



5x5 series: Insights and actions

Pillar Two - Transitional Safe Harbors

The transitional safe harbors are a short-term measure to exclude a group's operations in lower-risk countries from the compliance obligation of preparing full Pillar Two calculations. It applies for years beginning on or before December 31, 2026, i.e., three years for most groups. There are three transitional safe harbors: simplified ETR test, routine profits test, and de minimis test.



5 insights you should know

The Transitional CbCR Safe Harbor is available only if the taxpayer prepares a "Qualified CbC Report." A Qualified CbC Report is one prepared using Qualified Financial Statements.

A "once out, always out" rule applies meaning if a jurisdiction does not qualify for the transitional safe harbor in a fiscal year, such jurisdiction cannot qualify in subsequent years.

The Transition rules and GloBE loss election are deferred until the relevant tested jurisdiction no longer qualifies for the transitional safe harbor.

The stateless entities are excluded from the transitional safe harbor rules. Since "stateless" entities under CbC reporting may differ under Pillar Two rules, certain entities may not qualify for under the safe harbor benefits. There may be other definitional mismatches to consider (i.e., tangible assets).

The transitional safe harbor may reduce the requirement to perform a full Pillar Two calculation for qualifying jurisdictions but likely not *all* jurisdictions in the MNE group will meet the safe harbor test. As such, a full set of Pillar Two calculations will be required and the impact should be assessed.

5 actions to take now

1

Clean-up and solidify CbC reporting. To be eligible to utilize the Transitional CbCR safe harbor, your CbC report must meet a number of requirements. Manage the risk that a CbC Report is not qualified by updating your CbC reporting processes now.

2

Assess the safe harbor impact. The simplified ETR and de minimis tests use information that should be readily available in the CbCR itself and in a company's tax provision workpapers. The routine profits test can be estimated as well. You can quickly size up where your Pillar Two top-up taxes will likely land and where to focus resources.

3

Assess the cost vs. benefit of safe harbor benefits and future planning. Assess future transactions that will be impacted by the requirement to disallow stepped-up basis during the transitional period (include while safe harbor qualifies), to determine whether to elect safe harbor for relevant jurisdiction and delay or forgo stepped-up basis for qualifying transfers.

4

Identify "stateless" entities under Pillar Two. Identify constituent entities (CEs) which may meet the definition of stateless under the Pillar Two rules and advance to Pillar Two analysis and planning since these entities will not qualify for safe harbor during the transitional period.

5

Start work on the exceptions. Most countries will likely meet the safe harbor tests. For countries that don't meet these tests, start gathering the information to do a GloBE calculation for those specific countries including estimating the impact of the full Pillar Two calculation and evaluating planning considerations that impact top-up tax for relevant jurisdictions.

Connect with us

Ryan Bowen

Senior Manager
Deloitte Tax LLP
rybowen@deloitte.com

Jim Petrie

Partner
Deloitte Tax LLP
jpetrie@deloitte.com

Ryan Duchene

Managing Director
Deloitte Tax LLP
rduchene@deloitte.com

Chad Hungerford

Partner
Deloitte Tax LLP
chungerford@deloitte.com

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