STATES OF JERSEY

DRAFT MULTINATIONAL TAXATION (GLOBAL ANTI-BASE EROSION – IIR TAX) (JERSEY) LAW 202-

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Lodged au Greffe on 14th August 2024
by the Minister for Treasury and Resources
Earliest date for debate: 1st October 2024

STATES GREFFE

DRAFT MULTINATIONAL TAXATION (GLOBAL ANTI-BASE EROSION – IIR TAX) (JERSEY) LAW 202-

European Convention on Human Rights

In accordance with the provisions of Article 16 of the Human Rights (Jersey) Law 2000, the Minister for Treasury and Resources has made the following statement –

In the view of the Minister for Treasury and Resources, the provisions of the Draft Multinational Taxation (Global Anti-Base Erosion – IIR Tax) (Jersey) Law 202- are compatible with the Convention Rights.

Signed: **Deputy M.E. Millar of St. John, St. Lawrence and Trinity**

Minister for Treasury and Resources

Dated: 13th August 2024

REPORT

Executive summary

In May 2024, the Government of Jersy issued a statement confirming its intent to implement the new global OECD framework for a 15% minimum corporate income tax – called Pillar Two GloBE (Global Anti-Base Erosion rule).

The rules will apply only to multinational groups of enterprises (MNEs) with more than €750 million global annual revenue. **All other businesses that are below the €750 million threshold will see no impact and will remain under Jersey's existing corporate income tax regime.**

For those large MNEs that are in scope of Pillar Two, the new rules will apply for accounting periods beginning on or after 1 January 2025.

The legislation accompanying this report is the package that provides the legal framework for implementation of Pillar Two in Jersey:

- **IIR** – The Draft Multinational Taxation (Global Anti-Base Erosion – IIR Tax) (Jersey) Law 202-
- **MCIT** – The Draft Multinational Corporate Income Tax (Jersey) Law 202-

The Government of Jersey has confirmed that it will not be implementing an Undertaxed Profits Rule at this time.

If the MCIT is passed by the States Assembly, Jersey companies and Jersey branches of in-scope multinational groups will pay an effective rate of 15% on their Jersey profits, from 2025. If the IIR is passed, Ultimate Parent Entities and/or Intermediate Parent Entities based in Jersey will be subject to a top-up tax on their non-Jersey profits, in certain limited circumstances.

As announced in the joint statement of May 2024, the Isle of Man and Guernsey are also intending to implement Pillar Two to the same timeline as Jersey.

This new OECD tax framework has been in development for more than four years. Throughout this period, the Government of Jersey has maintained close engagement with MNE groups impacted by these changes and their advisers, on the design of the most effective and appropriate legislative package for Jersey. The legislation contained herein demonstrates the Government's commitment to implementing the OECD framework while maintaining an attractive business environment.

Work will continue over the coming months to ensure that taxpayers are provided with the highest standards of customer service by Revenue Jersey in implementing the new regime. The Government will also be carrying out further work, through the coordination of a tripartite group, to improve the attractiveness of the island's business environment, economic growth and long-term prosperity. The Government of Jersey recognises that ensuring the business environment – be that through the ease of doing business or the need for suitable products for all markets – will be fundamental to the future success of the sector.

Background

In October 2021, the OECD/G20 Inclusive Framework issued a political statement setting out a global agreement on a two-pillar solution to the tax challenges arising from the digitalisation of the economy – Jersey joined that political statement, alongside 136 other jurisdictions.[1] The Pillar Two Model Rules (also referred to as the Global Anti-Base Erosion (GloBE) Rules), released on 20 December 2021, are part of the two-pillar solution and were developed by

[1] Currently there are 147 jurisdictions of the OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting.

delegates from all Inclusive Framework member jurisdictions and agreed and approved by consensus. The Pillar Two regime has been introduced as an OECD common approach. This means that jurisdictions like Jersey, which have made a political commitment to the OECD's two-pillar initiative, are not necessarily required to implement the rules directly, but must accept the outcomes created by Pillar Two top-ups which arise in other jurisdictions which do implement the Pillar Two Rules. The common approach has provided for flexibility in terms of how and when Jersey implements the Pillar Two Rules.

In April 2022, the Government of Jersey issued an OECD Pillars 1 & 2 Tax Policy Reflections Paper aimed at facilitating engagement with impacted stakeholders and providing information about Jersey's intended approach to both pillars, including setting out the factors that Jersey will take into consideration when determining its final decision on its approach to Pillar Two. On the back of the feedback received from this stakeholder consultative process, in May 2023, the Government of Jersey announced its political commitment to implement an Income Inclusion Rule and a Domestic Minimum Tax to provide for a 15% effective tax rate for large in-scope multinational enterprises from 2025.

While some jurisdictions have already introduced Pillar Two for accounting periods beginning from 1 January 2024, Jersey (and the other Crown Dependencies) opted to defer implementation until 2025. As a smaller globally competitive International Finance Centre, it was imperative for Jersey to wait until 1 January 2025, to allow additional time to closely monitor developments in the rules at various OECD Working Party meetings as well as the Steering Group of the Inclusive Framework on BEPS. This deferral has afforded Jersey more time to consider the potential impact that technical additions and revisions to the OECD Commentary and Administrative Guidance relating to the Pillar Two Rules would (and continue to) have on impacted businesses operating in Jersey.

Waiting until 2025 has also afforded Jersey the ability to monitor and keep abreast of the way the global landscape is unfolding and how other jurisdictions are implementing Pillar Two, so as to assess the impact that these decisions will have on multinational groups doing business in Jersey. This approach ultimately aligns with Jersey's stance on international standards, aimed at focusing on being a fast follower rather than an early adopter.

The United Kingdom (UK) and European Union (EU) were early 2024 adopters of Pillar Two and therefore a number of Jersey Constituent Entities (CEs) are already having to deal with top-up calculations on Jersey profits in those jurisdictions – emphasising the benefit for Jersey of putting in place a domestic regime, so that the 15% tax is paid in Jersey on local profits. In addition to EU Member States and the UK, a critical mass of other jurisdictions will have Pillar Two tax systems in place from 2025 – including major economies such as Japan, Canada, Australia, South Africa and Korea. A number of competitor jurisdictions have also announced that they will be implementing various forms of Pillar Two taxes from 2025 – namely Singapore, Hong Kong, Bermuda, Barbados and Switzerland. It is prudent to highlight that an important outlier jurisdiction in the global implementation of Pillar Two is the United States of America (U.S) – as at the date of this report, the U.S. has yet to decide on implementation of Pillar Two.[2] With key stakeholders located across the globe, the timing and pattern of Pillar Two implementation by other jurisdictions is thus an important factor in the decisions that Jersey takes on implementation.

To date and throughout this period, the Government of Jersey has continued to monitor international developments critically and engage collaboratively with affected stakeholders in Jersey, the UK, the U.S., and other jurisdictions, so as to ensure the most appropriate technical

[2] The U.S. adopted the Global Intangible Low-Tax Income (GILTI) regime as part of its major 2017 tax reform package, which acts as a precursor regime to Pillar 2 GloBE as it established a minimum tax rate on a U.S. MNE's foreign income. The U.S. has long argued that GILTI should be grandfathered and treated as a qualified Income Inclusion Rule, although certain aspects of GILTI do not conform to the Pillar 2 framework (e.g. use of worldwide blending).

design of the policy and implementation of Pillar Two in Jersey. This engagement culminated in the May 2024 statement confirming Jersey's approach to Pillar Two implementation. In this statement the Government of Jersey reaffirmed its 2023 commitment outlining its intention to introduce an **Income Inclusion Rule (IIR)** and a new standalone **Multinational Corporate Income Tax (MCIT)** to sit alongside Jersey's existing corporate income tax regime for groups in-scope of Pillar Two, for accounting periods beginning on or after 1 January 2025. The statement further reaffirmed that Jersey will not be enacting an **Undertaxed Profits Rule (UTPR)** at this time.

Against the backdrop of Pillar Two implementation, the Minister for External Relations, Assistant Minister for Treasury and Resources and Assistant Chief Minister will be overseeing a tripartite group of industry, the regulator and the government to coordinate a competitiveness work programme dedicated to maintaining a competitive and growth-friendly environment that boosts the productivity, innovation, digital capacity and skills of the financial services sector and the wider economy, while seeking to reduce operating costs – harnessing Jersey's continued growth as an International Finance Centre. The Government of Jersey believes that this legislative package will provide the most competitive and compliant pathway through the maze of global implementation of Pillar Two.

Detail

(A) Pillar Two – Overview

Pillar Two is a new global framework that will require in-scope multinational groups to pay a 15% minimum effective rate of tax in every jurisdiction in which they operate. The Pillar Two Rules provide for a €750 million global annual revenue threshold, with an exclusion for certain investment entities, insurance investment entities and securitisation entities, including investment funds. The starting point for the determination of GloBE income or loss will be the multinational group's consolidated financial statements, to which adjustments will be made to calculate the final defined GloBE income. This will include the exclusion of certain passive income.

Fundamentally, Pillar Two is a global top-up tax regime for large multinational groups. It is designed to ensure that multinational groups pay an effective minimum tax rate of 15% in every jurisdiction in which they operate. If the effective tax rate in any jurisdiction is less than 15%, Pillar Two Rules are designed to top-up those "low taxed" profits, through the application of two alternative but connected mechanisms:

- The primary top up mechanism referred to as the **Income Inclusion Rule (IIR)**.
- The secondary mechanism (the 'backstop rule') is referred to as the **Undertaxed Profits Rule (UTPR)**.

The IIR applies first, and it applies in a top-down manner. It requires that the total top-up tax due and calculated by the group across all jurisdictions is payable by the Ultimate Parent Entity (UPE) to the tax authority in that UPE jurisdiction. If the parent jurisdiction of the multinational group has chosen not to implement the IIR regime then:

- The group's total IIR top-up is payable and due at the next level down the MNE structure, by the Intermediate Parent Entity (IPE) in an IIR implementing jurisdiction; and
- Any top-up tax remaining after the application of the IIR is exhausted, is collected by means of the backstop UTPR. The UTPR is levied right across the group's subsidiaries, based on the proportion of tangible assets and employees in each jurisdiction that has implemented a UTPR. See the **Appendix 3** illustration on the operation of a UTPR.

The GloBE Model Rules also envisage that jurisdictions may want to introduce new domestic minimum taxes to ensure that top-up taxes (IIR/UTPR) are not collected elsewhere in relation to profits earned in their jurisdiction. The 15% jurisdictional minimum effective tax rate can be achieved by levying a minimum domestic tax charge on profits earned by Constituent Entities (CEs) resident in a jurisdiction. This prevents the crystallisation of a top-up tax on those profits elsewhere – in the jurisdiction of either the IIR or the UTPR. Essentially, if Jersey does not implement some form of domestic minimum tax, Jersey businesses will be subject to top-up taxes in other jurisdictions (by application of the IIR or UTPR).

As well as the 15% minimum tax rate, Pillar Two has a unique base for calculating taxable profits. The tax base that is used for the calculation of Pillar Two tax is the consolidated financial statements of the group, with a number of mandatory adjustments to bring uniformity and take account of various timing differences that may be present. Traditional tax regimes generally have specific tax base rules for each jurisdiction – all of which are different. To ensure simplification, certainty and clarity for impacted taxpayers in Jersey, the Jersey MCIT has been carefully designed by reference to the GloBE Rules to guarantee that the MCIT follows the same tax base calculation as that provided for in the OECD GloBE Rules.

Another important feature is that Pillar Two excludes most investment funds from the scope of the tax regime, and also excludes dividend income from the calculation of taxable income. These are both important features for Jersey as an International Finance Centre and support the concept of tax neutrality for funds and for dividend income – these features have been incorporated into the Jersey MCIT alongside the exclusion of insurance investment entities and securitisation vehicles from the application of MCIT.

The Government of Jersey is clear that this package is the right approach to Pillar Two implementation for Jersey. The MCIT will support Jersey’s diverse geographical investment base and, where relevant, will address certain unintended double taxation challenges that Pillar Two implementation creates for impacted taxpayers. The implementation of the IIR will reduce the need for top-up calculations for Jersey businesses and maintain administrative simplicity to the greatest extent possible for Jersey’s UPE and/or IPE population.

Financial and staffing implications

Forecasting Pillar Two revenues is a complex process that is contingent on an array of factors including predicting future multinational group behaviour and the pattern of global implementation. In the Government Plan (Budget 2025-2028) at page 37, the Government of Jersey has set out its approach to forecasting revenue from Jersey’s implementation of Pillar Two. This figure has been determined and included within the Government Plan as illustrated in the tables below. As can be seen from the below tables, there is upside revenue potential, however, the amount and sustainability of the upside revenue is difficult to predict.

Pillar Two Forecast Revenues				
	2025	2026	2027	2028
£'000	Estimate	Estimate	Estimate	Estimate
Base Case Forecast Pillar Two	-	52,000	52,000	54,000

Table 7: Pillar Two Forecast Revenues

Pillar Two Net Position				
	2025	2026	2027	2028
£'000	Estimate	Estimate	Estimate	Estimate
Base Case Forecast Pillar Two	-	52,000	52,000	54,000
Hospital Financing Costs[10]	-	(15,000)	(24,000)	(28,000)
Investment in competitiveness	-	(15,000)	(15,000)	(15,000)
Implementation costs	(1,760)	(2,600)	-	-
Transfer to Reserves	-	(17,640)	(13,000)	(11,000)
Net Position	**(1,760)**	**1,760**	**-**	**-**

Table 8: Pillar Two Net Position

It is expected that substantial costs will be incurred to implement an administrative system that will generate the Pillar Two revenue. Approximately £4 million has been allocated in the Government Plan for the cost of developing and implementing a new Revenue Jersey Information Technology system and associated costs. Over the past few years additional Revenue Jersey personnel and staff have been recruited to work on the development of the Pillar Two policy. Additional staffing or personnel will be needed in the future to support the effective functioning of Pillar Two compliance to the entities impacted by the introduction of Pillar Two in Jersey.

The Government Plan has further allocated funds for measures aimed at ensuring that Jersey remains competitive post Pillar Two adoption as part of the broader competitiveness package that will be developed over the next 12 months.

Children's rights impact assessment

A preliminary assessment has been conducted in respect of the impact of the Pillar Two legislation on children's rights. Completion of the preliminary assessment also evidences compliance with the Ministerial duty to have due regard to children's rights when formulating policy decisions.

The Children's Rights Impact Assessment (CRIA) in relation to this proposition is available to read on the States Assembly website.

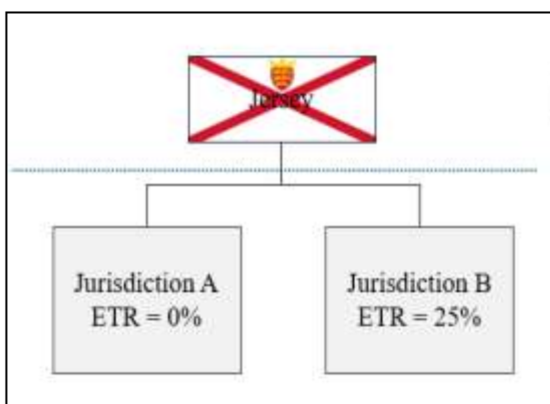
Human rights

The notes on the human rights aspects of the draft Law in **Appendix 4** have been prepared by the Law Officers' Department and are included for the information of States Members. They are not, and should not be taken as, legal advice.

APPENDIX 1 TO REPORT

Jersey Income Inclusion Rule

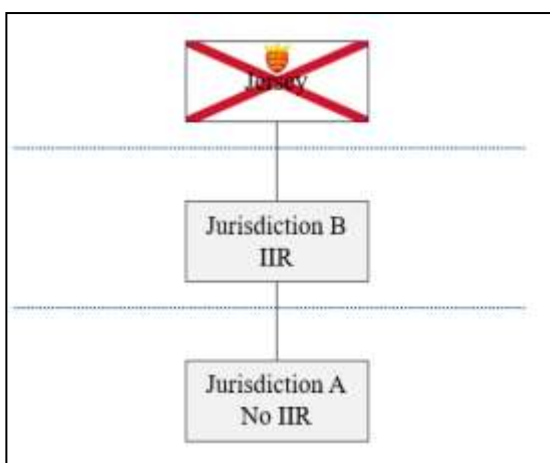
Illustration 1:



Explanation

- When the UPE is resident in Jersey, then Jersey will apply the IIR to any low-taxed profits arising outside Jersey.
- This Jersey UPE has subsidiaries in Jurisdiction A and Jurisdiction B.
- The Jersey IIR will only apply a top-up tax to the Jurisdiction A profits as they are low-taxed (i.e. below the 15% minimum ETR).
- The Jurisdiction B subsidiary profits are not low-taxed (i.e. the Jurisdiction B ETR is 25%).

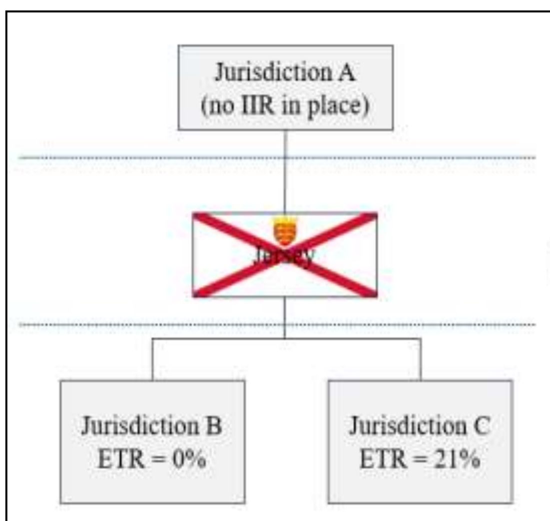
Illustration 2:



Explanation

- The IIR applies on a top-down approach, so the Ultimate Parent Entity jurisdiction (Jersey) has first priority in applying the IIR against any UPE low-taxed profits within the group.
- In this example, Jersey will still collect the IIR top-up tax due on the Jurisdiction A low-taxed profits even though Jurisdiction B also has an IIR in place, and the Jurisdiction B Intermediate Parent Entity (IPE) directly holds the Jurisdiction A low-taxed profits. The Jurisdiction B IIR is switched off in favour of the Jersey IIR.

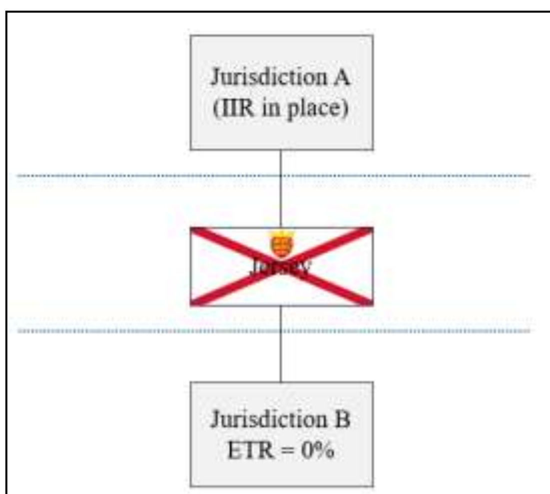
Illustration 3:



Explanation

- Jersey might apply an IIR in certain circumstances even when the UPE is not located in Jersey.
- Because the Jurisdiction A UPE is not subject to an IIR in Jurisdiction A, the IIR's top-down approach means that the IIR may apply to an Intermediate Parent Entity (IPE).
- Here, the IPE is in Jersey.
- Because Jurisdiction B subsidiary has low-taxed profit (i.e. ETR is less than 15%), that profit can be taxed under the Jersey IIR.
- Note that Jurisdiction C Subsidiary's profits are not low-taxed and so will not be subject to IIR top-up.

Illustration 4:



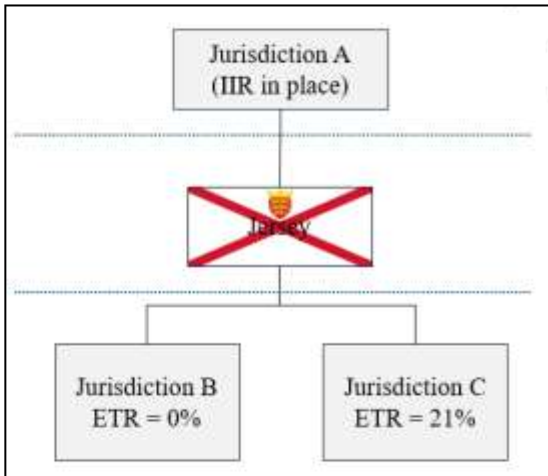
Explanation

- The UPE is in Jurisdiction A, while Jersey has an IPE.
- Because of the top-down approach, even though the Jurisdiction B low-taxed profit is held directly by the Jersey IPE, Jurisdiction A will collect the IIR top-up tax as it is the UPE jurisdiction.

APPENDIX 2 TO REPORT

Jersey Multinational Corporate Income Tax

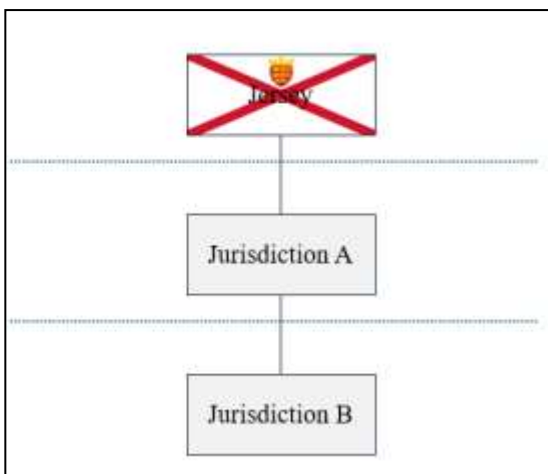
Illustration 5: Effect of implementing the MCIT in Jersey



Explanation

- If Jersey does not implement Pillar Two (i.e. keeps its current tax regime in place for Pillar Two MNE groups), then the MNE's ETR in Jersey will be below 15%.
- Because the Jersey ETR is below 15%, the IIR kicks in to top-up any low-taxed income.
- In this case, Jurisdiction A, which has an IIR in place, will top-up the low-taxed income of the MNE's profits in both Jersey and Jurisdiction B (but not Jurisdiction C as Jurisdiction C ETR is above 15%).

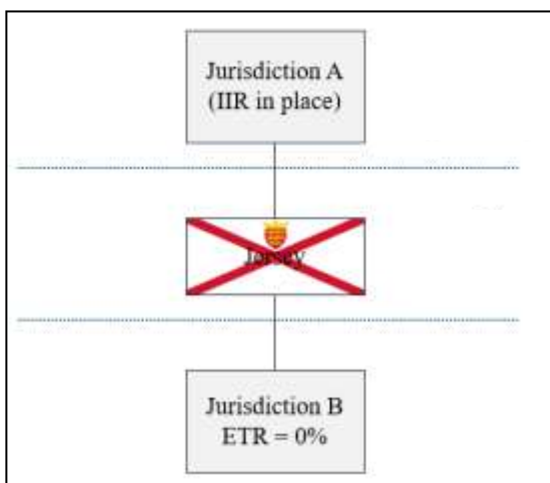
Illustration 6: How the MCIT works when Jersey is the UPE



Explanation

- Jersey will apply its MCIT on the UPE's Jersey net GloBE income only.
- It is not a top-up tax, so it does not apply to low-taxed income outside of Jersey.

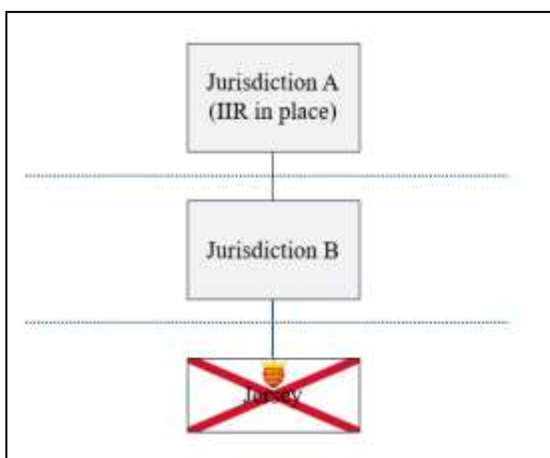
Illustration 7: How the MCIT works when Jersey is the IPE



Explanation

- The MCIT will be applied in Jersey to the MNE's Jersey net GloBE income.
- As it is not a top-up tax, it does not apply to low-taxed income outside of Jersey.
- Presuming that the MCIT leads to an ETR of 15% in Jersey, there will be no top-up required in Jurisdiction A under its IIR on Jersey profits.

Illustration 8:



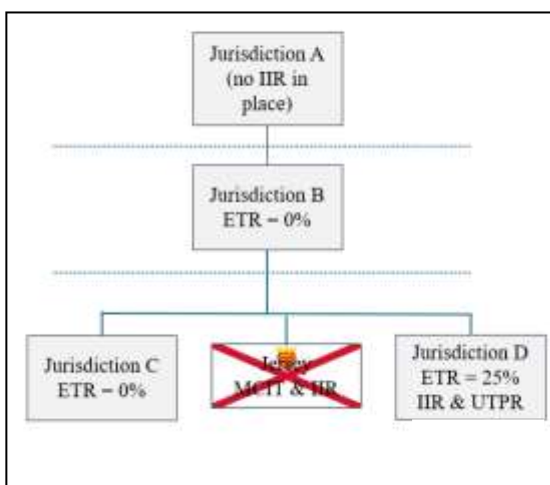
Explanation

- The MCIT will be applied in Jersey to the MNE's Jersey net GloBE income.
- Because the MCIT leads to an ETR of 15% in Jersey, there will be no top-up required in Jurisdiction A under its IIR on Jersey profits.

APPENDIX 3 TO REPORT

The Undertaxed Profits Rule

Illustration 9:



Explanation

- The MCIT will be applied in Jersey to the MNE's Jersey net GloBE income.
- There is no IIR in place in the chain above Jurisdiction C to impose a top-up.
- However, because Jurisdiction D imposes an IIR and UTPR, Jurisdiction D's UTPR acts to impose a top-up on Jurisdiction C's low-taxed profits. There is no UTPR on Jersey as the MCIT creates a 15% ETR.

APPENDIX 4 TO REPORT

Human Rights Notes on the draft Multinational Taxation (Global Anti-Base Erosion – IIR Tax) (Jersey) Law 202-

These Notes have been prepared in respect of the draft Multinational Taxation (Global Anti-Base Erosion – IIR Tax) (Jersey) Law 202- (the "draft Law") by the Law Officers' Department. They summarise the principal human rights issues arising from the contents of the draft Law and explain why, in the Law Officers' opinion, the draft Law is compatible with the European Convention on Human Rights ("ECHR").

These notes are included for the information of States Members. They are not, and should not be taken as, legal advice.

The draft Law implements a global minimum rate of tax for multinational entities (OECD "Pillar Two"). It creates a new extra territorial charge to a 'cover tax' which applies when the profits of an in-scope multinational group, taken as a whole, are not subject to an effective tax rate of, or above, the specified minimum rate. The introduction of Pillar Two is designed to tackle global tax avoidance by preventing global multinational entities from deriving a tax benefit through strategic structuring of their businesses to jurisdictions which attract lower rates of tax (Base Erosion and Profit Shifting or 'BEPS').

The draft Law imposes duties on the in-scope entities, which includes an obligation on the 'qualifying entity' to provide returns and to make the relevant payments due under it which are supported by various enforcement measures which may be utilised. This includes provision for interest and civil penalties as well as the creation of a new criminal offence where non-compliance is without 'reasonable excuse'.

It is considered that the draft Law engages two provisions of the ECHR which will be dealt with in turn below.

First, the draft Law engages Article 1 of the First Protocol to the ECHR ("A1P1"), which provides for the right to the peaceful enjoyment of property. Any new charge to tax will engage A1P1.

A1P1 is however a qualified right, and the Protocol explicitly provides that the right does not in any way impair the right of the State to enforce such laws as it deems necessary to control the use for property in accordance with the general interest or to secure the payment of taxes or other contributions.

The entity in Jersey that will be subject to the tax will be a parent entity (or one of the parent entities of the entity to which IIR tax is applied). The Jersey parent entity will therefore have a

beneficial interest in the subsidiary. The link to Jersey of the income which is covered under the draft Law is not considered too remote for the purposes of A1P1. The provisions of the draft Law are considered to achieve a fair balance in this respect and are therefore considered to be compliant with the ECHR.

Secondly, the draft Law engages Article 6 which provides for the right to a fair hearing, to the extent that it provides for criminal sanction and civil penalties. The criminal offence will be prosecuted in the ordinary way, and this is considered sufficient for the purposes of Article 6. Similarly, the importation in the draft Law of the ordinary route of appeal afforded to taxpayers under the Income Tax (Jersey) Law 1961 in respect of penalties and assessments (including amendments thereto) is considered sufficient for the purposes of Article 6.

There is also a possibility that the draft Law may engage Article 8, the right to privacy because of the information requirements under it. This is considered unlikely because it is to a large extent irrelevant to legal, as opposed to natural, persons. For completeness, even if Article 8 is engaged, the measures under the draft Law are considered to achieve a fair balance and so would be a justified interference. Article 8, like A1P1 is a qualified right.

Overall, the draft Law is considered compliant with the provisions of the ECHR.

EXPLANATORY NOTE

This Law would, if adopted, implement the model rules published by the Organisation for Economic Co-operation and Development ("OECD") as "Tax Challenges Arising from the Digitalisation of the Economy – Global Anti-Base Erosion Model Rules (Pillar Two): Inclusive Framework on BEPS" (the "Model Rules"). Pillar Two is an initiative designed to tackle global tax avoidance by imposing a charge to tax when the profits of a multinational corporate group are effectively taxed at a rate below 15%. In doing so, it aims to prevent multinational groups from deriving a tax benefit through strategic structuring of their businesses to jurisdictions which attract lower rates of tax (base erosion and profit shifting or "BEPS") and establishes a "floor" to the rate at which their profits will be taxed.

Part 1 (Article 1): Interpretation

Article 1 provides that terms used in this Law that are defined in the Model Rules have the meaning given by the Model Rules, unless that meaning is modified by this Law (see, in particular, Part 2 of this Law). This Article introduces *Schedule 1*, which contains (for reference) a list of those terms. It also defines other terms that are used in the Law, but not in the Model Rules and provides that the location of an entity is determined in accordance with the Model Rules (subject to the modifications in *Article 11*).

Part 2 (Articles 2 to 4): Implementation of Model Rules: general provision

Article 2 provides that the Model Rules, as modified by this Law, have effect in Jersey. The Model Rules are drafted in the form of a legislative template, designed to enable an implementing jurisdiction to introduce them into domestic law.

Article 3 requires the Comptroller of Revenue to have regard to the commentary (the guidance on the Model Rules, published by the OECD, that is listed in Article 1) in determining a person's liability to tax or a penalty and exercising other functions under this Law.

Article 4 provides that this Law applies to certain MNE groups (as defined in the Model Rules, the abbreviation is for "multinational enterprise groups") and entities within those groups, if the revenue test in the Model Rules is met. In general terms, this means that the Law will apply to MNE groups with an annual revenue of at least €750 million. The Law applies to those groups for "fiscal years" (generally, accounting periods) beginning on or after 1 January 2025.

Part 3 (Articles 5 to 11): Modifications and additions to Model Rules

This Part modifies (including by way of making some additions to) certain provisions of the Model Rules for the purposes of their application in Jersey.

Article 5 provides that references in the Model Rules to the "implementing jurisdiction" are references to Jersey. This modification reflects the fact that the Model Rules are in the form of a legislative template, as mentioned above.

Article 6 disapplies the provisions of the Model Rules that would otherwise impose the UTPR. The UTPR is a "backstop" to ensure the minimum tax is paid where an entity with low-taxed income is held through a chain of ownership that does not result in the low-taxed income being brought into charge under an IIR (income inclusion rule).

Article 7 modifies the provisions of the Model Rules relating to the obligations to file a GloBE information return (a "GIR"), which is the means by which MNE groups provide information to the tax authorities in jurisdictions that have implemented Pillar Two on their tax calculations.

The Model Rules require each constituent entity located in an implementing jurisdiction to file a GIR, and the GIR may be filed either by the entity itself or by another local entity on its behalf. *Article 7* provides that if an entity located in Jersey is required by *Article 17* to file a GIR with the Comptroller, the GIR is treated as being filed on behalf of all the constituent entities of the group that are located in Jersey (so the requirements of Rule 8.1.1 of the Model Rules are met). This Article also disapplies the requirement of the Model Rules for a constituent entity located in Jersey to notify the Comptroller of the entity that is filing the GIR, but this Law provides separately (in *Article 16*) that the reporting entity in relation to an MNE group must provide this information to the Comptroller.

Article 8 disapplies Rule 8.3, which relates to applying the Model Rules in accordance with OECD guidance (the Law instead makes provision about the guidance in *Article 3*).

Article 9 disapplies the definition of "designated local entity" in the Model Rules and provides for the Comptroller to designate 1 of the constituent entities located in Jersey as "designated local entity" for the purposes of this Law and Model Rules, taking into account any nomination made by the entities of the MNE group (instead of each group appointing its own designated local entity). If there is no "qualifying entity" (see *Article 12*) in Jersey, it is the designated local entity that is required to notify the Comptroller, under *Article 16*, of the entity filing the GIR.

Article 10 provides that each of the following is a "qualified IIR": Part 4 of this Law; a set of rules, imposing a tax under the law of another jurisdiction, listed in an Order made by the Minister for Treasury and Resources under this Article; and any other set of rules that is a qualified IIR for the purposes of the Model Rules. A "qualified IIR" is defined in the Model Rules as a set of rules that are imposed by the domestic law of a jurisdiction and are broadly equivalent to the main Model Rules provisions for bringing low-taxed income into charge.

Article 11 modifies the provisions of the Model Rules that determine the location of an entity, by making special provision for "flow-through entities" (as defined in the Model Rules).

Part 4 (Articles 12 to 14): IIR tax

Article 12 defines "qualifying entity" for the purposes of this Law as a Jersey-located entity that meets certain criteria, including as to its level in the group structure. The qualifying entity is liable to pay the amount of the IIR tax, calculated in relation to the MNE group (see *Article 14)*. It is also required to comply with the related administrative requirements and to file a GIR in Jersey (see also the notes on *Article 7*, related to the GIR).

Article 13 requires the qualifying entity to determine, in relation to a fiscal year, certain amounts in relation to the income or loss of entities in the group and the amount of top-up tax required by the Model Rules to be attributed to each of the low-taxed entities in the MNE group. A share of the top-up tax is then allocated to the qualifying entity, and this forms the basis of the charge to tax under *Article 14*.

Article 14 imposes the charge to IIR tax, as calculated under *Article 13*, on the qualifying entity in relation to an MNE group.

Part 5 (Articles 15 to 17): Administrative provisions

Division 1 (Articles 15 and 16) requires an MNE group entity to notify the Comptroller of the entity that is filing the GIR (see also the notes on *Article 7*, related to the GIR).

Article 15 defines "reporting entity" as the qualifying entity or, if there isn't one, the designated local entity (see *Article 9*).

Article 16 requires the reporting entity, in relation to each fiscal year, to notify the Comptroller as to whether the reporting entity is the qualifying entity in relation to the MNE group (and is accordingly required to file the GIR). If the reporting entity is not a qualifying entity, it must

notify the Comptroller which entity intends to file the GIR, the jurisdiction in which the filing entity is located and the jurisdiction in which the GIR will be filed.

Division 2 (Articles 17 to 19) makes provision about the GIR.

Article 17 requires the qualifying entity (if there is one) to submit a GIR to the Comptroller for each fiscal year, on or before the "return due date" as defined in *Article 22*. (If there is no qualifying entity for the purposes of this Law, the GIR for the purposes of the Model Rules will be filed by another group entity in another jurisdiction.)

Article 18 makes provision about the content of a GIR. The Article requires financial information included in the GIR to be provided, or translated (in accordance with OECD guidance), in pounds sterling. It also provides that a GIR provided in a language other than English must be accompanied by a translation.

Article 19 provides that an election under the Model Rules may only be made by giving notice in the GIR.

Division 3 (Articles 20 and 21) requires the qualifying entity in relation to an MNE group to submit a return (an "IIR return") containing an assessment, by the qualifying entity, as to the amount of IIR tax payable by the entity for a fiscal year. The return must be submitted before the "return due date" as defined in *Article 22*.

Division 4 (Article 22) defines the "return due date", the date by which the GIR or IIR return must be submitted to the Comptroller for a fiscal year, as the date 15 months after the end of the fiscal year. The period for filing is slightly longer in the case of a return for the first fiscal year that this Law applies to an MNE group, allowing the qualifying entity a period of 18 months after the end of the fiscal year to submit the return.

Division 5 (Articles 23 to 26) makes provision about amendments to IIR returns.

Article 23 provides that a qualifying entity may amend its IIR return up to 5 years after the return due date.

Article 24 provides that, if the Comptroller considers that an IIR return submitted by the qualifying entity is (or has become) inaccurate, the Comptroller may amend the return. The Comptroller may amend a return within 2 years of the return, or amended return, being submitted by the qualifying entity. That period is extended to 5 years in the case of an inaccuracy caused by a careless action of a person, and there is no time limit if the inaccuracy is either deliberate or is the result of an alteration to the tax liability of a constituent entity of the group under the law of a jurisdiction other than Jersey.

Article 25 provides that the qualifying entity may request that the Comptroller exercises the power under *Article 24* to amend an IIR return, in the case of an inaccuracy resulting from an alteration to a tax liability in another jurisdiction. There is a right of appeal, under *Article 34*, against a decision of the Comptroller to refuse a request for an amendment to the IIR return in these circumstances.

Article 26 provides that, if the qualifying entity fails to submit an IIR return for a fiscal year, the Comptroller may make an assessment of the amount of IIR tax payable by the entity for that year. There is no right of appeal against an assessment made under this Article but, if the qualifying entity submits an IIR return for the same fiscal year within the following 12 months, the Comptroller's assessment is disregarded.

Division 6 (Article 27) provides that, if an entity fails to pay an amount of IIR tax, in respect of a fiscal year, on or before the return due date for that fiscal year, the entity is liable to pay interest at the rate specified by the States by Regulations.

Part 6 (Articles 28 to 33): Offences and penalties

Division 1 (Article 28) provides that it is an offence for a qualifying entity to fail, without reasonable excuse, to comply with the requirement imposed by *Article 17* to file a GIR or the requirement imposed by *Article 20* to file an IIR return. An entity that commits an offence under this Article is liable to a fine.

Division 2 (Articles 29 to 31) makes provision about civil penalties.

Article 29 provides that a reporting entity is liable to a penalty if it fails to notify the Comptroller of the entity filing the GIR, on or before the return due date. The amount of the penalty is determined by the Comptroller and must not exceed £3,000.

Article 30 provides that a qualifying entity is liable to a penalty for failing to submit an IIR return on or before the return due date. The amount of the penalty is £1,000 if the return is submitted up to 1 month late. The amount of the penalty increases by £1,000 per month for each additional month for which the return is not submitted, up to a maximum of £12,000.

Article 31 provides that a qualifying entity is liable for a penalty for carelessly or deliberately providing an IIR return that is incorrect in a material particular. The amount of the penalty is determined by the Comptroller, but it is subject to certain limits calculated by reference to the difference between the tax that would be calculated on the basis of the incorrect return and the tax that would be calculated if the return were correct. The amount of the penalty cannot exceed 30% of the difference in a "careless" case, and must be at least 30% but no more than 100% of the difference in a "deliberate" case. If the entity admits the incorrect statement other than in response to the discovery, or likely imminent discovery, of it by the Comptroller, the thresholds are reduced to 10% of the difference in a "careless" case, and to between 10% and 80% of the difference in a "deliberate" case.

Division 3 (Articles 32 and 33) makes provision about the administration of civil penalties.

Article 32 provides for the Comptroller to serve a notice on the entity that is liable for a penalty, specifying the amount of the penalty and, in the case of penalty under *Article 31*, other details relating to the determination of that amount. The penalty must be paid within 40 days of the notice being served.

Article 33 provides that the Comptroller may, on application by an entity liable for a penalty under *Article 29 or 30*, waive the penalty if satisfied that exceptional circumstances prevented the entity from complying with the requirement to notify the Comptroller of the entity filing the GIR, the requirement to file a GIR or the requirement to file an IIR return (as the case may be).

Part 7 (Articles 34 to 36): Appeals, recovery and supplementary administrative provisions

Article 34 provides that an entity may appeal to a Commission of Appeal, constituted under the Revenue Administration (Jersey) Law 2019, against an amendment to an IIR return made by the Comptroller, or a decision to reject a request for an amendment under *Article 25*. An entity may also appeal against a penalty notice and a decision to refuse an application for waiver of a penalty.

Article 35 makes provision about proceedings for recovery of unpaid tax or a penalty.

Article 36 provides that Articles 46 to 48 of the Income Tax (Jersey) Law 1961 apply in relation to IIR tax as they apply in relation to income tax under that Law. Those Articles make provision about payments to, and repayments by, the States' Treasurer.

Part 8 (Articles 37 to 39): Citation, commencement and other matters

Article 37 provides that the States may, by Regulations, amend the definition of any term defined in this Law, apart from the definition of "Model Rules".

Article 38 introduces *Schedule 2*, which makes consequential amendments to the Revenue Administration (Jersey) Law 2019.

Article 39 gives the title of this Law and provides that it comes into force on 1 January 2025.

DRAFT MULTINATIONAL TAXATION (GLOBAL ANTI-BASE EROSION – IIR TAX) (JERSEY) LAW 202-

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DRAFT MULTINATIONAL TAXATION (GLOBAL ANTI-BASE EROSION – IIR TAX) (JERSEY) LAW 202-

A LAW to implement the model rules published by the Organisation for Economic Co-operation and Development as "Tax Challenges Arising from the Digitalisation of the Economy – Global Anti-Base Erosion Model Rules (Pillar Two): Inclusive Framework on BEPS".

Adopted by the States	*[date to be inserted]*
Sanctioned by Order of His Majesty in Council	*[date to be inserted]*
Registered by the Royal Court	*[date to be inserted]*
Coming into force	*[date to be inserted]*

THE STATES, subject to the sanction of His Most Excellent Majesty in Council, have adopted the following Law –

PART 1

INTERPRETATION

1 Interpretation

(1) In this Law –

"Comptroller" means the Comptroller of Revenue described in Article 2 of the Revenue Administration (Jersey) Law 2019;

"currency guidance" means the provisions of the OECD commentary relating to currency translation;

"in-scope MNE group" is defined in Article 4(2);

"IIR return" is defined in Article 21;

"IIR tax" is defined in Article 14;

"ITL 1961" means the Income Tax (Jersey) Law 1961;

"Model Rules" means the model rules published by the OECD on 20 December 2021 as "Tax Challenges Arising from the Digitalisation of the Economy – Global Anti-Base Erosion Model Rules (Pillar Two): Inclusive Framework on BEPS";

"OECD" means the Organisation for Economic Co-operation and Development;

"OECD commentary" means –

(a) the consolidated commentary published on 25 April 2024 by the OECD as "Tax Challenges Arising from the Digitalisation of the Economy – Consolidated Commentary to the Global Anti-Base Erosion Model Rules (2023)"; and

(b) the fourth set of agreed administrative guidance published on 17 June 2024 by the OECD as "Tax Challenges Arising from the Digitalisation of the Economy – Administrative Guidance on the Global Anti-Base Erosion Model Rules (Pillar Two), June 2024";

"qualifying entity" is defined in Article 12;

"reporting entity" is defined in Article 15;

"return due date" is defined in Article 22.

(2) References in this Law to a Rule are references to the corresponding Article in the Model Rules.

(3) Terms used in this Law that are defined in the Model Rules have the meaning given by the Model Rules, unless that meaning is modified by this Law.

(4) Schedule 1 contains –

(a) a list of terms used in this Law (without modification) that are defined in the Model Rules (paragraph 1 of Schedule 1); and

(b) a list of terms used in this Law (with modification) that are defined in the Model Rules (paragraph 2 of Schedule 1).

(5) For the purposes of this Law, the location of an entity is to be determined in accordance with Rule 10.3 as modified by Article 11.

PART 2

IMPLEMENTATION OF MODEL RULES: GENERAL PROVISION

2 Implementation of Model Rules

The Model Rules, as modified by Part 3, have effect in Jersey.

3 Comptroller's duty to have regard to the OECD commentary

In determining an entity's liability to tax or a penalty under this Law, and in discharging the Comptroller's other functions under this Law, the Comptroller must have regard to the OECD commentary.

4 Application of this Law: large multinational enterprise groups

(1) This Law applies in relation to an in-scope MNE group and its constituent entities, for fiscal years beginning on or after 1 January 2025.

(2) For the purposes of this Article, an MNE group is an "in-scope MNE group" for a fiscal year if –

(a) the revenue requirements of Rule 1.1.1 (modified, if appropriate, by Rules 1.1.2 and 6.1) are met in respect of the MNE group for that year; and

(b) at least 1 constituent entity of the MNE group is, at any time in that year, located in Jersey.

(3) References in Parts 3 to 6 of this Law to an MNE group are references to an in-scope MNE group.

PART 3

MODIFICATIONS AND ADDITIONS TO MODEL RULES

5 Implementing jurisdiction

References in the Model Rules to an implementing jurisdiction are references to Jersey.

6 UTPR not imposed

Rules 2.4 to 2.6 and 9.3 do not apply.

7 Filing obligations

(1) A GloBE information return submitted, in accordance with Article 17, by a qualifying entity in relation to an MNE group is treated, for the purposes of Rule 8.1.1, as being filed on behalf of each constituent entity of that group that is located in Jersey.

(2) If there is no qualifying entity in relation to an MNE group, Rule 8.1.1 does not apply in relation to the constituent entities of the group that are located in Jersey.

(3) Rule 8.1.2 does not apply and, accordingly, Rule 8.1.3 does not apply.

8 Administrative guidance

Rule 8.3.1 does not apply (but see Article 3).

9 Designated local entity

(1) The "designated local entity" of an MNE group is a constituent entity of the group that is –

(a) located in Jersey; and

(b) designated by the Comptroller for the purposes of this Article.

(2) In determining which entity is to be designated, the Comptroller must have regard to the nomination (if any) made by the constituent entities of the MNE group.

(3) The Comptroller must, within a reasonable period of determining that an entity is to be designated, give written notice of the designation to the entity.

(4) The definition of "designated local entity" in Rule 10.1 is treated as being modified accordingly.

10 Qualified income inclusion rule

(1) Each of the following is a "qualified IIR" –

(a) Part 4 of this Law;

(b) a set of rules, imposing a tax under the law of another jurisdiction, listed in an Order made under paragraph (2);

(c) any other set of rules that is a "qualified IIR" for the purposes of the Model Rules.

(2) The Minister for Treasury and Resources may make an Order listing a set of rules for the purpose of paragraph (1); but only if, at the time the Order is made, the Minister considers that the rules meet the definition of "qualified IIR" in Rule 10.1.

11 Location of an entity

(1) Rule 10.3 applies, for the purpose of determining the location of an entity, subject to the exceptions in paragraphs (2) to (5).

(2) Paragraph (3) applies in relation to an entity –

(a) that is a flow-through entity created in Jersey; and

(b) is not an entity to which paragraph (5) applies.

(3) The entity is treated as a stateless entity (instead of its location being determined under Rule 10.3.2).

(4) Paragraph (5) applies to a flow-through entity that –

(a) is a reverse hybrid entity;

(b) meets 1 of the criteria in Article 12(2) (qualifying entity: criteria); and

(c) is regarded as resident in Jersey for the purposes of Jersey law.

(5) An entity to which this paragraph applies is to be treated as being located in Jersey (and is not to be treated as a stateless entity).

PART 4

IIR TAX

12 Meaning of "qualifying entity"

(1) An entity is a "qualifying entity" in relation to an MNE group if –

(a) the entity is located in Jersey;

(b) the entity is not an excluded entity;

(c) at any time in the fiscal year, the entity owns (whether directly or indirectly) an ownership interest in a constituent entity that is not located in Jersey; and

(d) the entity meets 1 of the criteria in paragraph (2).

(2) The criteria are –

(a) the entity is the ultimate parent entity of the MNE group;

(b) the entity is an intermediate parent entity of the MNE group, and –

(i) the ultimate parent entity of the MNE group is not required to apply a qualified IIR for the fiscal year, and

(ii) there is no other intermediate parent entity that owns a controlling interest in the entity and is required to apply a qualified IIR for the fiscal year; or

(c) the entity –

(i) is a partially-owned parent entity, and

(ii) is not wholly owned by another partially-owned parent entity that is required to apply a qualified IIR for the fiscal year.

13 MNE group required to determine amounts

(1) A qualifying entity in relation to an MNE group must determine, for a fiscal year –

(a) the GloBE income or loss of each of the MNE group's constituent entities, in accordance with Rules 3.1 to 3.5;

(b) the adjusted covered taxes for each of the MNE group's constituent entities, in accordance with Rules 4.1 to 4.6;

(c) the amount of top-up tax required to be attributed to each of the MNE group's low-taxed constituent entities in accordance with Rules 5.1 to 5.6 and 8.2;

(d) the amount of the qualifying entity's allocable share of the top-up tax of each low-taxed constituent entity that is a member of the MNE group in accordance with Rules 2.2 and 2.3; and

(e) the aggregate of the amounts determined under sub-paragraph (d) (the "qualifying entity's total allocable share of the top-up tax").

(2) In determining amounts for the purposes of paragraph (1), the qualifying entity must also comply with –

(a) the Rules contained in the following Chapters of the Model Rules, if and so far as those Rules apply –

(i) Chapter 6 (corporate restructurings and holding structures),

(ii) Chapter 7 (tax neutrality and distribution regimes); and

(b) Rules 9.1 and 9.2 (transition rules) if and so far as those Rules apply.

14 Qualifying entity required to pay IIR tax

(1) A qualifying entity in relation to an MNE group must pay an amount equal to the qualifying entity's total allocable share of the top-up tax determined under Article 13(1)(e) (the "IIR tax") for a fiscal year.

(2) The qualifying entity must pay the amount of IIR tax to the Comptroller on or before the IIR return due date.

PART 5

ADMINISTRATIVE PROVISIONS

DIVISION 1 – NOTIFICATION OF ENTITY FILING THE GLOBE RETURN

15 Meaning of "reporting entity"

The "reporting entity" in relation to an MNE group is –

(a) the qualifying entity; or

(b) if there is no qualifying entity, the designated local entity.

16 Requirement to notify Comptroller of entity filing the GloBE return

(1) A reporting entity in relation to an MNE group must, in relation to each fiscal year, given written notice to the Comptroller stating whether the reporting entity is the qualifying entity in relation to the MNE group (and is accordingly required to file the GloBE information return under Article 17).

(2) If the reporting entity is not the qualifying entity, the notice under paragraph (1) must also –

(a) identify the constituent entity of the MNE group that intends to file the GloBE information return under the Model Rules;

(b) state the jurisdiction in which that entity is located; and

(c) if different, state the jurisdiction in which the entity intends to file the GloBE information return.

(3) The notice must be given in the form and manner specified by the Comptroller.

(4) The notice, in relation to a fiscal year, must be given –

(a) for the first fiscal year for which this Law applies to an MNE group, on or before the date that is 18 months after the end of the fiscal year; and

(b) for all other fiscal years, on or before the date that is 15 months after the end of the fiscal year.

DIVISION 2 – GLOBE INFORMATION RETURN

17 Qualifying entity required to file GloBE information return

(1) The qualifying entity must, on or before the return due date, submit to the Comptroller a GloBE information return for the fiscal year.

(2) A GloBE information return is not treated as submitted unless the requirements of Article 18(1), (2) and (if applicable) (3) are complied with in relation to the return.

18 Content and form of GloBE information return

(1) The GloBE information return must –

(a) be submitted in the form and manner specified by the Comptroller; and

(b) contain the information required by the Comptroller.

(2) The financial information provided in the GloBE information return must –

(a) be provided in pounds; or

(b) be translated into pounds in accordance with the currency guidance.

(3) If the GloBE information return is completed in a language other than English, it must be accompanied by a translation into English.

19 Elections under the Model Rules

An election by the qualifying entity under the Model Rules may only be made by giving written notice to the Comptroller in a GloBE information return submitted under Article 17.

DIVISION 3 – IIR RETURNS

20 Qualifying entity required to file IIR return

A qualifying entity must, on or before the IIR return due date, submit to the Comptroller an IIR return for the fiscal year.

21 Content and form of IIR return

(1) An "IIR return" is a return containing –

(a) an assessment by the qualifying entity as to the amount of IIR tax payable by the entity for the fiscal year; and

(b) the other information reasonably required by the Comptroller by notice.

(2) An IIR return must be submitted in the form and manner specified by the Comptroller by notice.

DIVISION 4 – GLOBE INFORMATION RETURNS AND IIR RETURNS: "RETURN DUE DATE"

22 Meaning of "return due date"

The "return due date" for a GloBE information return or an IIR return, for a fiscal year, means –

(a) for the first fiscal year for which this Law applies to an MNE group, is the date that is 18 months after the end of the fiscal year; and

(b) for all other fiscal years, is the date that is 15 months after the end of the fiscal year.

DIVISION 5 – AMENDMENTS TO IIR RETURNS

23 Amendment by a qualifying entity

(1) A qualifying entity may, by notice to the Comptroller, amend an IIR return submitted by it.

(2) No amendment may be made under paragraph (1) after the end of the period of 5 years beginning with the return due date.

(3) A notice of amendment to an IIR return must be submitted in the form and manner specified by the Comptroller by notice.

24 Amendment by the Comptroller

(1) If the Comptroller considers that an IIR return submitted by a qualifying entity is, or has become, inaccurate, the Comptroller may amend the return.

(2) Except in a case within paragraph (3), (5) or (6), the Comptroller must not amend an IIR return later than 2 years after the return submission date.

(3) If the inaccuracy is due to a careless action by a person, the Comptroller must not amend the IIR return later than 5 years after the return submission date.

(4) In paragraphs (2) and (3), "return submission date", in relation to an IIR return, means the later of –

(a) the IIR return due date;

(b) the date the IIR return is submitted; and

(c) if the IIR return is amended by the qualifying entity under Article 23, the date the notice of amendment to the return is submitted.

(5) If the inaccuracy is deliberate, or due to a deliberate act or omission by a person, the Comptroller may amend the IIR return at any time.

(6) If the inaccuracy is due to an alteration (after the submission of the IIR return) to the amount of tax for which a constituent entity of the MNE group is liable under the law of a jurisdiction other than Jersey, the Comptroller may amend the IIR return at any time.

(7) If the Comptroller amends an IIR return, the Comptroller must give written notice to the qualifying entity of –

(a) the amendment;

(b) the revised amount of IIR tax under Article 14(1), that the qualifying entity is required to pay for the fiscal year to which the IIR return relates; and

(c) if the revised amount of IIR tax exceeds the amount of IIR tax paid, the date by which the additional amount must be paid.

(8) A reference (however expressed) in this Article to amending an IIR return includes a reference to amending the assessment contained in it.

25 Request for an amendment by the Comptroller

(1) This Article applies if an IIR return becomes inaccurate (after its submission by a qualifying entity) due to an alteration to the amount of tax for which a constituent entity of the MNE group is liable under the law of a jurisdiction other than Jersey.

(2) The qualifying entity in relation to the MNE group may, by written notice, request that the Comptroller amends the IIR return under Article 24(6).

(3) The Comptroller must, within the period of 40 days beginning with the date on which the request is received –

(a) decide whether to accept or reject the request; and

(b) if the request is rejected, give written notice to that effect to the qualifying entity.

26 Assessments by the Comptroller

(1) If a qualifying entity fails to comply with Article 20 in relation to a fiscal year, the Comptroller may make an assessment of the amount of IIR tax payable by the entity for that year (but see paragraph (6)).

(2) The Comptroller may, at any time –

(a) amend an assessment made under paragraph (1); or

(b) make an additional assessment under that paragraph.

(3) The Comptroller must give notice to the qualifying entity of an assessment made under paragraph (1).

(4) The notice of assessment must include –

(a) the amount of the assessment; and

(b) the date by which the amount must be paid.

(5) An entity has no right of appeal against an assessment made under paragraph (1).

(6) An assessment made in relation to a qualifying entity for a fiscal year under paragraph (1) is disregarded if, before the end of the period of 12 months beginning with the date on which notice of that assessment is given, the qualifying entity submits an IIR return for the same fiscal year to the Comptroller.

(7) Article 24 applies in relation to the IIR return referred to in paragraph (6) as it applies to an IIR return submitted in accordance with Article 20.

DIVISION 6 – INTEREST

27 Interest for IIR tax

(1) This Article applies if –

(a) an entity fails to pay an amount of IIR tax, for a fiscal year, on or before the IIR return due date for that fiscal year; and

(b) the States have, by Regulations, specified a rate of interest for the purposes of this Article.

(2) The entity is liable to pay simple interest, at the rate specified by Regulations under paragraph (1)(b), on the amount outstanding for the period –

(a) beginning with the day following the IIR return due date; and

(b) ending with the day on which the amount of tax is fully paid.

(3) The amount of interest payable under this Article is treated for all purposes (including collection and recovery) as if it were an amount of tax charged and payable under this Law.

(4) No interest is payable if the amount on which interest is calculated under paragraph (2) is less than £300.

(5) The Comptroller may waive an entity's liability to interest if the Comptroller is satisfied that exceptional circumstances prevented the reporting entity from complying with Article 14(2) at the required time.

PART 6

OFFENCES AND PENALTIES

DIVISION 1 – OFFENCES

28 Offences

(1) It is an offence for a qualifying entity in relation to an MNE group to fail, without reasonable excuse, to comply with a requirement imposed by –

(a) Article 17 (requirement to file GloBE information return); or

(b) Article 20 (requirement to file an IIR return).

(2) An entity that commits an offence under paragraph (1) is liable to a fine.

(3) Article 21C of the ITL 1961 (offences by bodies corporate and others) applies in relation to an offence under paragraph (1) as it applies to an offence under Article 21B of that Law.

DIVISION 2 – CIVIL PENALTIES

29 Penalty for failure to notify Comptroller under Article 16

(1) This Article applies if a reporting entity in relation to an MNE group fails to give notice in accordance with Article 16 on or before the return due date.

(2) The entity that was, at the end of the return due date, the reporting entity in relation to the MNE group is liable to a penalty in respect of the failure.

(3) The amount of the penalty is determined by the Comptroller and is a maximum of £3,000.

30 Penalty for failure to submit a return

(1) This Article applies if a qualifying entity in relation to an MNE group –

(a) fails to submit a GloBE information return to the Comptroller on or before the return due date; or

(b) fails to submit an IIR return to the Comptroller on or before the return due date.

(2) The entity that was, at the end of the return due date, the qualifying entity in relation to the MNE group is liable to a penalty in respect of the failure.

(3) The amount of the penalty, in relation to each failure, is –

(a) if the return is submitted before the end of the period of 1 month beginning with the return due date, the basic penalty amount;

(b) in any other case, the lower of –

(i) the basic penalty amount plus the additional penalty amount, and

(ii) the maximum penalty.

(4) The basic penalty amount is £1,000.

(5) The additional penalty amount is £1,000 multiplied by the number of complete months, after the end of the period referred to in paragraph (3)(a) for which the entity fails to submit the return.

(6) The maximum penalty is £12,000.

31 Penalty for inaccurate IIR return

(1) If a qualifying entity, in relation to an MNE group, carelessly or deliberately provides to the Comptroller an IIR return that is incorrect in a material particular, the entity is liable to a penalty.

(2) The amount of the penalty is determined by the Comptroller in accordance with this Article.

(3) If the IIR return is incorrect in more than 1 material particular, the entity is liable to a penalty for each incorrect material particular.

(4) If the act was done –

(a) carelessly, the amount of penalty is not more than 30% of the difference;

(b) deliberately, the amount of penalty is not less than 30% and not more than 100% of the difference.

(5) But if the entity admits to the Comptroller the fact of the incorrect statement other than in response to a discovery, or likely imminent discovery, of it by the Comptroller –

(a) in the case of paragraph (4)(a), the amount of penalty is not more than 10% of the difference;

(b) in the case of paragraph (4)(b), the amount of penalty is not less than 10% and not more than 80% of the difference.

(6) The amount of penalty is additional to the amount of tax that is chargeable on the entity (calculated as if the statement were corrected).

(7) In this Article –

(a) “act” means the conduct described in paragraph (1);

(b) “difference” means the difference between the amount of tax that would be chargeable on the qualifying entity if it were calculated on the basis of the incorrect return and the amount if the return were correct.

DIVISION 3 – ADMINISTRATION OF CIVIL PENALTIES

32 Penalty notice and payment

(1) If an entity is liable to a penalty under Article 29, 30 or 31 the Comptroller may serve a written notice (a "penalty notice") on the entity in accordance with this Article.

(2) In the case of a penalty under Article 29 or 30, the penalty notice must specify the amount of the penalty.

(3) In the case of a penalty under Article 31, the penalty notice must specify –

(a) the amount of IIR tax that would be chargeable calculated on the basis of the incorrect statement;

(b) the amount of IIR tax that is chargeable (calculated as if the statement were corrected);

(c) the difference between the amounts calculated under sub-paragraphs (a) and (b);

(d) the amount of penalty determined by the Comptroller; and

(e) whether the penalty is calculated under Article 31(4)(a) or (b) and, if relevant, that Article 31(5) applies.

(4) Subject to Article 34(3), an entity on which a penalty notice is served must pay the amount of the penalty no later than 40 days after the day on which the notice is served.

33 Application for a waiver

(1) This Article applies where –

(a) an entity is liable to a penalty under Article 29 or 30; and

(b) a penalty notice, in respect of that penalty, is served on the entity under Article 32.

(2) The entity may, before the end of the period of 40 days beginning with the day on which the penalty notice is served, apply to the Comptroller in writing for a waiver under this Article.

(3) The Comptroller may waive an entity's liability to a penalty if satisfied that exceptional circumstances prevented the entity from complying with Article 16, 17 or 20 (as the case may be) at the required time.

(4) If an entity makes an application under paragraph (2), the Comptroller must notify that entity of whether or not the liability has been waived.

PART 7

APPEALS, RECOVERY AND SUPPLEMENTARY ADMINISTRATIVE PROVISIONS

34 Appeals

(1) An entity may appeal to the Commissioners against –

(a) an amendment to an IIR return made by the Comptroller under Article 24;

(b) a decision under Article 25 to reject a request for an amendment to an IIR return;

(c) a penalty notice served under Article 32;

(d) a decision to refuse an application for a waiver of a penalty under Article 33.

(2) An appeal is brought by giving notice to the Comptroller before the end of the period of 40 days beginning with the day on which notice of the amendment or decision, or the penalty notice, is given.

(3) If an appeal is brought under paragraph (1)(c) or (d), the penalty notice is of no effect pending the final determination or withdrawal of the appeal.

(4) Part 6 of the ITL 1961 applies, with the necessary modifications, to an appeal under this Article as if it were an appeal under that Law against an assessment.

(5) In paragraph (1), "Commissioners" means a Commission of Appeal constituted under Article 5 of the Revenue Administration (Jersey) Law 2019.

35 Proceedings for recovery of tax and penalties

(1) Proceedings for the recovery of unpaid tax, or for the recovery of a penalty, due under this Law may be instituted by the Treasurer of the States –

(a) in the case of IIR tax –

(i) at any time after the IIR return due date, or

(ii) in the case of an additional amount of IIR tax required to be paid by a date specified in a notice given by the Comptroller under Article 24(6), at any time after the specified date.

(b) in the case of a penalty –

(i) at any time after the expiry of the period specified in Article 32(4) if no appeal is brought, or

(ii) if an appeal is brought, at any time after the payment of the penalty is due following the final determination of the appeal or at any time after the withdrawal of the appeal.

(2) Article 44 of the ITL 1961 (certificate of Comptroller admissible in evidence) applies for the purpose of the recovery of tax due under this Law as it applies for the purpose of the recovery of income tax, but as if –

(a) references to income tax in paragraph (1) were references to IIR tax; and

(b) the reference to the year ended 31 December in paragraph (1) were a reference to the last day of the fiscal year.

36 Payments to, and repayments by, States' Treasurer

Articles 46 to 48 of the ITL 1961 apply in relation to IIR tax as they apply in relation to income tax (and, for that purpose, references in those Articles to the ITL 1961 are to be treated as references to this Law).

PART 8

CITATION, COMMENCEMENT AND OTHER MATTERS

37 Amendment of definitions

The States may, by Regulation, amend this Law to amend the definition of any term defined in this Law, other than the definition of “Model Rules”.

38 Consequential amendments

Schedule 2 contains consequential amendments to the Revenue Administration (Jersey) Law 2019.

39 Citation and commencement

This Law may be cited as the Multinational Taxation (Global Anti-Base Erosion – IIR Tax) (Jersey) Law 202- and comes into force on 1 January 2025.

SCHEDULE 1

(Article 1(4))

TERMS USED IN THIS LAW AND DEFINED IN THE MODEL RULES

1 Terms used in this Law without modification

adjusted covered taxes
agreed administrative guidance
allocable share of the top-up tax
commentary
constituent entity
controlling interest
entity
excluded entity
fiscal year
flow-through entity
GloBE income or loss
GloBE information return
intermediate parent entity
low-taxed constituent entity
ownership interest
partially-owned parent entity
reverse hybrid entity
top-up tax
ultimate parent entity
UTPR

2 Terms used in this Law with modification

designated local entity (modified by Article 9)
MNE group (modified by Article 4(3))
qualified IIR (modified by Article 10)

SCHEDULE 2

(Article 38)

CONSEQUENTIAL AMENDMENTS TO REVENUE ADMINISTRATION (JERSEY) LAW 2019

1 Introductory

This Schedule amends the Revenue Administration (Jersey) Law 2019.

2 Article 1 (interpretation) amended

(1) This Article amends Article 1(1).

(2) After the definition "Minister" there is inserted –

" "Multinational Taxation (IIR) Law" means the Multinational Taxation (Global Anti-Base Erosion – IIR Tax) (Jersey) Law 202-;".

(3) In the definition "Revenue Laws", after paragraph (g) there is inserted –

"(h) the Multinational Taxation (IIR) Law;".

3 Article 2 (Comptroller of Revenue) amended

In Article 2(1)(a), for "and the Enveloped Property Transactions Tax Law" there is substituted ", the Enveloped Property Transactions Tax Law and the Multinational Taxation (IIR) Law".

4 Part 6A (Comptroller's powers to obtain information) amended

(1) In Article 27A(1), in the definition of "tax", for "or Enveloped Property Transactions Tax Law" there is substituted ", Enveloped Property Transactions Tax Law or Multinational Taxation (IIR) Law".

(2) In Article 27D, after paragraph (2) there is inserted –

"(2A) If an information notice requires information as to a person's position as regards any tax under the Multinational Taxation (IIR) Law, and it is served on a person that is a constituent entity of an MNE group (within the meaning of that Law), a document in the possession or power of 1 constituent entity of the MNE group is treated, for the purpose of paragraph (2), as being in the possession or power of all of the constituent entities of that group.".