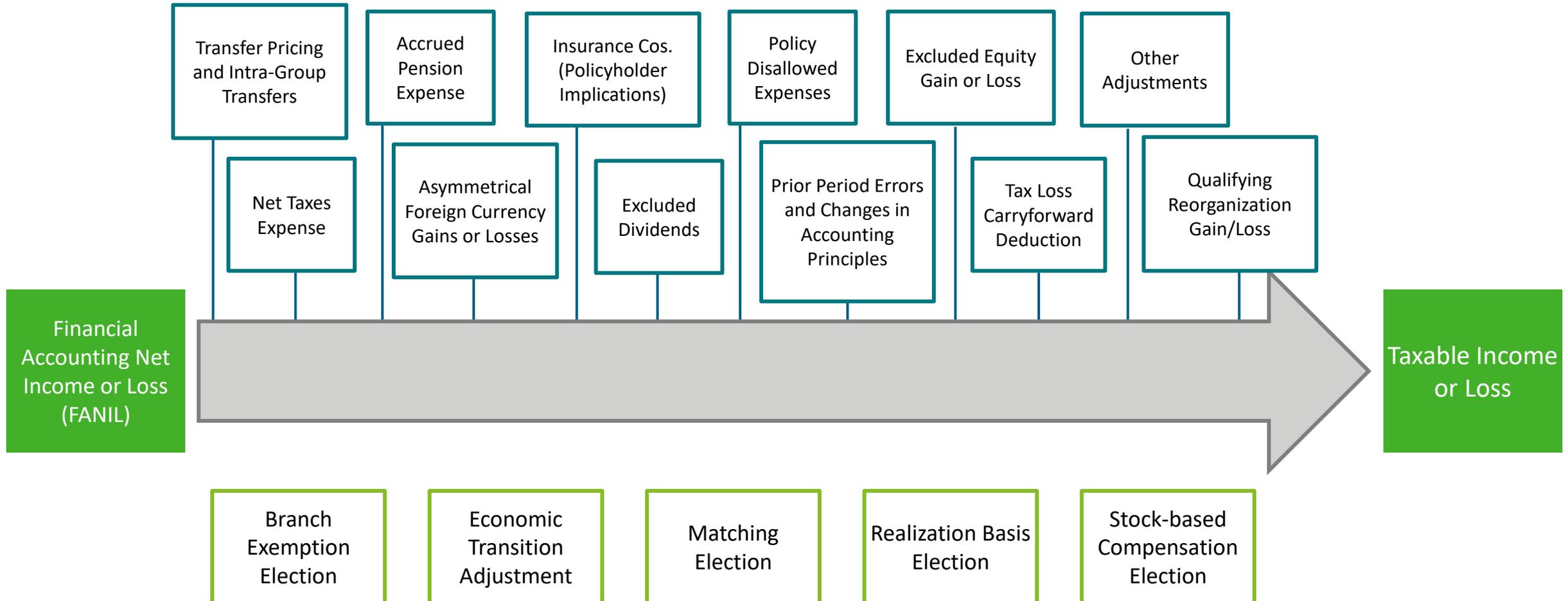
## Government Budget

- **2025/26 revenue: \$1,430.7 million**
- 2025/26 expenses: \$1,110.0 million
- 2025/26 current account surplus: \$320.6 million
- 2025/26 budget interest on debt: \$127.5 million
- 2025/26 budget capital expenditure: \$149.8 million
- 2025/26 budget surplus: \$43.3 million
- 2024 average inflation rate: 1.9%
- 2024 GDP growth rate: 4.5%–5.0%
- **Net debt: \$3.25 billion**

## Looking Ahead

- **Tax Reform Commission** nearing conclusion of its work to make recommendations to the Government on tax reform to sustain Bermuda's economic strengths, reduce cost of living and doing business, and to support increased equity with the advent of the new CIT
- Phased increase in the age of eligibility for benefits and an increase in the contributions for public sector employees.
- Proposed adjustments to social insurance contributions and phased increase in the age that benefits can be received.
- **CIT revenue projected to increase to \$600.0 million in 2026/27.**
- Further policy review expected on the elimination of payroll taxes for employers who retain Bermudian employees over the age of 65, and on the proposed increase in the tax-free threshold for local dividend income from \$10,000 to \$15,000 per the pre-budget report. Implementation is expected in the 2026/27 budget after the policy review.
- Net debt is projected to decline to \$3.20 billion at March 31, 2026 from \$3.25 billion as of March 31, 2025.

# Annual Adjustments and Elections



# Foreign Tax Credits

- **FTC = lesser of amount of (1) Adjusted Creditable Foreign Taxes or (2) pre-FTC CIT liability (no carry forward of excess FTCs)**
- Creditable Foreign Taxes
  - **Non-Bermuda (federal, state, and local) income taxes**
  - **Non-Bermuda taxes imposed in-lieu of a generally applicable CIT**
    - US FET on insurance/reinsurance premiums
    - Foreign withholding taxes on dividends, interest, rents and royalties
  - **Non-Bermuda taxes levied by reference to retained earnings and corporate equity, including a tax on multiple components based on income and equity**
- Adjusted Creditable Foreign Taxes = Creditable Foreign Taxes recorded in FANIL in current tax expense + deferred tax expense (adjusted in a manner consistent with Art. 4.4 of GloBE Rules, including 15% recast) + other adjustments broadly consistent with adjustment to Covered Taxes under Art. 4 of GloBE Rules, although no provision that reallocates foreign taxes to other entities consistent with Art. 4 of GloBE Rules.

# Foreign Tax Credits

## Implications for 953(d) Insurance Companies

- No Additional Tax Burden
  - **953(d) entities already pay 21% U.S. federal income tax, which exceeds Bermuda's 15% CIT rate. Unless significant permanent differences arise to drive a <15% AETR, 953(d) entities expected to fully offset BM CIT liability with foreign tax credit.**
- Bermuda CE Group's foreign tax credit is the sum of allocated foreign taxes for all Bermuda CEs comprising the Bermuda CE Group.
  - **Groups with multiple Bermuda entities (including 953(d) companies) may compute a CIT FTC at a group level which may result in excess FTCs from 953(d) entities offsetting other Bermuda CEs tax liability.**
- FTC ordering rule: Amount of Bermuda CIT Creditable Foreign Taxes determined prior to consideration of tax credits that would be allowed in foreign jurisdiction (e.g., U.S.) with respect to Bermuda CIT.
  - **US tax creditable for BM CIT unless with respect to Bermuda source income.**
  - **FTC ordering rule does not apply with respect to Bermuda source income:**
    - Bermuda source Dividends or Interest
    - Rents/royalties from the use of real/personal property located in Bermuda
    - Income from a disposition of real property located in Bermuda; or
    - Underwriting income from issuing/reinsuring any insurance or annuity contract in connection with property in, liability arising out of an activity in, or in connection with the lives or health of residents of Bermuda

# Permanent Establishments

- Per Bermuda CIT Act 2023:
  - **“Bermuda Permanent Establishment”** means a fixed place of business in Bermuda through which the business of an entity not otherwise incorporated or formed in Bermuda is wholly or partly carried on as determined in accordance with Article 5 of the OECD Model Tax Convention.
  - **“Permanent Establishment”** means a place of business (including a deemed place of business) situated in a jurisdiction and treated as a permanent establishment in accordance with an applicable tax treaty in force provided that such jurisdiction taxes the income attributable to it in accordance with a provision similar to Article 7 of the OECD Model Tax Convention...
- Art. 5 2017 OECD Model Tax Convention on Income and on Capital (extracts):
  - **1. For the purposes of this Convention, the term “permanent establishment” means a fixed place of business through which the business of an enterprise is wholly or partly carried on.**
  - **...where a person is acting in a Contracting State on behalf of an enterprise and, in doing so, habitually concludes contracts, or habitually plays the principal role leading to the conclusion of contracts that are routinely concluded without material modification by the enterprise...**
    - that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise...

# OECD Guidance on Pillar Two

## Potential Impact on Bermuda CIT

- January 2025 OECD Administrative Guidance addresses application of Art. 9.1.2 to certain DTAs/DTLs that otherwise would have provided transition attributes under Art. 9.1.1.
- The guidance provides examples of arrangements that result in a DTA excluded under Art. 9.1.2, including:
  - **a DTA or DTL arising from the difference between tax basis and accounting carrying value of an asset or liability if the tax basis was established pursuant to a CIT enacted by a jurisdiction that did not have a pre-existing CIT and that was enacted between November 30, 2021, and when the jurisdiction becomes subject to a top-up tax.**
- Exception to the application of Art. 9.1.2 during the “Grace Period”:
  - **For deferred tax expense attributable to Initial Asset Step-up DTAs, all Fiscal Years beginning on or after January 1, 2025, and before January 1, 2027 (but not including a Fiscal Year that ends after June 30, 2028)**
- Maximum deferred tax expense allowed during Grace Period limited to 20% of amount of DTA originally recorded in financial accounts. Taken into account at lower of 15% or relevant domestic rate.
- DTA arising from a loss carryforward in a jurisdiction that did not have a pre-existing CIT arising within five years of effective date of such CIT are not subject to Art. 9.1.2 and may give rise to a DTA , unless the loss arose more than five fiscal years prior to the effective date of the newly enacted income tax law.

# CFC Tax Push Down

## Bermuda CIT

- Per Section 21(6) of the Bermuda CIT Act 2023, if a Bermuda CE is treated as a CFC pursuant to sections 957 or 953(c) of the U.S. IRC; and a owner of the Bermuda entity is a U.S. shareholder per IRC section 951(b), the Bermuda CE may elect to reduce its FANIL by an amount proportionate to the ownership interest of the U.S. shareholder.
  - **This election may only be made for the first fiscal year of the Bermuda entity which begins on or after 1 January 2025 and prior to 1 January 2026, and the immediately succeeding year.**
- The June 2024 OECD Administrative Guidance provides that taxes paid by a parent entity under a CFC regime can generally be allocated (subject to limitations) to a CFC entity for the purpose of calculating the CFC's effective tax rate under the GloBE rules.
- Questions to ensure CFC taxes of a non-Bermuda CE owner are considered to remain aligned with the GloBE rules and avoid situations of double taxation.
  - **Non-US CFC regimes not currently included in Section 21(6) exclusion – local non-US country FTC?**
  - **Elective FTC aligned with initial draft legislative text of Bermuda CIT Act?**
  - **Extend US CFC inclusion to 2027 and beyond?**

# Transfer Pricing

1. Any transaction between a Bermuda CE and another CE located in a **different jurisdiction** that is a member of the same MNE Group that is not consistent with the arm's length principle must be adjusted to be consistent with **the arm's length principle**.
    - I. **Arm's length: conditions that would have been obtained between independent enterprises in comparable transactions and under comparable circumstances**
  2. Any transaction between a Bermuda CE and **another CE** that is a member of the same MNE Group, that is not recorded in the same amount in the financial accounts must be **adjusted to be in the same amount**.
  3. A **gain or loss** from a sale/transfer of an asset between **two Bermuda CEs** of an MNE Group that is not recorded consistent with the arm's length principle shall be recomputed based on the **arm's length principle** if that loss is included in the computation of taxable income or loss.
  4. An annual election to use consolidated accounting treatment may be applied to transactions between Bermuda CEs of the same In Scope MNE Group.
    - I. **Income, expenses, gains, and losses resulting from transactions between Bermuda CEs may be eliminated from the computation of taxable income/loss in the same manner as amounts relating to transactions among members of a consolidated group are eliminated as part of the consolidation adjustments used by the UPE in preparing its consolidated financial statements**
- Bermuda TP local file analysis?
  - TP support for Bermuda PEs?

# Qualified Refundable Tax Credits (QRTC)

- Package of QRTCs being developed by Bermuda government
- QRTCs could include?
  - **Workforce development**
    - Credits for initiatives that contribute to the growth/skills of local workforce to incentivize local hiring
    - Payroll tax relief?
  - **Infrastructure investments**
    - Incentives for investing in commercial or residential housing projects?
  - **Innovation support/R&D:**
    - Credits for investments in innovative technologies or practices?
  - **Education and healthcare credits for companies investing in these areas**
  - **Sustainability initiatives**
    - Credits for investments in green and environmentally friendly projects?

## Actions: What are MNE Groups Doing Now?

- **Understand** data needs and establish a process for the Bermuda corporate income tax to ensure financial reporting and compliance obligations are met.
  - **Q1-25 GAAP and BM Stat quarterly reporting, estimated tax payments, tax return planning (form not yet released)**
- **Analyze** various available elections and model the implications to determine if and which to elect when initial tax returns are filed.
- **Perform** analyses throughout the tax year to comply with tax accounting/ASC 740 requirements, including (but not limited to) rolling forward deferred tax assets and liabilities, anticipatory foreign tax credit considerations, valuation allowance assessments, tax disclosures, etc.
- **Model** the implications of the Bermuda corporate income tax using available data to understand the anticipated impact to cash flows and AETR.
- **Monitor** for legislative updates and for additional administrative guidance, regulations, etc. to comply with the Bermuda corporate income tax.

# Actions: What are MNE Groups Doing Now?

## Valuation Allowances - **Question:**

If an entity expects to be subject to a top-up tax (e.g., IIR, UTPR, QDMTT) and, as a result, the incremental economic benefit it expects to realize for certain DTAs is less than the recorded amount of the DTAs, should the entity factor in the effects of the top-up tax when evaluating the realizability of its DTAs?

## **Analysis:**

We believe that there are two acceptable approaches:

**Approach 1** - Assess the realizability of an entity's DTAs solely on the basis of the regular tax system without taking into consideration amounts due under a Pillar Two AMT system.

- I.e., any incremental impact of the Pillar Two taxes would be accounted for in the period in which the Pillar Two tax is incurred.

**Approach 2** - Assess the realizability of an entity's DTAs on the basis of all available information

- E.g., if the expected tax benefit of a DTA is less than the reported amount because the utilization of the DTA will result in incremental Pillar Two taxes, reduce the DTA by a valuation allowance to reflect the actual amount of tax benefit that will be realized.

- **Consultation with your attest firm is recommended**

# Actions: What are MNE Groups Doing Now?

## BMA Reporting – Update February 2025

- Commercial Insurers and insurance groups who are in scope of, or are expecting to be in scope of, the CIT Act should:
  1. reflect the impact of the CIT Act in their GAAP financial statements in accordance with the accounting standards under which the statements are prepared; and
    - a) reflect the impact of the CIT Act in their Capital and Solvency Return (CSR) (specifically, Statutory Financial Statements, Economic Balance Sheet and solvency position) effective 31 December 2024, or
    - b) if option (a) is not selected, reflect the impact in their CSR by 31 December 2025.
- For both options (a) and (b), the CSR filing should include a note disclosure highlighting the CIT impacts and amounts.
- On a case-by-case basis, the Authority will consider applications from commercial insurers and insurance groups seeking approval for a permitted practice to address outlier results or unintended outcomes from implementing the CIT Act.

Q&A





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