



GloBE Information Return (GIR) & Co. - Tax return(s) for global minimum taxation in Liechtenstein -

September 2023

On 17.7.2023, the OECD published the guidelines on the content and structure of the GloBE tax return (GloBE Information Return (GIR)), which have not yet been taken into account in the current Report and Motion [BuA] 65/2023.

Affected entities will in future be required to prepare up to four tax returns per year:

- **tax return for Liechtenstein top-up tax (QDMTT)**
- **tax return for the collection of the IIR or UTPR top-up tax**
- **GloBE Information Return (GIR)**
- **if applicable, tax return acc. to the Tax Act [SteG].**

Given the scope and information required, it is recommended to address the requirements, in particular, of the GloBE Information Return (GIR), in a timely manner as much of the information may not be readily available.

In addition, in many cases it is advisable to compare the effects of different accounting standards. If the Persons and Companies Act [PGR] proves to be advantageous compared to the IFRS, it is advisable to consult an **auditor who is familiar with the PGR** in practice.

Tax return requirements (Tax Act/GloBE Act)

The guidelines on the content and structure of the GIR itself are to be adopted into national law by way of an ordinance following the current legislative procedure on the GloBE Act.

The provisions of the Tax Act on making a tax assessment or the requirement to file a tax return remain unchanged by the GloBE Act and the GIR. Rather, additional declaration deadlines under the GloBE Act are added for the entities affected by GloBE (CONFIDA Newsletter of 5.4.2023).

For affected entities that were already previously required to file a tax return under the Tax Act, this requirement remains unchanged, but may be extended by up to three additional GloBE tax returns.

For affected entities (e.g., private asset structures or trusts) that were previously not required to file a tax return, there will be a requirement to file up to three GloBE tax returns in the future. Since these entities are still not required to file a tax assessment under the Tax Act, they are to be made aware of the requirement to file the GloBE tax return(s) by means of an official notification.

For entities not affected by GloBE, there will be no changes compared to the previous legal situation.

Regarding the tax return under the Tax Act, it can be expected that the information for self-declaration (as currently already included for CbC-Reporting) will be expanded accordingly. In this context, it should be noted that a fine of up to CHF 250,000 is provided for the intentional or negligent failure to file the GIR.

IIR and UTPR tax return

The IIR (Income Inclusion Rule), like the mechanism of the CFC Rules, always allocates foreign low-taxed income to the group parent entity for taxation. This would then be subject to effective taxation of 15% by a Liechtenstein parent entity; even without additional liquid assets accruing to this group parent entity (called "dry income").

If the group parent company is in a low-taxed foreign country, the application of the UTPR (Under Taxed Payment Rule) by a Liechtenstein group sub-entity results in the latter having to subject the income of the foreign low-taxed group parent company attributable to it on a pro rata basis to an effective taxation of 15% in Liechtenstein (similar to the mechanism of a reverse CFC rules).

The IIR and UTPR tax return serves to effectively tax the foreign low-taxed GloBE profit shares accruing to Liechtenstein through the application of the IIR and UTPR.

The IIR applies to (ultimate, intermediate, and partly owned) parent companies. Accordingly, the domestic parent company applying the IIR must declare and pay the IIR top-up tax.

If, in the case of application of the UTPR, there are several domestic group entities, one of these entities may be designated to declare and pay the UTPR top-up tax for all domestic entities. If no entity is designated, the declaration must be made by each entity itself on a pro rata basis.

QDMTT tax return

While the IIR and the UTPR give the applying state access to low-taxed income of another state within a group structure, the QDMTT (Qualified Domestic Minimum Top-up Tax) or the Liechtenstein top-up tax serves to prevent these accesses from abroad to domestic tax substrate: if an effective taxation level of 15% is already guaranteed nationally (QDMTT), this precludes the application of the IIR and UTPR by foreign entities.

Through the QDMTT tax return, an effective tax burden of 15% is established for all domestic affected entities in accordance with the GloBE Act. The amount of the additional tax liability then results from the difference between the effective tax burden resulting from the Tax Act and the amount at an effective tax burden of 15%.

If, for example, the effective tax burden of a Liechtenstein AG was to correspond to the nominal tax rate of 12.5%, a further 2.5% would be owed because of the QDMTT tax return.

If there are several domestic group entities, one of these entities may be designated to declare and pay the national top-up tax (QDMTT) for all domestic entities. If no entity is designated, the declaration must be made by each entity itself.

GloBE Information Return (GIR)

The GIR is based solely on the OECD rules and is thus fundamentally independent of the aforementioned tax returns, which are essentially subject to the regulatory jurisdiction of the national legislature. Therefore, despite the very extensive information requirements of the GIR, it cannot be ruled out that a tax authority may request further information to verify compliance with the GloBE rules under its national law.

The details (forms, submission deadline, language, and documents to be attached) will be regulated by the Liechtenstein government by way of an ordinance.

The main objective of the GIR is to supply the tax authorities involved (in tax jurisdictions with a group entity) with detailed information and tax calculations to enable a proper risk assessment and to verify the correctness of the top-up tax liability of a multinational enterprise under the GloBE rules in each state where the group is active.

Therefore, the GIR will be exchanged by the tax authorities of the respective countries concerned. At present, it

is envisaged that this will be done on the basis of the Convention on Mutual Administrative Assistance in Tax Matters (MAC) as well as a corresponding Multilateral Competent Authority Agreement (MCAA) of the competent authorities. However, the OECD has not yet completed its work on this.

According to the OECD Model Rules, the GIR must be filed no later than 15 months after the last day of the reporting financial year, although national tax authorities may deviate from this. For the first year in which a group falls within the scope of application, there is a one-time deadline of 18 months.

As a rule, the Ultimate Parent Company (UPE) will be required to prepare the GIR. It has the necessary powers to gather information due to its control of the group. It is also possible to delegate the GIR to another entity. However, a centralization of the GIR duty requires that an exchange of information is guaranteed. For Liechtenstein Ultimate Parent Companies as well as delegated entities, this will not be problematic.

However, if such entities of a group are resident in a tax jurisdiction that does not ensure an exchange of information, the requirement falls on each entity of the group and thus possibly also on Liechtenstein subsidiaries.

In terms of content, the GIR is divided into two parts. It consists of a general section ("MNE Group Information"), which applies to the entire multinational group, and several sections ("Safe Harbor Rules and Exemptions", "GloBE Calculations"), which must be completed for each country in which the group operates.

The general part contains the following information:

1. identification of all entities of the group (incl. tax numbers, ownerships) and their locations according to GloBE (etc. Ultimate Parent Company, exempt entities, claimed safe harbor rules);
2. design of the entire group structure.

The (country-)specific part contains the following information:

3. information needed to calculate the effective tax rate (ETR) for each country (including information at the level of the tax jurisdiction as well as at the level of each entity);
4. the top-up tax for each entity;
5. the allocation of the top-up tax to the IIR and UTPR, and
6. all exercised elective rights.

Filling out the general part alone requires **more than 50 pieces of information** to describe the group under GloBE. The **country-specific part also includes around 350 pieces of information**, which must be collected and declared to varying degrees depending on the circumstances.

The **scope of the information exchanged** is not the same vis-à-vis all participating tax jurisdictions but **varying**.

The UPE tax jurisdiction, as well as those tax jurisdictions that have a right of taxation under GloBE (IIR,

UTPR and QDMTT), receive the full GIR (incl. the country-specific part).

Participating jurisdictions that have implemented the GloBE but do not have a right of taxation only receive the general part of the GIR.

Each of these tax jurisdictions should be able to use this information to assess whether it has a taxing right in respect of each entity in the multinational group.

Tax jurisdictions with taxing rights will use the information not only to assess whether they have such rights, but also to check the application of the allocation and assignment of income and taxes between entities in the group.

In summary, the GIR results in a **massive expansion of the information exchanged** between various tax jurisdictions. Thus, not only the entire group structure (incl. any changes in shareholdings, formations, restructurings) must be disclosed annually to each tax jurisdiction in which the group operates, but also detailed key tax figures (including GloBE profits and losses, effective tax burdens, top-up tax amounts, exempt dividend payments, arm's length adjustments, etc.).

Recommendation for action

Due to the complexity of the structures typically affected, the short lead time remaining until 1.1.2024 and the preparatory measures that may still have to be taken until then, urgent action is indicated. In any case, it should be clarified by now whether a group falls within the scope of application of the global minimum taxation or not.

Should a group undoubtedly fall within the scope of application, preparations must be made for the information requirements, which are quite significant and highly complex in detail, even if considering the relief applicable for the initial years. This concerns not only the classification of each group entity according to the GloBE regulations and their consequences for the application of the GloBE regulations, but also the collection of all necessary key figures and the information required for this.

We offer comprehensive advice (GloBE regulations, commercial law, consolidation according to the Persons and Companies Act [PGR] and audit) on global minimum tax issues **from a single source**. If you would like advice, please contact our experts directly:

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