

Want to learn more about ITB? Sign up for a free trial by emailing us

[Free Trial](#)

Check out our suite of subscription plans: individual (standard), student, university faculty, young professional, and enterprise

[Subscribe](#)

1 April 2022



HIGHLIGHTS

- **Biden Administration releases Budget for FY 2023**
 - Repeal of BEAT, and its replacement by UTPR
 - Introduction of Pillar Two minimum top-up tax, to protect US against other countries' UTPRs
- Continuation of detailed review of GloBE model rules
 - Today: tangible asset carve-out

HAPPY FRIDAY!

Biden tries his hand at improv; **Will Smith** slaps the Oscars; and oil will flow in the **US!**

Meanwhile, in the tax world ...

The **US** goes for the minimum; the **EU** still can't agree; **China** promises to refund your money; **Turkey** targets the banks; **Brazil** keeps cutting; reputations matter in **Peru**; and **Chile** finally gets accepted in **Washington!**

But at the end of the week, the most important question is this: "If you were a stand-up comedian, would you poke fun at the big guy in the front row?"

Have a great weekend!

Steve

THIS WEEK'S PODCAST

(For ITB video subscribers, please log in to access the video and documents/reports)

1. US Budget: proposed international tax changes
2. GloBE model rules: proposed EU Directive
3. GloBE model rules: detailed review
4. Other global developments
5. Asia Pacific
 - Australia, China, India
6. Europe
 - Luxembourg, Turkey
7. Africa
 - Ghana
8. Americas
 - Brazil, Peru, US
9. Treaty news

ITB series on Pillars One & Two

- **GloBE model rules: Substance-based Income Exclusion – Tangible asset carve-out (ITB, 1 April 2022)**
- **GloBE model rules: Substance-based Income Exclusion – Payroll carve-out (ITB, 25 March 2022)**
- **GloBE model rules: Computation of Effective Tax Rate and Top-up Tax (ITB, 18 March 2022)**
- **GloBE model rules: Flow-through Entities and Hybrid Entities (ITB, 4 March 2022)**
- **GloBE model rules: Computation of Adjusted Covered Taxes (Part 3) (ITB, 25 February 2022)**
- **GloBE model rules: Computation of Adjusted Covered Taxes (Part 2) (ITB, 18 February 2022)**
- **GloBE model rules: Computation of Adjusted Covered Taxes (Part 1) (ITB, 11 February 2022)**
- **GloBE model rules: Computation of GloBE Income or Loss (Part 4) (ITB, 28 January 2022)**
- **GloBE model rules: Computation of GloBE Income or Loss (Part 3) (ITB, 21 January 2022)**
- **GloBE model rules: Computation of GloBE Income or Loss (Part 2) (ITB, 14 January 2022)**
- **GloBE model rules: Computation of GloBE Income or Loss (Part 1) (ITB, 7 January 2022)**
- **Draft model rules for Amount A in Pillar One: Tax base determination (ITB, 25 February 2022)**
- **Draft model rules for Amount A in Pillar One: Nexus and revenue sourcing (ITB, 11 February 2022)**
- **Inclusive Framework's final agreement on Pillars One & Two (ITB, 15 October 2021)**

WORTH READING

Jinyan Li
"The Pillar 2 Undertaxed Payments Rule Departs From International Consensus and Tax Treaties"

Tax Notes Today International, Tax Analysts, 29 March 2022 (subscription service)

Andreas Bullen and Morten Goller
"The Arm's Length Principle and Equity Dispositions: The Case of Thick Capitalization – Parts 1 & 2"

International Transfer Pricing Journal, IBFD; Part 1: 2022 (Vol. 29), No. 2; Part 2: 2022 (Vol. 29), No. 3 (subscription service)

Giorgio Beretta
"Work on the Move: Rethinking Taxation of Labour Income under Tax Treaties"

International Tax Studies, IBFD, 2022 (Vol. 5), No. 2 (subscription service)

INTERNATIONAL TAX QUIZ

THIS WEEK'S NEW QUIZ

An MNE Group has one Constituent Entity, XCo, located in jurisdiction X.

At the beginning of the 2025 Fiscal Year, XCo has these operating assets in its balance sheet:

- Plant & equipment #1: cost of 20,000 (including capitalised payroll expenses of 5,000); accumulated depreciation of 4,000
- Plant & equipment #2: cost of 14,000; accumulated depreciation of 2,000
- Land #1: cost of 10,000; impairment adjustment of 3,000
- Land #2: cost of 15,000

During the 2025 Fiscal Year:

- XCo sells plant & equipment #2 for a price of 15,500
- XCo purchases plant & equipment #3 for 5,000
- XCo starts holding Land #2 for sale

At the end of the 2025 Fiscal Year, XCo's balance sheet shows:

- Plant & equipment #1: accumulated depreciation of 6,000
- Plant & equipment #3: accumulated depreciation of 250
- Land #1: a further impairment adjustment of 1,000 (i.e., total impairment adjustment is now 4,000)
- Land #2: held for sale

Note: With the exception of Land #2: at year-end, all of these assets are being used in the production of XCo's goods.

What is the MNE Group's tangible asset carve-out for jurisdiction X for the 2025 Fiscal Year?

Answer in next ITB email alert!

LAST WEEK'S QUESTION

An MNE Group has 2 Constituent Entities (ACo & BCo) located in jurisdiction X.

ACo is a service company which provides procurement and marketing services to BCo in X and other Constituent Entities in other jurisdictions.

BCo carries on a manufacturing business in X.

In regard to both companies, all the employees perform their activities in X.

For the 2028 Fiscal Year:

- **ACo:**
 - incurs employee salaries of 20,000, payroll tax of 2,000, and employer social security contributions of 5,000
 - of these amounts, 2,000 is capitalised to Eligible Tangible Assets (as defined in Art. 5.3.4)
- **BCo:**
 - incurs employee salaries of 30,000, employee medical insurance payments of 5,000, service fees paid to ACo of 10,000 (including 1,000 of VAT), and employee pension contributions of 3,000
 - of these amounts, 4,000 is capitalised to Eligible Tangible Assets (as defined in Art. 5.3.4), and 5,000 is capitalised to inventory

What is the Group's payroll carve-out for X in 2028?

LAST WEEK'S ANSWER

ACo:
Eligible Payroll Costs (after deducting exceptions) = 20,000 + 2,000 + 5,000 – 2,000 = 25,000

BCo:
Eligible Payroll Costs (after deducting exceptions) = 30,000 + 5,000 + 3,000 – (4,000 x 38,000 / 47,000) = 34,766

Notes:
(1) 10,000 service fees do not qualify, on the basis that ACo is not a staffing or employment company (and, therefore, ACo's employees are not BCo's "Eligible Employees": Art. 10.1.1 definition and Commentary on Art. 5.3.3).

(2) 5,000 capitalised to inventory is not excluded.

(3) 4,000 capitalised to Eligible Tangible Assets is excluded, to the extent that it represents employee salaries, employee medical insurance payments and employee pension contributions. In the absence of better information, I have assumed that it represents those categories plus 9,000 service fees (net of VAT), on a pro rata basis. I have therefore excluded a pro rata proportion of the 4,000.

Eligible Payroll Costs (after deducting exceptions) for X = 25,000 + 34,766 = 59,766

In 2028, the Art. 5.3.3 rate is 9.0%: Art. 9.2.1.

Thus, the payroll carve-out for X in 2028 is: 59,766 x 9% = 5,378.94

Do you agree?



[Tax Quiz Archives](#)



[Email Alert Archives](#)



[Ask Steve](#)



[Referral Program](#)



[What is ITB?](#)

If you have a friend or colleague who you think might find this email alert interesting, please forward it to them.

Watch ITB video podcasts anytime, anywhere with our App!

