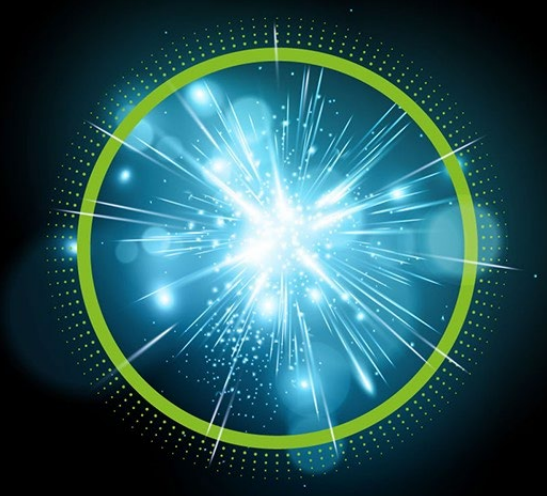


## DELOITTE'S TAKE ON PILLAR TWO AND GLOBAL STOCK-BASED COMPENSATION



*As multinational companies prepare for the unprecedented Pillar Two rules to come into effect, companies with global stock-based compensation programs should take the opportunity to review their intercompany stock charge out strategy as it may critically impact their compliance calculations.*

### Pillar Two Overview:

- The Organization for Economic Cooperation and Development (OECD) introduced Pillar Two rules (also referred to as “Global Anti-Base Erosion” or “GloBE” rules) that will require multinational companies to pay a global minimum level of tax on income from all covered jurisdictions they operate in.
- Multinational companies in scope for Pillar Two with an effective Pillar Two tax rate below the minimum tax rate of 15% in any covered jurisdictions may be required to pay a top-up tax.
- Pillar Two top-up taxes are slated to come into effect for accounting periods starting in 2024, and jurisdictions around the world have begun drafting, or in some cases enacted, implementation legislation.
- The Pillar Two GloBE income/loss computation is generally based on financial accounting net income or loss determined for the constituent entity in preparing consolidated financial statements of the ultimate parent entity. For U.S. based multinationals, this generally means U.S. GAAP financial statements for each entity within the multinational group and includes the amount of stock-based compensation expense recorded in the constituent entity's financial accounts.

### What is the Issue?

As companies digest the new rules and weigh benefits of several elections, the planning considerations around stock-based compensation should be part of the conversation.

The Pillar Two rules allow for an election to deduct the amount of a constituent entity's stock-based compensation that is deductible for tax purposes in the local jurisdiction in lieu of its book stock-based compensation expense. As such, a company that is able to secure a local stock-based compensation corporate tax deduction might benefit from a decreased GloBE tax base, where the local tax deduction is greater than the book deduction.

Companies may make this election on a jurisdiction-by-jurisdiction basis annually for a five-year period. This election might be especially beneficial to a company with a global stock plan and who may otherwise have a top-up tax due in a local jurisdiction(s).

Stock-based compensation offered to U.S. employee participants of U.S. parent companies typically creates a tax deduction benefit for the U.S. parent company. However, with respect to stock-based compensation awards made to non-U.S. participants employed by non-U.S. local entities, absent a strategy to secure local compensation deductions, the corporate tax benefit can be lost at the local level because of the lack of a local “cost”, as well as the break between the service provider-service recipient relationship for U.S. purposes.

### What is the opportunity?

An intercompany stock compensation charge out arrangement can help support claims for a local non-U.S. compensation deduction. Issuers must assess the amount of stock-based compensation expense that relates to employees of each constituent entity, tax deductibility, and transfer pricing impact, as well as potential impact on employment taxes, prior to pursuing local tax deductions and broader Pillar Two compliance in this area.

## What is the challenge?

With Pillar Two on the horizon, there is an opportunity for companies to revisit their current processes and policies around global stock-based compensation and global recharge agreements. The requirements to secure a local tax deduction can vary, in some cases significantly, between countries, as well as between different types of stock-based compensation awards, plan participant profiles, and other related factors. Issuers should generally address the following considerations in order to analyze the impact of Pillar Two elections:

1. Country-by-country book expense requirements with respect to stock-based compensation
2. Country-by-country tax deductibility guidance with respect to stock-based compensation
3. Consideration of presentation of SBC on the CbCR
4. Transfer pricing methodology and applicability to stock-based compensation
5. Implementation and administration issues related to global intercompany stock-based compensation cost charge out structures
6. The financial impact/benefit of their Pillar Two election in this area

Addressing the items above may vary, though the key phases include:



- Determine if a deduction is possible on a country-by-country basis
- Establish the amount and timing of the deduction
- Determine countries where additional payroll charges are generated, additional restrictions exist, or whether charge out of stock compensation costs changes the nature of the compensation
- Understand documentation needed to support the deduction/cash repatriation

The impact of stock-based compensation on local tax computations and Pillar Two computations can be complex areas to navigate, though also presents a potentially significant financial benefit for issuers. Deloitte's global equity and incentive compensation specialists can help identify the guidance applicable to your stock-based compensation program, across award types, participant profiles, and different entity types, with the objective of seeking a tax efficient model for global stock-based compensation costs.

- Quantify deduction values and cash repatriations opportunities on a country-by-country basis
- Project tax savings
- Cost/benefit analysis for each jurisdiction
- Determine the economic viability of implementing recharge agreements

- Company decision on where/when to implement
- Execute and operationalize intercompany recharge strategy and develop related process around required documentation

### Get in touch

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