STATES OF JERSEY

Jersey

DRAFT MULTINATIONAL CORPORATE INCOME TAX (JERSEY) LAW 202-

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

STATES GREFFE

Jersey

DRAFT MULTINATIONAL CORPORATE INCOME 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 Corporate Income 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 delegates from all

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

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 design of the policy and implementation of Pillar Two in Jersey. This engagement culminated in

[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).

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

Table 7: Pillar Two Forecast Revenues

Pillar Two Net Position				
£'000	2025 Estimate	2026 Estimate	2027 Estimate	2028 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.

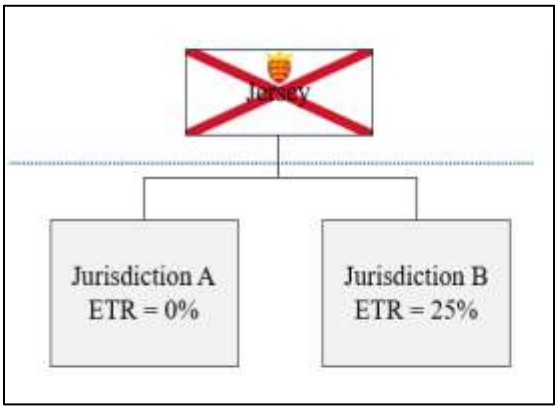
Human rights

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

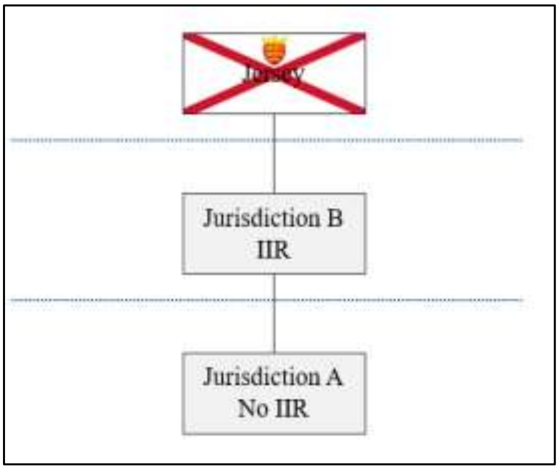
Illustration 1:



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%).

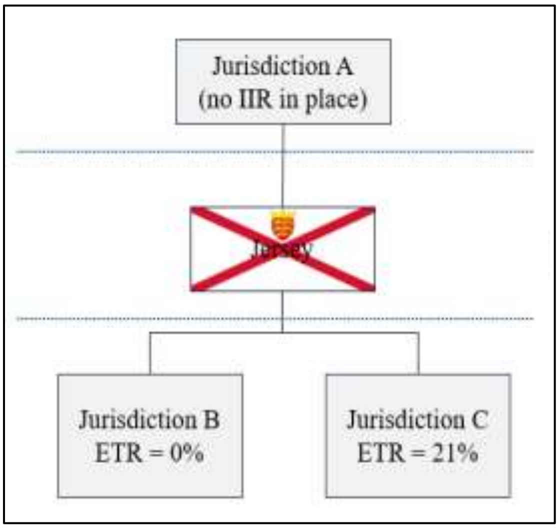
Illustration 2:



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.

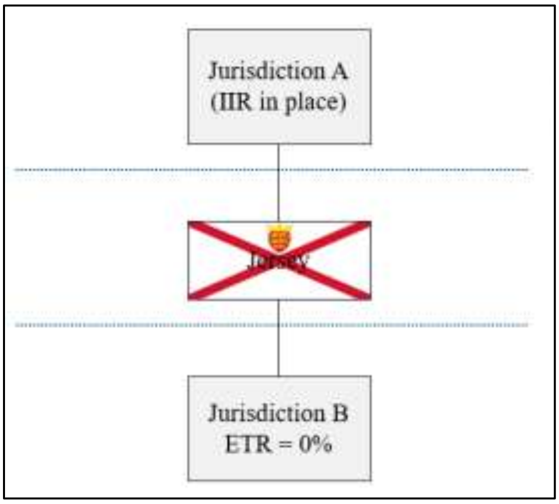
Illustration 3:



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:



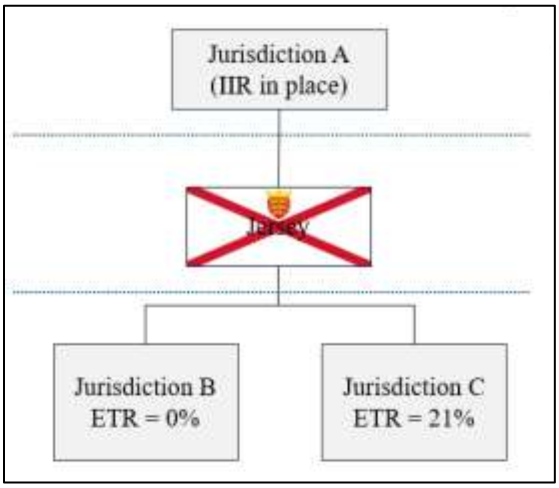
Explanation

- 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

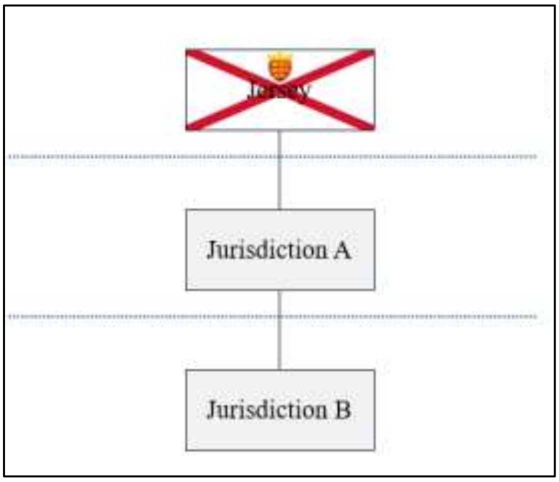
Illustration 5: Effect of implementing the MCIT in Jersey



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%).

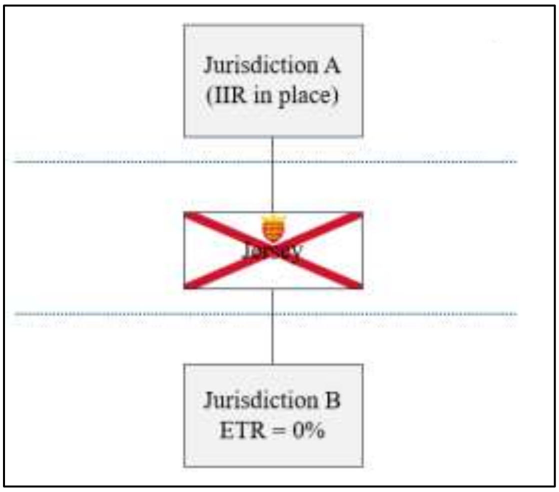
Illustration 6: How the MCIT works when Jersey is the UPE



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.

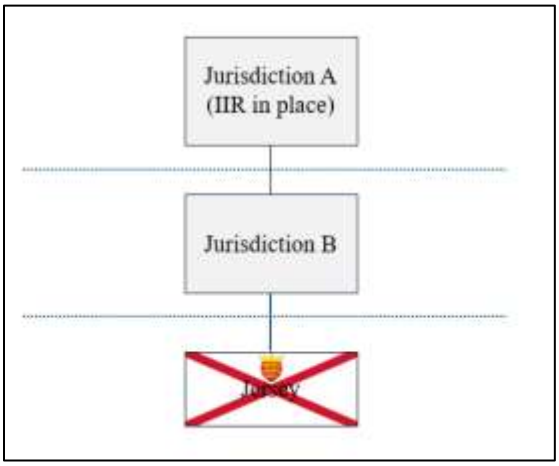
Illustration 7: How the MCIT works when Jersey is the IPE



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:



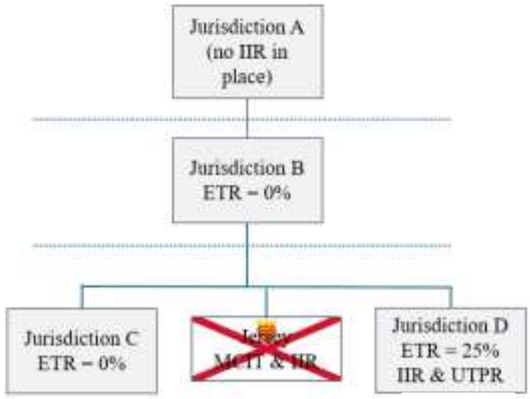
Explanation

- 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 Corporate Income Tax (Jersey) Law 202-

These Notes have been prepared in respect of the draft Multinational Corporate Income 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 creates a new charge to tax for Jersey entities who form part of a large Multinational Group (as per the definitions under the OECD Pillar 2 Model Rules) so that the income from these entities is taxed in Jersey (rather than being taxed in another jurisdiction which has implemented the OECD Pillar 2 Model Rules). This new charge to tax comes with corresponding duties on those entities within its scope to provide returns and make payments. One entity of those entities in the group located in Jersey will be the 'reporting entity' who is fixed with the responsibility of discharging these obligations.

The draft Law provides for enforcement measures which can be employed by the Comptroller, this includes allowing for the application of interest for late payments and provision for penalties to be levied. In addition, a new criminal offence is created where a reporting entity fails, without reasonable excuse, to comply with the requirement to file a return.

The draft Law is considered to engage 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. Overall, and taking particular note of the alignment of the draft Law with the global implementation of a minimum rate of tax for large Multinational Groups, the provisions 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, impose a corporate income tax in respect of Jersey-located entities that are members of large multinational enterprise groups (“MNE groups”).

Part 1 (Articles 1 to 4): Introductory

Article 1 lists terms defined in this Law.

Article 2 provides that terms used in this Law that are defined in the Model Rules have the meaning given by the model rules published by the Organisation of 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”). It also requires the Comptroller, for the purposes of interpreting those terms, to have regard to the related guidance published by the OECD.

Article 3 provides that the Law applies to certain MNE groups, and their constituent entities, for fiscal years beginning on or after 1 January 2025. An MNE group’s “fiscal year”, under the Model Rules, generally means the parent entity’s accounting period. The Law only applies to MNE groups that meet the minimum revenue requirements set out in the Model Rules, and have at least 1 constituent entity (which, in general terms, means a member of the group) located in Jersey.

Article 4 makes provision about determining the location of an entity for the purposes of this Law (including for the purpose of determining an amount or any other matter under a Rule referred to in this Law). The location of an entity is to be determined in accordance with the Model Rules, subject to certain limited exceptions.

Part 2 (Articles 5 to 9): “Chargeable MNE group” and other definitions

Article 5 provides that an MNE group to which this Law applies is a “chargeable MNE group” for a fiscal year unless its Jersey income does not meet certain minimum financial thresholds and it makes an election under this Article. An MNE group that is not a chargeable MNE group will be subject to income tax under the Income Tax (Jersey) Law 1961 (the “ITL 1961”) in the usual way (see also the amendments to the ITL 1961 in Part 1 of Schedule 2 to this Law). There are 2 alternative minimum financial thresholds – one specified in the Model Rules and the other provided for in this Article. For the purposes of the latter, the Minister for Treasury and Resources must by Order specify the minimum threshold amount.

Article 6 makes further provision about elections under *Article 5*.

Article 7 defines the term “Jersey constituent entity”, in relation to an MNE group, as a constituent entity of the group that is located in Jersey but is not an investment entity, an insurance investment entity or a securitisation entity (all of which are defined by reference to OECD material).

Article 8 defines the term “reporting entity”, in relation to an MNE group. If there is no Jersey constituent entity that is either the ultimate parent entity (as defined in the Model Rules) or a qualifying intermediate parent entity, the “reporting entity” is the entity designated by the Comptroller (having regard to any nomination made by the constituent entities of the group).

Article 9 defines “Jersey permanent establishment” for the purposes of this Law. It also makes provision about the treatment of Jersey permanent establishments, in terms of location and category of “permanent establishment”, for the purposes of provisions of the Model Rules referred to in this Law.

Part 3 (Articles 10 to 20): Charging provisions: multinational corporate income tax

Division 1 (Articles 10 and 11) provides for multinational corporate income tax to be charged, in respect of the Jersey constituent entities of an MNE group, at the rate of 15% on the group's "MCIT net GloBE income" for the fiscal year, with a reduction for a tax credit determined in accordance with Division 3.

Division 2 (Articles 12 and 13) makes further provision about determining a group's "MCIT net GloBE income" by reference to particular provisions of the Model Rules (in general terms, this is calculated by reference to the profits of the Jersey constituent entities for the fiscal year).

Division 3 (Articles 14 to 17) makes provision for calculating the amount of an MNE group's tax credit, for the purposes of the charge to tax under Division 1.

Article 14 provides that the creditable tax amount is the aggregate of the MNE group's "basic covered taxes amount" and, if the ultimate parent entity of the MNE group is located in a jurisdiction that charges tax under a blended controlled foreign company tax regime, an additional amount (the "creditable blended CFC amount").

Article 15 makes provision about determining an MNE group's "basic covered taxes amount", by reference to Rule 4 of the Model Rules.

Articles 16 and 17 make provision about calculating a group's "creditable blended CFC amount". This amount is determined by reference to the amount of covered taxes included in the group's consolidated financial statements attributable to a blended CFC tax regime and charged by reference to the income of constituent entities that are controlled foreign companies. It is subject to an overall cap of 7.5% of the group's MCIT net GloBE income for the fiscal year.

Division 4 (Articles 18 and 19) makes provision about payment of multinational corporate income tax.

Article 18 provides that the reporting entity is liable to pay the amount charged in respect of a group for the fiscal year. An instalment must be paid on or before the instalment due date (as defined in *Article 19*) and the balance must be paid on or before the return due date (as defined in *Article 22).*

Article 19 provides that the instalment payable for a fiscal year under *Article 18* is an amount equal to 50% of the reporting entity's reasonable estimate of the amount of multinational corporate income tax payable for that fiscal year. (If the instalment is not paid on time, the amount of the instalment is treated for the purposes of the interest and recovery provisions (*Article 28* and *Article 36(2)*) as being the Comptroller's reasonable estimate of that amount.) This Article also defines "instalment due date" as the date that is 5 months after the end of the fiscal year.

Division 5 (Article 20) makes provision for the carry forward of losses sustained by a Jersey constituent entity for an earlier year of assessment in which it was subject to the provisions of the ITL 1961, instead of this Law. The amount of the MNE group's MCIT net GloBE income for a fiscal year is reduced by the amount of the entity's carried forward loss, and the amount not used in the first fiscal year in which it is available will be carried forward to the next fiscal year (and so on).

Part 4 (Articles 21 to 28): Registration, returns and interest

Division 1 (Article 21) requires the reporting entity in relation to an MNE group to register each Jersey constituent entity with the Comptroller, by providing certain information about the entity. The information must be provided before the end of the first fiscal year for which the Law applies in relation to the group or, if an entity subsequently becomes a constituent entity of the group (and, accordingly, liable to be registered), within 6 months of that occurring. This Article also requires the reporting entity to notify the Comptroller of any change to the information registered, within 6 months of that change. Information required for the purposes of registration under this

Article may be provided to the Comptroller by a Jersey constituent entity of the MNE group on behalf of the reporting entity.

Division 2 (Articles 22 and 23) makes provision requiring the reporting entity in relation to a chargeable MNE group to submit a return (an “MCIT return”) containing an assessment, by the reporting entity, as to the amount of multinational corporate income tax payable by the entity for a fiscal year. The return must be submitted within 12 months of the end of the fiscal year (which is defined as the “return due date”).

Division 3 (Articles 24 to 25) makes provision about amendments to MCIT returns.

Article 24 provides that a reporting entity may amend its MCIT return up to 5 years after the return due date.

Article 25 provides that, if the Comptroller considers that an MCIT return submitted by the reporting 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 reporting 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 26 provides that the reporting entity may request that the Comptroller exercises the power under *Article 25* to amend an MCIT 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 35*, against a decision of the Comptroller to refuse a request for an amendment to the MCIT return in these circumstances.

Article 27 provides that, if the reporting entity fails to submit an MCIT return for a fiscal year, the Comptroller may make an assessment of the amount of multinational corporate income tax payable by the entity for that year. There is no right of appeal against an assessment made under this Article but, if the reporting entity submits an MCIT return for the same fiscal year within the following 12 months, the Comptroller’s assessment is disregarded.

Division 4 (Article 28) provides that, if an entity fails to pay an amount of multinational corporate income tax by the date it is due, the entity is liable to pay interest at the rate specified by the States by Regulations.

Part 5 (Articles 29 to 34): Offences and penalties

Division 1 (Article 29) provides that it is an offence for a reporting entity to fail, without reasonable excuse, to comply with the requirement in *Article 22* to submit an MCIT return on or before the return due date. An entity that commits an offence under this Article is liable to a fine.

Division 2 (Articles 30 to 32) makes provision about civil penalties.

Article 30 provides that a reporting entity is liable to a penalty if it fails to register 1 or more entities under *Article 21*, or to notify the Comptroller of a change to the registered information, within the required time period. The penalty, in relation to 1 or more failures by a reporting entity in a fiscal year, is £3,000.

Article 31 provides that a reporting entity is liable to a penalty for failing to submit an MCIT return on or before the return due date. The amount of the penalty is £300 if the return is submitted up to 1 month late. The amount of the penalty increases by £100 per month for each additional month for which the return is not submitted, up to a maximum of £1,200.

Article 32 provides that a reporting entity is liable to a penalty for carelessly or deliberately providing an MCIT 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 correct amount of tax due. 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 33 and 34) makes provision about the administration of civil penalties.

Article 33 provides for the Comptroller to serve a notice on the entity that is liable for the penalty, specifying the amount of the penalty and, in the case of penalty under *Article 32*, other details relating to the determination of that amount. The penalty must be paid within 40 days of the notice being served.

Article 34 provides that the Comptroller may, on application by an entity liable for a penalty under *Article 30 or 31*, waive the penalty if satisfied that exceptional circumstances prevented the entity from complying with the requirements as to registration or submitting an MCIT return (as the case may be).

Part 6 (Articles 35 to 37): Appeals, recovery and supplementary administrative provisions

Article 35 provides that an entity may appeal to a Commission of Appeal, constituted under the Revenue Administration (Jersey) Law 2019, against an amendment to an MCIT return made by the Comptroller, or a decision to reject a request for an amendment under *Article 26*. An entity may also appeal against a penalty notice and a decision to refuse an application for waiver of a penalty.

Article 36 makes provision about proceedings for recovery of unpaid tax or a penalty.

Article 37 provides that Articles 46 to 48 of the ITL 1961 apply in relation to multinational corporate income 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 7 (Article 38): Qualified refundable tax credits

Article 38 provides that the States may, by Regulations, make provision for a qualified refundable tax credit (as defined in the Model Rules) in relation to multinational corporate income tax.

Part 8 (Articles 39 to 41)

Article 39 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 40 introduces *Schedule 2*, which makes amendments to the ITL 1961 and the Revenue Administration (Jersey) Law 2019.

Article 41 gives the title of this Law and provides that it comes into force on 1 January 2025.

Schedules

Schedule 1 amends Part 15 of the ITL 1961 to provide that the income, profits and gains of Jersey constituent entities of chargeable MNE groups are not charged to income tax under both the ITL 1961 and this Law. The amendments provide for apportionment if the status of a constituent entity, or a chargeable MNE group, changes part of the way through a year of assessment. In addition, the amendments disapply certain administrative requirements for entities that are part of chargeable MNE groups, and make provision for the carry forward of losses under this Law in cases where a constituent entity, or the MNE group, have ceased to be chargeable to multinational corporate income tax.

Schedule 2 makes minor amendments to the Revenue Administration (Jersey) Law 2019.

Jersey

DRAFT MULTINATIONAL CORPORATE INCOME TAX (JERSEY) LAW 202-

Contents

Article

Jersey

DRAFT MULTINATIONAL CORPORATE INCOME TAX (JERSEY) LAW 202-

A LAW to impose a corporate income tax in respect of entities that are members of large multinational enterprise groups, and for connected purposes.

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

INTRODUCTORY

1 Interpretation

(1) In this Law –

"basic covered taxes amount" is defined in Article 15;

"blended CFC amount" is defined in Article 16(3);

"chargeable MNE group" is defined in Article 5;

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

"creditable blended CFC amount" is defined in Article 17;

"in-scope MNE group" is defined in Article 3(2);

"instalment due date" is defined in Article 19(1);

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

"Jersey constituent entity" is defined in Article 7;

"Jersey permanent establishment" is defined in Article 9;

"MCIT return" is defined in Article 23;

"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";

"multinational corporate income tax" (or "MCIT") is defined in Article 10;

"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 OECD June guidance;

"OECD June guidance" means 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";

"reporting entity" is defined in Article 8;

"return due date" is defined in Article 22(2).

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

2 Application of definitions used in the Model Rules

(1) Terms used in this Law that are defined in the Model Rules (and are not defined differently in this Law) have the meaning given by the Model Rules.

(2) For the purpose of paragraph (1), references in the Model Rules to an implementing jurisdiction are treated as references to Jersey.

(3) For the purpose of interpreting the terms defined in the Model Rules, the Comptroller must have regard to the OECD commentary.

(4) Schedule 1 contains a list of terms used in this Law that are defined in the Model Rules.

3 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) 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.

4 Location of an entity

(1) The location of an entity, for the purposes of this Law (including for the purpose of determining an amount or any other matter under a Rule referred to in this Law), is to be determined in accordance with Rule 10.3, 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 in relation to an entity that –

(a) is a reverse hybrid entity; and

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

(5) The entity is treated as being located in Jersey (and is not treated as a stateless entity under Rule 10.3.2(b)).

(6) Article 9(2) makes provision about the location of a Jersey permanent establishment.

PART 2

"CHARGEABLE MNE GROUP" AND OTHER DEFINITIONS

5 Chargeable MNE group

(1) An in-scope MNE group is a "chargeable MNE group", in relation to a fiscal year, unless the exemption under paragraph (2) applies.

(2) The exemption applies, in relation to an in-scope MNE group for a fiscal year, if –

(a) either Condition A or Condition B is met (or both are met); and

(b) the reporting entity in relation to the group elects for the exemption to apply.

(3) Condition A is that –

(a) the group's average GloBE revenue of Jersey for the fiscal year is less than the amount specified in Rule 5.5.1(a); and

(b) the group's average GloBE income or loss of Jersey for the fiscal year is a loss or is less than the amount specified in Rule 5.5.1(b).

(4) Condition B is that the group's MCIT net GloBE income for the fiscal year is less than the minimum threshold amount.

(5) For the purposes of paragraph (3), an in-scope MNE group's average GloBE revenue of Jersey, and average GloBE income or loss of Jersey, are to be determined in accordance with Rules 5.5.2, 5.5.3 and 5.5.4 but as if –

(a) the references in those rules to the GloBE income or loss of the jurisdiction were references to the MCIT net GloBE income; and

(b) Rule 5.5.3(b) were omitted.

(6) For the purposes of paragraphs (4) and (5), an in-scope MNE group's MCIT net GloBE income is determined in accordance with Articles 12 and 13 (but, for those purposes, the reference in Article 12(1) to the "chargeable MNE group" is to be treated as a reference to the "in-scope MNE group").

(7) The Minister for Treasury and Resources must, by Order, specify the minimum threshold amount for the purpose of paragraph (4).

6 Elections under Article 5

An election under Article 5(2)(b) –

(a) is made, in relation to a fiscal year, by giving written notice to the Comptroller –

(i) on or before the return due date for the fiscal year, and

(ii) in the form and manner specified by the Comptroller; and

(b) has effect –

(i) for the purposes of multinational corporate income tax, for that fiscal year, and

(ii) for the purposes of income tax charged in accordance with the ITL 1961, for the year of assessment in which that fiscal year ends.

7 Jersey constituent entity

(1) “Jersey constituent entity”, in relation to an in-scope MNE group, means a constituent entity of the group that –

(a) is located in Jersey; and

(b) is not –

(i) an investment entity,

(ii) an insurance investment entity, or

(iii) a securitisation entity.

(2) In this Article, “securitisation entity” has the meaning given by paragraph 24 of Chapter 6 (treatment of securitisation vehicles) of the OECD June guidance.

8 Reporting entity

(1) The “reporting entity” in relation to an in-scope MNE group is –

(a) a Jersey constituent entity that is the ultimate parent entity of the group;

(b) if there is no entity within sub-paragraph (a), a Jersey constituent entity that –

(i) is an intermediate parent entity of the group, and

(ii) is the only Jersey constituent entity that is an intermediate parent entity of the group; or

(c) if there is no entity within sub-paragraph (a) or (b), a Jersey constituent entity of the group that is designated by the Comptroller for the purposes of this Article.

(2) In determining which entity to designate under paragraph (1)(c), 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 to designate an entity, give written notice of the designation to the entity.

9 Jersey permanent establishment

(1) “Jersey permanent establishment” means a place of business that –

(a) is, or would be, treated as a permanent establishment in Jersey for the purposes of the ITL 1961; or

(b) would be treated as a permanent establishment for the purposes of the ITL 1961 if, in the definition of that term in Article 3(1) of that Law –

(i) the references to a company included references to another type of entity, and

(ii) the reference to the directors of a company included a reference to the equivalent officers of that type of entity.

(2) For the purpose of determining an amount or any other matter under a Rule referred to in this Law (for the purposes of this Law), a Jersey permanent establishment –

(a) is treated as being located in Jersey; and

(b) is treated as if it were within paragraph (b) of the definition of "permanent establishment" in Rule 10.1 (and not within any other paragraph of that definition).

PART 3

CHARGING PROVISIONS: MULTINATIONAL CORPORATE INCOME TAX

DIVISION 1 – CHARGE TO MULTINATIONAL CORPORATE INCOME TAX

10 Multinational corporate income tax

A tax called "multinational corporate income tax" is charged, in respect of the Jersey constituent entities of a chargeable MNE group, in accordance with this Part.

11 Charge to tax

The amount of multinational corporate income tax charged for a fiscal year is determined by –

(a) calculating 15% of the chargeable MNE group's MCIT net GloBE income for the fiscal year (see Article 12); and

(b) reducing that amount by the chargeable MNE group's creditable tax amount for the fiscal year (see Article 14).

DIVISION 2 – DETERMINING MCIT NET GLOBE INCOME

12 MCIT net GloBE income

(1) The reporting entity in relation to a chargeable MNE group must determine, for a fiscal year –

(a) the GloBE income or loss of each Jersey constituent entity, in accordance with Rules 3.1 to 3.5;

(b) the sum of the GloBE income of all Jersey constituent entities determined, in each case, under sub-paragraph (a) (the "income amount");

(c) the sum of the GloBE losses of all Jersey constituent entities determined, in each case, under sub-paragraph (a) (the "loss amount"); and

(d) the amount given by deducting the loss amount from the income amount.

(2) The group's MCIT net GloBE income for the fiscal year –

(a) is the amount determined under paragraph (1)(d); or

(b) if that amount is a negative amount (a loss), is nil.

(3) Paragraph (2) is subject to Article 20 (carry forward of unrelieved ITL losses).

13 Supplementary provision about determining amounts under Article 12

(1) This Article applies for the purpose of determining amounts, in relation to a fiscal year, under Article 12.

(2) Rule 9.1 applies in determining those amounts as it would apply for determining the effective tax rate under the Model Rules.

(3) In determining those amounts, the reporting entity must also comply with the following Rules, if and so far as the conditions for the application of those Rules are met –

(a) the Rules contained in Chapter 6 of the Model Rules (corporate restructurings and holding structures);

(b) the Rules contained in Chapter 7 of the Model Rules (tax neutrality and distribution regimes).

(4) For the purpose of paragraph (3)(b), the reference in Rule 7.3.8(b) to the net GloBE income of the jurisdiction, determined in accordance with Rule 5.1.2, is to be treated as a reference to the MCIT net GloBE income.

DIVISION 3 – CREDITABLE TAX

14 Creditable tax

A chargeable MNE group's creditable tax amount is the aggregate of –

(a) the group's basic covered taxes amount (see Article 15); and

(b) if Article 16 applies in relation to the chargeable MNE group, the group's creditable blended CFC amount (see Article 17).

15 Basic covered taxes amount

(1) The "basic covered taxes amount", in relation to a Jersey constituent entity ("E") for a fiscal year, is an amount equal to the covered taxes of the entity for the fiscal year –

(a) including, if E is a constituent entity-owner in relation to a tax transparent entity, the covered taxes referred to in Rule 4.3.2(b) that are allocated to E under Rule 3.5.1(b) for the purpose of determining E's GloBE income or loss; but

(b) excluding –

(i) if E is a Jersey permanent establishment, the covered taxes referred to in Rule 4.3.2(a),

(ii) if E is a constituent entity whose constituent entity-owners are subject to a controlled foreign company tax regime, the covered taxes referred to in Rule 4.3.2(c),

(iii) if E is a hybrid entity, the covered taxes referred to in Rule 4.3.2(d),

(iv) if E is a reverse hybrid entity, the covered taxes included in the financial accounts of a constituent entity-owner on income of E,

(v) covered taxes referred to in Rule 4.3.2(e) on distributions from E, and

(vi) the amount (if any) of multinational corporate income tax.

(2) For the purposes of Article 14, a chargeable MNE group's basic covered taxes amount is the aggregate of the basic covered taxes amount for all of the Jersey constituent entities of the group.

16 Blended CFC tax regimes

(1) This Article applies in relation to a chargeable MNE group if the ultimate parent entity of the group is located in a jurisdiction that charges tax under a blended CFC tax regime.

(2) A "blended CFC tax regime" is a controlled foreign company tax regime that would be treated as a blended CFC tax regime for the purposes of the application of paragraph 58 of Chapter 4 of the OECD commentary (computation of adjusted covered taxes: CFCs).

(3) A chargeable MNE group's "blended CFC amount" for a fiscal year is an amount equal to the total amount of covered taxes that –

(a) are included in the group's consolidated financial statements for the fiscal year and are attributable to a blended CFC tax regime; and

(b) are charged on constituent entity-owners by reference to the income of constituent entities that are controlled foreign companies.

17 Creditable blended CFC amount

(1) The "creditable blended CFC amount", in relation to a chargeable MNE group for a fiscal year, is an amount equal to the lower of –

(a) the group's blended CFC amount; and

(b) the group's tax credit cap.

(2) A chargeable MNE group's "tax credit cap" for a fiscal year is an amount equal to 7.5% of the group's MCIT net GloBE income for the fiscal year.

DIVISION 4 – PAYMENT

18 Reporting entity liable to pay multinational corporate income tax

(1) The reporting entity in relation to a chargeable MNE group is liable to pay the multinational corporate income tax charged in relation to the group for a fiscal year.

(2) The reporting entity must –

(a) on or before the instalment due date, pay to the Comptroller an instalment for the fiscal year (determined in accordance with Article 19); and

(b) on or before the return due date for the fiscal year, pay to the Comptroller the amount determined in accordance with Article 11, less the amount paid under sub-paragraph (a).

19 Instalments

(1) The "instalment due date" is the date that is 5 months after the end of the fiscal year.

(2) The amount of an instalment for a fiscal year, payable under Article 18(2)(a), is the amount equal to 50% of the reporting entity's reasonable estimate of the amount of multinational corporate income tax payable by the entity for the fiscal year.

(3) If the reporting entity fails to pay an instalment on or before the instalment due date, the amount of the instalment is treated for the purposes of Article 28 (interest for late payment) and Article 36(2) (proceedings for recovery of tax) as being the amount equal to 50% of the Comptroller's reasonable estimate of the amount of multinational corporate income tax payable by the entity for the fiscal year.

DIVISION 5 – CARRY FORWARD OF LOSSES

20 Carry forward of unrelieved ITL losses

(1) This Article applies in relation to a chargeable MNE group for a fiscal year if –

(a) a Jersey constituent entity of the group was, at any time in an earlier year of assessment, an ITL chargeable entity;

(b) the entity sustained a loss in the earlier year of assessment;

(c) if the entity were an ITL chargeable entity in a year of assessment after the year of assessment in which the loss is sustained, it would be entitled to claim relief for that loss under any provision of the ITL 1961 (disregarding Articles 107(1A) and 107A(1)); and

(d) relief has not been given under any provision of the ITL 1961 in respect of the loss (or in respect of part of it).

(2) The amount of the MNE group's MCIT net GloBE income, determined in accordance with Articles 12 and 13, is reduced by the carried forward loss amount for the fiscal year.

(3) The "carried forward loss amount" for a fiscal year is the amount of the unrelieved ITL loss, so far as –

(a) it does not exceed the amount determined under Article 12(1)(d), in relation to the chargeable MNE group for the fiscal year;

(b) relief in respect of it has not been given under paragraph (2) for an earlier fiscal year; and

(c) it has not been taken into account, in accordance with Rule 9.1 as applied by Article 13, in determining an amount for the purposes of Article 9(1) (for any fiscal year).

(4) In this Article –

(a) "earlier year of assessment", in relation to a fiscal year, means a year of assessment that ends before the beginning of the fiscal year;

(b) "ITL chargeable entity", in relation to a time in a year of assessment, means an entity that is not, at that time, a "relevant MNE group entity" for the purposes of the ITL 1961 (see Article 120AB of that Law);

(c) "unrelieved ITL loss" means the loss, or the part of the loss, referred to in paragraph (1) in respect of which relief has not been given under any provision of the ITL 1961;

(d) "year of assessment" has the same meaning as in the ITL 1961.

PART 4

REGISTRATION, RETURNS AND INTEREST

DIVISION 1 – REGISTRATION

21 Registration

(1) A reporting entity in relation to an in-scope MNE group must register each Jersey constituent entity with the Comptroller.

(2) An entity is registered by providing the following information to the Comptroller –

(a) the name of the entity;

(b) the tax identification number issued by the Comptroller for the entity;

(c) the name of the ultimate parent entity of the in-scope MNE group; and

(d) the other information, if any, reasonably required by the Comptroller by notice.

(3) The information must be provided in the form and manner specified by the Comptroller.

(4) The information must be provided –

(a) before the end of the first fiscal year for which this Law applies to the in-scope MNE group; or

(b) if an entity subsequently becomes a Jersey constituent entity in relation to the in-scope MNE group (and, accordingly, liable to be registered), before the end of the period of 6 months beginning with the day on which the entity becomes a Jersey constituent entity.

(5) The reporting entity must notify the Comptroller of any change to the information registered, in relation to a Jersey constituent entity of the in-scope MNE group, under this Article (including where a registered entity ceases to be a Jersey constituent entity of the group).

(6) A notification under paragraph (5) must be provided –

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

(b) no later than 6 months after the day on which the change occurs.

(7) If the reporting entity is required to provide information under paragraph (2), or a notification under paragraph (5), that information or notification may be provided on behalf of the reporting entity by another Jersey constituent entity of the in-scope MNE group.

DIVISION 2 – MCIT RETURN

22 Reporting entity required to file MCIT return

(1) A reporting entity in relation to a chargeable MNE group must, on or before the return due date, submit to the Comptroller an MCIT return for the fiscal year.

(2) The "return due date", for a fiscal year, is the date that is 12 months after the end of the fiscal year.

23 Self-assessment: content and form of MCIT return

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

(a) an assessment by the reporting entity in relation to the chargeable MNE group of the amount of multinational corporate income tax payable by the entity for the fiscal year;

(b) the financial statements of each Jersey constituent entity of the chargeable MNE group; and

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

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

DIVISION 3 – AMENDMENTS TO MCIT RETURNS

24 Amendment by a reporting entity

(1) A reporting entity may, by notice to the Comptroller, amend an MCIT 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 MCIT return must be submitted in the form and manner specified by the Comptroller by notice.

25 Amendment by the Comptroller

(1) If the Comptroller considers that an MCIT return submitted by a reporting 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 MCIT 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 MCIT return later than 5 years after the return submission date.

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

(a) the return due date;

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

(c) if the MCIT return is amended by the reporting entity under Article 24, 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 MCIT return at any time.

(6) If the inaccuracy is due to an alteration (after the submission of the MCIT 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 MCIT return at any time.

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

(a) the amendment;

(b) the revised amount of multinational corporate income tax that the reporting entity is required to pay for the fiscal year to which the MCIT return relates; and

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

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

26 Request for an amendment by the Comptroller

(1) This Article applies if an MCIT return becomes inaccurate (after its submission by a reporting 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 reporting entity in relation to the MNE group may, by written notice, request that the Comptroller exercises the power to amend the MCIT return under Article 25(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) either –

(i) if the request is rejected, give written notice to that effect to the reporting entity, or

(ii) if the request is accepted, comply with the notice requirement under Article 25(7).

(4) Notice given under paragraph (3)(b)(i) must state the Comptroller's reasons for rejecting the request.

27 Assessments by the Comptroller

(1) If a reporting entity fails to comply with Article 22 (requirement to file MCIT return) in relation to a fiscal year, the Comptroller may make an assessment of the amount of multinational corporate income tax payable by the entity for that year.

(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 reporting 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) But an assessment made in relation to a reporting 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 reporting entity submits an MCIT return for the same fiscal year to the Comptroller.

(7) Article 25 applies in relation to the MCIT return referred to in paragraph (6) as it applies to an MCIT return submitted in accordance with Article 22.

DIVISION 4 – INTEREST

28 Interest for late payment of multinational corporate income tax

(1) This Article applies if –

(a) an entity fails to pay –

(i) an instalment of multinational corporate income tax, payable under Article 18(2)(a) for a fiscal year, on or before the instalment due date, or

(ii) an amount of multinational corporate income tax, payable under Article 18(2)(b) for a fiscal year, on or before the return due date for that fiscal year; and

(b) the States have, by Regulations made under this paragraph, 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 –

(i) the instalment due date (in a case within paragraph (1)(a)(i)), or

(ii) the return due date (in a case within paragraph (1)(a)(ii)); 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 18(2)(a) or (b) (as the case may be) at the required time.

PART 5

OFFENCES AND PENALTIES

DIVISION 1 – OFFENCES

29 Offences

(1) It is an offence for a reporting entity in relation to a chargeable MNE group to fail, without reasonable excuse, to comply with a requirement imposed by Article 22 (requirement to file MCIT 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

30 Penalty for failure to register

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

(a) fails to register 1 or more entities under Article 21 on or before the relevant date; or

(b) fails to notify the Comptroller of a change to the registered information, in relation to an entity, on or before the relevant date.

(2) The “relevant date” means –

(a) for the purpose of paragraph (1)(a), the last day by which the information is required to be provided, in order to register, under Article 21(4);

(b) for the purpose of paragraph (1)(b), the last day of the period specified in Article 21(6)(b).

(3) The entity that was, at the end of the relevant date, the reporting entity in relation to the in-scope MNE group is liable to a penalty in respect of the failure.

(4) The penalty, in relation to 1 or more failures by a reporting entity under paragraph (1) in a fiscal year, is £3,000.

31 Penalty for failure to submit an MCIT return

(1) This Article applies if a reporting entity in relation to a chargeable MNE group fails to submit an MCIT return, for a fiscal year, to the Comptroller 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 chargeable 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 £300.

(5) The additional penalty amount is £100 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 £1,200.

32 Penalty for inaccurate return

(1) If a reporting entity, in relation to a chargeable MNE group, carelessly or deliberately provides to the Comptroller an MCIT 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 MCIT 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 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

33 Penalty notice and payment

(1) If an entity is liable to a penalty under Article 30, 31 or 32, 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 30 or 31, the penalty notice must specify the amount of the penalty.

(3) In the case of a penalty under Article 32, the penalty notice must specify –

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

(b) the amount of multinational corporate income 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 32(4)(a) or (b) and, if relevant, that Article 32(5) applies.

(4) Subject to Article 35(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.

34 Application for a waiver

(1) This Article applies if –

(a) an entity is liable to a penalty under Article 30 or 31; and

(b) a penalty notice, in respect of that penalty, is served on the entity under Article 33.

(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 reporting entity from complying with Article 21 or 22 (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 6

APPEALS, RECOVERY AND SUPPLEMENTARY ADMINISTRATIVE PROVISIONS

35 Appeals

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

(a) an amendment to an MCIT return made by the Comptroller under Article 25;

(b) a decision under Article 26 to reject a request for an amendment to an MCIT return;

(c) a penalty notice served under Article 33;

(d) a decision to refuse an application for a waiver of a penalty under Article 34.

(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.

36 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 multinational corporate income tax –

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

(ii) in the case of an additional amount of multinational corporate income tax required to be paid by a date specified in a notice given by the Comptroller under Article 25(7), 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 33(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) Proceedings for the recovery of an instalment of multinational corporate income tax due under Article 19 may be instituted by the Treasurer of the States at any time after the instalment due date.

(3) 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 multinational corporate income 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.

37 Payments to, and repayments by, States' Treasurer

Articles 46 to 48 of the ITL 1961 apply in relation to multinational corporate income 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 7

QUALIFIED REFUNDABLE TAX CREDITS

38 Power to make provision for qualified refundable tax credits

(1) The States may, by Regulations, make provision for a qualified refundable tax credit (a "QRTC") in relation to multinational corporate income tax.

(2) Regulations under paragraph (1) may, in particular –

(a) impose conditions for receiving the QRTC;

(b) make provision about the credit or refund of the QRTC;

(c) amend this Law for the purpose of applying the QRTC.

PART 8

CITATION, COMMENCEMENT AND OTHER MATTERS

39 Power to amend definitions

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

40 Amendments to other Laws

Schedule 2 contains amendments to the ITL 1961 and the Revenue Administration (Jersey) Law 2019.

41 Citation and commencement

This Law may be cited as the Multinational Corporate Income Tax (Jersey) Law 202- and comes into force on 1 January 2025.

SCHEDULE 1

(Article 2(4))

TERMS DEFINED IN THE MODEL RULES

agreed administrative guidance
average GloBE income or loss
average GloBE revenue
commentary
constituent entity
constituent entity-owner
controlled foreign company tax regime
covered taxes
effective tax rate
entity
fiscal year
flow-through entity
GloBE income or loss
hybrid entity
insurance investment entity
intermediate parent entity
investment entity
MNE group
qualified refundable tax credit
reverse hybrid entity
tax transparent entity
ultimate parent entity

SCHEDULE 2

(Article 40)

AMENDMENTS TO OTHER LAWS

PART 1

ITL 1961 AMENDED

1 ITL 1961 amended

In Part 15 of the ITL 1961, after Article 120AA there is inserted –

"120AB Relevant MNE group entities

(1) Income, profits and gains of a relevant MNE group entity are not chargeable to income tax under this Law.

(2) A person is a "relevant MNE group entity", for all or part of a year of assessment, if –

(a) it is, for the whole or that part of the year of assessment, a Jersey constituent entity of an MNE group; and

(b) for a fiscal year ending in the year of assessment, the MNE group referred to in paragraph (a) is a chargeable MNE group for the purposes of Part 3 of the MCIT Law.

(3) If a person is a relevant MNE group entity for part (but not the whole) of a year of assessment, the person's income, profits and gains are to be apportioned for the purposes of assessing and charging income tax under this Law –

(a) by reference to the proportion of the year of assessment for which the person is not a relevant MNE group entity; or

(b) on another basis that the Comptroller considers is just and reasonable in all the circumstances.

(4) In this Article and in Article 120AD, "MCIT Law" means the Multinational Corporate Income Tax (Jersey) Law 202-.

(5) Terms used in paragraph (2) have the same meaning as in the MCIT Law.

120AC Article 120AB cases: disapplication of certain requirements to provide returns etc.

(1) A requirement to provide a return for a year of assessment, or a period within a year of assessment, imposed by a notice under Article 20B (companies) or Article 20D (foundations) does not apply to a company or foundation that is a relevant MNE group entity (as defined in Article 120AB) for that year or period.

(2) A requirement to provide a return for a year of assessment, or a period within a year of assessment, imposed by a general notice under Article 135C (limited

liability companies), does not apply to the secretary of a limited liability company that is a relevant MNE group entity for that year or period.

(3) For the purposes of Article 20E (returns of information by partnerships) –

(a) the requirement in paragraph (1) to notify the Comptroller as to whether the partnership is a relevant partnership does not apply, in relation to a year of assessment, to the responsible partner of a partnership that is a relevant MNE group entity for the whole of a year of assessment; and

(b) a partnership that is a relevant MNE group entity for the whole of a year of assessment is not a relevant partnership for that year.

120AD Article 120AB cases: carry forward of losses in subsequent years

(1) This Article applies if –

(a) a person is, for a year of assessment, a relevant MNE group entity (as defined in Article 120AB) in relation to an MNE group;

(b) the person ceases, in a subsequent year of assessment (the "transition year of assessment"), to a be a relevant MNE group entity; and

(c) for the fiscal year ending in the transition year of assessment, the MNE group's average GloBE income or loss of Jersey is a loss (the "MNE group loss").

(2) For the purposes of the transition year of assessment, Article 108 has effect as if –

(a) references in that Article to a loss sustained by the person were references to the amount of the MNE group loss attributable to the person; and

(b) references in that Article to relief under any provision of this Law were references to relief under any provision of the MCIT Law.

(3) For the purposes of each subsequent year of assessment for which the person is not a relevant MNE group entity, Article 108 has effect as if references in that Article to a loss sustained by the person included references to the person's MNE group loss balance.

(4) The "MNE group loss balance", in relation to a person for a year of assessment (the "relevant year"), means the amount of the MNE group loss attributable to the person, for which relief under Article 108 has not been given –

(a) in the transition year; or

(b) in a year of assessment that begins after the transition year (but before the relevant year).

(5) Terms used in this Article have the same meaning as in the MCIT Law.".

PART 2

REVENUE ADMINISTRATION (JERSEY) LAW 2019 AMENDED

2 Introductory

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

3 Article 1 (interpretation) amended

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

(2) After the definition "LTC contribution" there is inserted –

" "MCIT Law" means the Multinational Corporate Income Tax (Jersey) Law 202-;".

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

"(i) the MCIT Law;".

4 Article 2 (Comptroller of Revenue) amended

In Article 2(1)(a) (Comptroller responsible for the collection and administration of taxes and charges) for "and the Multinational Taxation (IIR) Law" there is substituted ", the Multinational Taxation (IIR) Law and the MCIT Law".

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

(1) In Article 27A(1) (interpretation and application of this Part) in the definition "tax", for "or Multinational Taxation (IIR) Law" there is substituted ", Multinational Taxation (IIR) Law or the MCIT Law".

(2) In Article 27D (appeals against information notices), in paragraph (2A), after "the Multinational Taxation (IIR) Law" there is inserted "or the MCIT Law".