

# Comments

## International Tax Reform – Pillar Two Model Rules

Proposed amendments to IAS 12

*Lobby Register No R001459*

*EU Transparency Register No 52646912360-95*

Contact:

Stefanie Morfeld-Wahle

Telephone: +49 30 2021-2420

E-mail: [s.morfeld-wahle@bvr.de](mailto:s.morfeld-wahle@bvr.de)

Berlin, 2023-02-28

Coordinator:

National Association of German

Cooperative Banks

Schellingstraße 4 | 10785 Berlin | Germany

Telephone: +49 30 2021-0

Telefax: +49 30 2021-1900

[www.die-deutsche-kreditwirtschaft.de](http://www.die-deutsche-kreditwirtschaft.de)

## Comments International Tax Reform – Pillar Two Model Rules

### **Question 1: Temporary exception to the accounting for deferred taxes (paragraphs 4A and 88A)**

IAS 12 applies to income taxes arising from tax law enacted or substantively enacted to implement the Pillar Two model rules published by the OECD, including tax law that implements qualified domestic minimum top-up taxes described in those rules.

The IASB proposes that, as an exception to the requirements in IAS 12, an entity neither recognise nor disclose information about deferred tax assets and liabilities related to Pillar Two income taxes.

The IASB also proposes that an entity disclose that it has applied the exception.

Paragraphs BC13–BC17 of the Basis for Conclusions explain the IASB’s rationale for this proposal.

Do you agree with this proposal? Why or why not? If you disagree with the proposal, please explain what you would suggest instead and why.

We agree with par. 4A not to recognize or disclose information about deferred tax assets and liabilities related to second pillar income taxes. However, we would prefer that the exemption be granted for a specified minimum period. Alternatively, a specific date could be set as the earliest date on which the IASB will reconsider removing the exemption. This would give reporting entities sufficient time to prepare for the removal of the exemption.

We also agree with par. 88A to disclose the application of the exemption.

### **Question 2: Disclosure (paragraphs 88B-88C)**

The IASB proposes that, in periods in which Pillar Two legislation is enacted or substantively enacted, but not yet in effect, an entity disclose for the current period only:

- (a) information about such legislation enacted or substantively enacted in jurisdictions in which the entity operates.
- (b) the jurisdictions in which the entity’s average effective tax rate (calculated as specified in paragraph 86 of IAS 12) for the current period is below 15%. The entity would also disclose the accounting profit and tax expense (income) for these jurisdictions in aggregate, as well as the resulting weighted average effective tax rate.
- (c) whether assessments the entity has made in preparing to comply with Pillar Two legislation indicate that there are jurisdictions:
  - (i) identified in applying the proposed requirement in (b) but in relation to which the entity might not be exposed to paying Pillar Two income taxes; or
  - (ii) not identified in applying the proposed requirement in (b) but in relation to which the entity might be exposed to paying Pillar Two income taxes.

## Comments International Tax Reform – Pillar Two Model Rules

The IASB also proposes that, in periods in which Pillar Two legislation is in effect, an entity disclose separately its current tax expense (income) related to Pillar Two income taxes.

Paragraphs BC18–BC25 of the Basis for Conclusions explain the IASB’s rationale for this proposal.

Do you agree with this proposal? Why or why not? If you disagree with the proposal, please explain what you would suggest instead and why.

(a) In our view, the disclosure requirements are disproportionate. This applies in particular to groups that are represented and operate in numerous countries, as the disclosures would require an analysis of the respective implementation status in each individual country.

(b) This introduces a further "tax rate" which leads to additional confusion for the users of the financial statements instead of creating added information value. This could lead to misinterpretations, as the following scenario shows:

A company reports a tax rate of less than 15% for countries A, B and C and a rate greater than 15% for countries X, Y and Z. However, this need not apply to the determination under the Globe rules. Under these rules, it would be possible for countries X, Y and Z to have a tax rate smaller than 15% and for countries A, B and C to have a rate larger than 15%. If there is a top up tax later on, the user of the balance sheet could draw the wrong conclusion that the top up tax results from operating activities in countries A, B and C.

Furthermore, IFRS reporting is based on legal entities and not on jurisdictions. Branches in different jurisdictions are not reported separately. Pillar Two also requires the inclusion of unconsolidated entities.

Thus, before Pillar Two legislation has come into force, the technical requirements for the global tax calculation are not in place. Rather, a sufficiently long transition period is required until the figures can be reported in the regular reporting periods. In our opinion, the data based on the CbCR should be sufficient during this transition period.

(c) We refer to the comment to par. b). A precise globe tax determination before the law came into force is not possible due to a lack of technical requirements. The amount can only be roughly estimated (e.g., because of known prior year losses not reported in CbCR).

Determination of Pillar 2 taxes as per par. 88B is a complex process, which can only start, once the accounting period is substantially closed. IFRS accounting details need to be aggregated by country, non-consolidated entities added, prior to starting the calculation of GloBE Income, Covered Taxes and ETR.

Overall, the disclosure requirements are far too complex and inappropriate. This results in additional expenses for the reporting companies that are not proportionate.

## Comments International Tax Reform – Pillar Two Model Rules

### Question 3: Effective date and transition (paragraph 98M)

The IASB proposes that an entity apply:

- (a) the exception—and the requirement to disclose that the entity has applied the exception—immediately upon issue of the amendments and retrospectively in accordance with IAS 8 Accounting Policies, Changes in Accounting Estimates and Errors;  
and
- (b) the disclosure requirements in paragraphs 88B–88C for annual reporting periods beginning on or after 1 January 2023.

Paragraphs BC27–BC28 of the Basis for Conclusions explain the IASB’s rationale for this proposal.

Do you agree with this proposal? Why or why not? If you disagree with the proposal, please explain what you would suggest instead and why.

Pillar 2 is not an accounting change but a new tax that is being introduced with an application for business years beginning after 31/12/2023 (Council Directive (EU) 2022/2523, Art. 56). Accordingly, there is no room for a retrospective application for reporting periods ending prior to 1/1/2024. Beyond that, it is practically impossible to disclose precise information on the globe tax already in the financial statements as of December 31, 2023.