

# OECD Releases Administrative Guidance, including the Side-by-Side Package

On 5 January 2026, the OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting ("**BEPS**") released a comprehensive package of administrative guidance on the Pillar Two Global Anti-Base Erosion ("**GloBE**") rules, including the Side-by-Side ("**SbS**") system.

This package introduces simplifications and safe harbours to enhance certainty, reduce compliance burdens, and enable coexistence with certain domestic regimes (notably the US Net CFC Tested Income ("**NCTI**") rules).

## Key elements of the package include:

### 1. Pillar Two simplifications:

- › A new permanent Simplified Effective Tax Rate ("**ETR**") Safe Harbour, using simplified computations to deem top-up tax zero in a jurisdiction if the Multinational Enterprises ("**MNE**")s simplified ETR is at least 15%. This safe harbour is generally available for fiscal years beginning on or after 31 December 2026 (i.e., starting in 2027), with potential application as early as fiscal years beginning in 2026 under certain conditions specified by implementing jurisdictions.
- › A one-year extension of the Transitional Country-by-Country Report ("**CbCR**") Safe Harbour ("**TCSH**"), now applying to fiscal years beginning on or before 31 December 2027 (but excluding any fiscal year ending after 30 June 2029).

### 2. Substance-Based Tax Incentive ("**SBTI**") Safe Harbour:

- › A new safe harbour, integrated with the Simplified ETR Safe Harbour, that allows an MNE Group to elect to treat certain expenditure-based and production-based Qualified Tax Incentives ("**QTIs**") as an addition to Adjusted Covered Taxes (up to a substance-based cap).
- › This election increases the ETR by adding the QTI value to taxes (while excluding QTIs from GloBE Income), thereby potentially eliminating top-up tax attributable to those QTIs.

- › Expenditure-based QTIs are tied to qualifying expenditures incurred (e.g., R&D tax credits or super deductions), while production-based QTIs are based on the volume of tangible property produced (not value-based metrics like revenues). The addition is limited to the lower of the QTI amount or the substance cap, which defaults to 5.5% of the greater of (i) the sum of Eligible Payroll Costs of Eligible Employees that perform activities for the MNE in the jurisdiction, or (ii) the depreciation and depletion on Eligible Tangible Assets (excluding land and non-depreciable assets, with an alternative elective cap of 1% of the carrying value of Eligible Tangible Assets for five consecutive years). This safe harbour applies for fiscal years beginning on or after 1 January 2026.

### 3. SbS System Safe Harbours:

- › For MNE groups with headquarters in jurisdictions with a Qualified SbS regime (meaning that it has both eligible domestic tax and worldwide tax systems), two safe harbours exempt them from the Income Inclusion Rule ("**IIR**") and Undertaxed Profits Rule ("**UTPR**") in other jurisdictions.
- › The broader SbS Safe Harbour provides a global exemption for the entire group.
- › The narrower Ultimate Parent Entity ("**UPE**") Safe Harbour exempts only profits in the UPE jurisdiction from the UTPR.
- › Currently, only the United States (via its NCTI regime) qualifies as a Qualified SbS regime.

These safe harbours apply for fiscal years beginning on or after 1 January 2026 (with encouragement for jurisdictions to implement retrospectively where possible, but no retroactive effect for prior years).

#### 4. Reinforcement of Qualified Domestic Minimum Top-up Tax ("QDMTT"):

- QDMTTs remain the primary mechanism in the Global Minimum Tax ("GMT", an internationally agreed 15% minimum tax rate on corporate profits) framework for jurisdictions—particularly developing countries—to protect their tax bases.

#### 5. Future Review:

- An evidence-based stocktake is scheduled for completion by 2029 to evaluate the system's overall functioning, including QDMTT implementation, maintenance of a level playing field, BEPS risks, and any unintended effects (e.g., competitive imbalances or profit-shifting).

### Implications for Singapore

Singapore enacted legislation implementing its IIR and Domestic Top-up Tax ("DTT", a Qualified DTT equivalent to QDMTT, that allows a jurisdiction to impose a domestic tax of MNE groups operating within its borders, with a minimum effective tax of lower than 15%), effective for financial years beginning on or after 1 January 2025. As of 8 January 2026, there have been no official announcements from the Inland Revenue Authority of Singapore ("IRAS") or the Ministry of Finance ("MOF") regarding specific responses to the OECD guidance released on 5 January 2026. However, Singapore is expected to incorporate the new guidance into domestic law in due course, potentially including provisions for optional elections by in-scope groups.

#### 1. Impacts for companies:

- U.S.-headquartered groups: Exempt from IIR and UTPR globally (including in Singapore) for fiscal years beginning on or after 1 January 2026, due to the SbS safe harbours. For fiscal years beginning in 2025, Singapore's IIR may still apply to Singapore intermediate or

holding companies of US-headquartered groups based in Singapore (provided other GloBE conditions are met);

- Singapore-headquartered groups: Remain subject to Singapore's IIR for fiscal years beginning on or after 1 January 2025. The 2026 guidance does not change this, though they may benefit from the permanent Simplified ETR Safe Harbour (when applicable) or potentially the UPE Safe Harbour starting for fiscal years beginning on or after 1 January 2026.

#### 2. Questions over QDMTT/DTT Retention:

- The guidance assumes jurisdictions will implement or retain QDMTTs but does not mandate it—this is a domestic policy choice. Given Singapore's significant reliance on foreign direct investment, retaining the DTT could prompt restructuring by US MNEs toward jurisdictions without a QDMTT. This risk may lead Singapore to reassess its DTT policy in the coming months or years, making it a key development to monitor post the 5 January 2026 release.

#### 3. Simplification measures:

- The permanent Simplified ETR Safe Harbour provides reduced compliance via simplified calculations, available generally from fiscal years beginning in 2027 (or earlier if adopted domestically from 2026). Groups should analyse applicability promptly.
- The extended Transitional CbCR Safe Harbour offers relief through fiscal years beginning up to 31 December 2027. For overlapping periods (fiscal years beginning in 2026 and 2027), in-scope groups can evaluate the most beneficial option among the Transitional CbCR Safe Harbour, permanent Simplified ETR Safe Harbour, or full GloBE rules when calculating IIR and/or DTT liability.

#### 4. Substance-based Tax Incentives:

- The SBTI Safe Harbour, effective for fiscal years beginning on or after 1 January 2026,

applies to expenditure- and production-based incentives. Singapore's existing incentives (often expenditure-focused, e.g., R&D-related) may qualify, but introducing production-based incentives could optimise benefits under this new rule.

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## Concluding Thoughts

In-scope MNEs operating in or through Singapore should:

- › Immediately assess safe harbour eligibility, effective from fiscal years beginning in 2026;
- › Review substance-based incentives in light of the 2026 applicability; and
- › Monitor for Singapore's domestic implementation of the 5 January 2026 guidance and prepare for updated reporting requirements.

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