Tax Good Governance Platform (20 March 2025) Permanent Safe Harbours

Pillar 2 Permanent Safe Harbours

With respect to the Permanent Safe Harbour (“PSH”) we are “at fork of the road”:

a) to further elaborate the Transitional (CbCR) SH to make them more robust.
b) to devise a new set of PSH.

In the interest of:

- reducing compliance costs for MNE Groups, solution a) should be preferable.
- accuracy, solution b) should be preferable.

Our suggestion is to build the PSH starting from the (almost ready) available and most meaningful GMT data.

PSH should equally apply to GMT Rule and QDMTT.

Our suggestion is to maintain the three currently applicable tests provided for by the Transitional (CbCR) SH, adjusted per the applicable amendments:

- Simplified ETR test;
- De Minimis test;
- Routine Profit test.

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New Simplified ETR test (to be used also for the Routine Profit Test) . Our suggestions are driven by their immediateness

<u>With respect to the denominator (Financial Account Net Income or Loss - FANIL)</u>

- to compute it for each of the relevant subgroups (*see NOTE to 2.1.2 of the GIR*);
- the accounting data should be sourced from the audited consolidated financial statement;
- in case of QDMTT adopting the Local Accounting Standard the source of data should be the financial statements prepared in accordance with the applicable accounting standard;
- FANIL could be computed in accordance with GloBE Rules (to be discussed whether "w" or "w/o" PPA; our suggestion is w/PPA to avoid an extra layer of compliance)
- FANIL should be reduced (or increased) by:

(i) Net Tax Expenses (*Art. 3.2.1(a) Model Rules*)

(ii) Excluded dividends (*Art. 3.2.1(b) Model Rules*)

(iii) Excluded gain or losses (*Art. 3.2.1(c) Model Rules*)

(iv) (N-)QRTC (*Art. 3.2.4 Model Rules*)

(v) Transfer pricing adjustments (*Art. 3.2.3 Model Rules*)

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<u>With respect to the numerator (Covered Taxes)</u>

- The amount of the <u>current tax expense</u> source be sourced from the relevant financial statement with the exclusion/addition of:
  - (i) Non-Covered Taxes
  - (ii) Covered Taxes related to items of income excluded from FANIL
  - (iii) Covered Taxes related to UTP
  - (iv) Covered Taxes related to Return to Provisions – UTP (*addition*)
  - (v) (N-)QRTC (*Art. 3.2.4 Model Rules*)
  - (vi) Tax Transparent Entities: to allocate taxes in accordance with the GloBE Rules
- The amount of the <u>deferred tax expense</u>
  - (i) recast at 15% (unless the applicable rate is lower than 15%)
  - (ii) reduced as per Art. 4.4.4. Model Rules (Deferred Taxes Liability Recapture)
  - (iii) reduced (or increased as the case may be) as per Art. 441(c) and Art. 4.4.2(c) (Valuation adj & Recognition)
- For permanent establishment <u>current taxes</u> must only refer to the Covered Taxes paid in the PE State (I.e. the push-down should not apply) and <u>deferred tax expense</u> must be computed separately for the permanent establishment
- Art. 9.1 – Transitional Rules should be taken into account, with a particular regard to "government agreements"
- Specific rules for shipping industry

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For QDMTT purposes it seems reasonable

- to exclude any push-down in accordance with the QDMTT features and at the same time to exclude the non-pushed down Covered Taxes from the computation of the CE-owner or headquarters in case of PE
- for QDMTT regimes that apply the Local Accounting Standard the PSH should be computed on the basis of the local GAAP

The "Once out always out" rule should not apply but some sort of coordination should be provided with respect to the GloBE relevant data to liaise the GloBE arisen or reversed in FY when the PSH apply in relation to the same GloBE data reversed or arisen in FYs when the PSH do not apply and the Full GloBE applies. To state differently, the MNE group should monitor the GloBE relevant data even if they arise or reverse in FYs where the PSH apply because when the Full GloBE applies the relevant amount must be accurate and this requires that data must be collected also in FYs where the Full GloBE does not apply.