28 August 2026

Business Tax Stakeholder Forum (BTSF)

Feedback on the draft legislation transposing the Pillar Two Side-by-Side Package

Introduction

The Institute welcomes the opportunity to provide feedback via the BTSF on the draft legislation to transpose the OECD Pillar Two Global Anti-Base Erosion (GloBE) Model Rules - Side-by-Side Package into Irish law in Finance (No. 2) Bill 2026.

Our members welcome the adoption of the earlier effective date of 1 January 2026 in the draft legislation, which is available under the package. This will put Ireland in a more competitive Side-by-Side framework globally by providing Irish multinational entities (MNEs) with optimal flexibility to utilise the suite of safe harbours available under the Pillar Two Side-by-Side package.

While the draft legislation appears to closely map the OECD guidance, the legislation is extremely complex, and our members question how valuable the safe harbour will be for taxpayers in practice. Given the inherent complexity, we believe that greater flexibility should be provided to taxpayers to amend elections. The transitional penalty relief measures also need to be interpreted favourably.

We have included a table in Appendix 1 which outlines our specific observations and queries on each of the three tranches of the draft legislation which the Department of Finance circulated for consultation on 20 July. However, a key concern raised by members in the drafting of the Tranche 1 relating to the Substance Based Tax Incentive (SBTI) safe harbour is to ensure the relevant provisions for the qualified tax incentive (QTI) are workable in practice for the R&D Tax Credit and other Irish qualified refundable tax credits (QRTC).

We understand from previous discussions at the Pillar Two Subgroup of the BTSF earlier this year that the policy intention is for the R&D Tax Credit and other Irish QRTCs to qualify as QTIs and as such, allowable under the Pillar Two Side-by-Side package. However, members have highlighted that there may be some difficulties in the drafting of this legislation which requires further amendment and clarification to give effect to

the intended policy. More details on this are outlined in the table in the Appendix 1 and in an example calculation in Appendix 2.

The Institute would welcome the opportunity to discuss the matters raised in this submission. Please contact Anne Gunnell of this office at agunnell@taxinstitute.ie if you require any further information in this regard.

Appendix 1

Legislative Reference	**ITI Comments**
Tranche 1 – Substance Based Tax Incentive (SBTI) Safe Harbour	
s111B	We consider it would be more appropriate for the additional paragraph to be listed as "(g)" rather than "(fa)"? Should this update be made, an amendment would also be required to the proposed text in section 111AKC(1).
s111AKB(1)	Our understanding is that the policy intention is for Irish tax incentives that currently qualify as a QRTCs, such as the R&D Tax Credit, to qualify as QTIs under the SBTI safe harbour as well. This would allow taxpayers flexibility under the GloBE rules, as contemplated and permitted under the OECD January 2026 guidance on the Side-by-Side package. We would welcome clarity to ensure there is no doubt that the R&D Tax Credit (which is a QRTC) will be regarded a QTI. Section 111AKB (4)(a)(ii) TCA 1997 includes a QRTC within the definition of a QTI if it meets the conditions of section 111AKB(4)(a)(i). Section 111AKB(4)(a)(i) defines a QTI as *"a generally available tax incentive"* meaning a QRTC needs to be a generally available 'tax incentive' to qualify as a QTI. Therefore, a QRTC needs to be a 'tax incentive' as defined in section 111AKB(1). The current drafting of the definition of 'tax incentive' only envisages an incentive that reduces a current or future liability to a covered tax. The R&D Tax Credit (which is a QRTC) is a fully payable credit. It is accounted for above the tax line as income in financial statements and does not reduce covered taxes. It is arguable that a QRTC automatically becomes a QTI upon election which is one possible interpretation of section 111AKB(4), subject to the QRTC being based on expenditure incurred or tangible property produced. If this is not the case, further drafting may be needed to make it clearer that the existing QRTCs, such as the R&D Tax Credit, are also QTIs.

s111AKB(2)	We note that the definition of 'tested jurisdiction' does not expressly reference permanent establishments (PE). By contrast, the OECD January 2026 Administrative Guidance defines 'Tested Jurisdiction' as consisting of *"Constituent Entities including Permanent Establishments…"*. While a permanent establishment is treated as a constituent entity for Pillar Two purposes, and the reference to constituent entities in the definition of 'tested jurisdiction' may therefore be interpreted as including permanent establishments, the absence of an express reference may give rise to uncertainty. We recommend that this point either be addressed in the destination table or that the definition be amended to refer expressly to permanent establishments. In addition, this subsection is missing a reference to the location of the relevant constituent entities or joint venture affiliates?
s111AKB(3)(a) & (5)(b)	The draft text is aligned in mechanics, but the wording used may express the result more directly as zeroing the portion attributable to qualified tax incentives i.e. increasing the covered taxes by the lower of a QTI used and substance cap, may be more straightforward.
S111AKB(4)(a)(i)	Clarification is needed in the text as to whether the expenditure must be incurred in the jurisdiction.
s111AKB(4)(a)(i)(II)	As drafted, the definition of a "qualified tax incentive" includes the amount of a tax incentive that is calculated based on the quantity of tangible property produced in the relevant jurisdiction. However, the accompanying commentary clarifies that this can also include *"the production of electricity and… processing activities such as extraction and refining"*. A definition of tangible property should be added in section 111AKB(1) to clarify that incentives introduced to encourage sustainable behaviour/practices fall within scope of the safe harbour.
s111AKB(4)(a)(C)	We recommend that the existing test be amended, as follows: *"output that has not been ~~not~~ produced"*.

s111AKB(4)(a)(ii)(D)	We would welcome confirmation that the exclusion in section 111AKB(4)(a)(ii)(D) TCA 1997 relates to expenditure that may have been incurred before the tax incentive (legislation) came into effect. The meaning of 'came into effect' for this purpose should also be clarified (either in the legislation or the accompanying guidance) to avoid any ambiguity around legislation which applies retrospectively.
s111AKB(5)(b)	The concept of QTI being **'used'** in the context of amounts not reducing the corporation tax amount in the accounts and/or the timing of when payments are instalments needs to be considered. Irrespective of whether the R&D Tax Credit is accounted for above or below the line, the benefit of the QTI, assuming the substance cap is met, is limited to the QTI 'used'. This is critical for R&D Tax Credits. As drafted, section 111AKB(5)(b) only captures adjustments to covered taxes. However, paragraph 21 of the OECD January 2026 Safe Harbour package (page 358 of the Consolidated Commentary) states that *"an MNE Group can make an Annual Election to treat certain QRTCs or MTTCs as a QTI. In such cases, the QRTC or MTTC is excluded from GloBE Income and is instead treated as a reduction to Adjusted Covered Taxes, before the QTI adjustment to increase Adjusted Covered Taxes is applied in the same way as it applies to any other type of QTI. The Substance Cap applies to the total adjustment for QTIs."* Where an election is made to treat a QRTC as a QTI, the appropriate treatment therefore appears to be: (i) remove from GloBE income and include as a reduction to covered taxes and (ii) then apply the provisions of section 111AKB(5)(b) (i.e., increase covered taxes by the amount of the QTI, subject to the substance cap). We also note that paragraph 22 of the OECD guidance clarifies that an election can be made for some QRTCs and not others, or for part of the QRTC. In practice, we expect that this should allow a taxpayer to make the election to treat a QRTC as a QTI up to the value of the substance cap available in the relevant jurisdiction.

s111AKB(5)(c)(i)	Section 111AKB (5)(c)(i) TCA 1997 needs to be broadened to provide for a QTI that does not reduce the covered tax liability but is included as income in the GloBE adjusted base. This issue has previously been raised with the Department of Finance and Revenue via the BTSF. If the provision is not broadened, members are concerned that the R&D Tax Credit (which is a QRTC) would not fit within the QTI definition and that the top-up tax benefit which the QTI provides would not apply in the context of the R&D Tax Credit. Additionally, the mechanism included in section 111AKS(5)(c)(ii) regarding the treatment of QTIs in the simplified ETR safe harbour accounts for cases where the QTI is treated as income in the financial accounts. This demonstrates that both a QTI that has been included as a reduction of tax expense in section 111AKS(5)(c)(i), and a QTI that has been included as income in the profit before taxation, should be included in section 111AKB (i.e. the main part of the SBTI safe harbour legislation).
s111AKB(5)(d)	Clarification is needed that where the local standard provisions of section 111AAD(2)(e) TCA 1997 apply for QDTT purposes, such that the SBIE calculation under section 111AE is calculated based on financial statements prepared in accordance with the local accounting standard, the SBIE calculations used for the purposes of section 111AKB(5)(d) should also be based on financial statements prepared in accordance with the local accounting standard. We note that a similar provision has been proposed to be added to Chapter 5A under section 111AKH(4). Draft text of subsection (5)(d)(i)(I) may need grammatical correction. Is there a missing word "entities" after *"in which the test jurisdiction entities are located for that fiscal year"*?
s111AKB(9)	Please see comments below in relation to the validity of elections under Tranche 2 which equally apply to this section.
s111AKB(10)	Please see comments below in Tranche 2 in relation to an updated version of the GIR/TIR being listed in section 111B TCA 1997, which also apply here.

Tranche 2 – Side-by Side, UPE, CBCR Safe Harbour	
s111AKC(1)	'eligible domestic tax system', 'eligible worldwide system' and 'qualified side-by-side regime' are not specifically defined. Instead, reference is made to the meaning given to these terms by the January 2026 Administrative Guidance. It would be helpful to understand the rationale for not defining these terms within the Irish Pillar Two legislation. The OECD Central Record for qualified Side-by-Side regimes is defined by reference to the list of jurisdictions published by the OECD. The OECD list is maintained in a document called *"Tax Challenges Arising from the Digitalisation of the Economy – Administrative Guidance on the Global Anti-Base Erosion Model Rules (Pillar Two), Updated Central Record for Purposes of the Global Minimum Tax"*. Clarification would be welcome as to why the legislation does not refer expressly to that document. Links to the Central Record document and webpage are included: https://scanner.topsec.com/?d=2205&r=auto&u=https%3A%2F%2Fwww.oecd.org%2Fcontent%2Fdam%2Foecd%2Fen%2Ftopics%2Fpolicy-sub-issues%2Fglobal-minimum-tax%2Fupdated-central-record-for-purposes-of-the-global-minimum-tax.pdf&t=39e6c9d61b2a9d7b58658a515d2ff1e4d2418e90 https://scanner.topsec.com/?d=2205&r=auto&u=https%3A%2F%2Fwww.oecd.org%2Fen%2Ftopics%2Fsub-issues%2Fglobal-minimum-tax%2Fcentral-record-of-legislation-with-transitional-qualified-status.html&t=d1c6e56f3f80f16f2001f252cefc156ffb531d10 We would also welcome clarification on whether policymakers intend to amend this definition as and when new countries are added to the OECD Central Record for qualified Side-by-Side regimes, similar to the approach taken in relation to non-cooperative jurisdictions in section 835YA TCA 1997.
s111AKC(3)/ s111AKD(3)	The OECD guidance (page 84/85 of the Side-by-Side package) states that if a jurisdiction cannot apply the Side-by-Side safe harbour from 1 January 2026, it should apply it from the earliest

	practical date. In this regard, footnote 3 then states: "*In such a case, each UTPR Jurisdiction (including those that have adopted the SbS Safe Harbour) would be taken into account in applying the allocation formula in Art. 2.6.1, and a jurisdiction that has not yet adopted the SbS Safe Harbour would not be allocated more than its UTPR Percentage of the UTPR Top-up Tax Amount.*" We would welcome confirmation that in such a scenario (i.e. if another jurisdiction has not implemented the Side-by-Side package effective from 1 January 2026), the UTPR due in Ireland would continue to be nil for FY2026 where an election to apply the Side-by-Side safe harbour or the UPE safe harbour has been made.
s111AKC(3)(a)	The Side-by-Side safe harbour deems IIR and UTPR top-up tax zero for all constituent entities. Are all constituent entities the same as all "members" e.g. permanent establishments?
s111AKC(5)	As drafted, section 111AKC(5) requires the taxpayer to assess whether the jurisdiction (i) satisfies conditions (a) – (d) and (ii) is listed on the OECD Central Record. Where a jurisdiction is included on the OECD Central Record, we are unclear as to why there is a separate requirement for taxpayers to assess whether that jurisdiction meets the criteria in (a) – (d). We understand that this assessment will already have been completed by the OECD Secretariat and approved by the members of the Inclusive Framework.
s111AKC(6)	We note that the election for the Side-by-Side safe harbour needs to be made in accordance with section 111AAAD TCA 1997. At recent BEPS TALC meetings, queries were raised regarding whether an election needed to be made on or before the specified return date to be considered valid. We believe introducing a requirement that the Side-by-Side safe harbour be made "on or before" the specified return date could be problematic. For example, in circumstances where a taxpayer files a GIR after the deadline, the Side-by-Side safe harbour election would appear to be invalid. Irish constituent entities of a US MNE Group would then potentially be required to apply IIR/UTPR in respect of the profits of US and other foreign entities

	from FY2026 onwards, irrespective of the fact that the US MNE Group is headquartered in a jurisdiction that otherwise qualifies for Side-by-Side treatment. We consider this would be contrary to the policy objective of the Side-by-Side safe harbour package and would have the potential to generate adverse knock-on consequences. While we appreciate that the OECD designed the Side-by-Side package as a safe harbour to fit within the parameters of Article 32 of the EU Minimum Tax Directive, the availability of the safe harbour is assessed on a jurisdictional basis and should not be dependent on a taxpayer electing to apply the safe harbour by a specific date. In our view, the GloBE rules do not require an election to be denied simply because a TIR/GIR is filed after a specific deadline and many other jurisdictions have introduced legislation on this basis. Should policymakers determine it is not possible to remove the requirement entirely, we believe that taxpayers should be afforded the opportunity to amend the GIR (including elections made in the GIR).
s111AKC(7)	We understand that an updated version of the GIR/TIR will be published by the OECD in the coming weeks/months. Section 111B TCA 1997 should be updated to include a reference to the updated version of the GIR/TIR if it is published before Finance (No.2) Bill 2026 is enacted. If the updated GIR is not published by this date, an update to section 111B would be required via Ministerial Order.
OECD Administrative Guidance (May 2026)	The May 2026 OECD Administrative Guidance seeks to address scenarios where a group applies a 52/53 week accounting period. In certain instances, a group could have an accounting period that commences on or before 31 December 2025 but ends after 31 December 2026. This would mean that the group cannot avail of the Transitional UTPR Safe Harbour (as the accounting period

	ends after 31 December 2026) and it also cannot avail of the Side-by-Side safe harbour (as the accounting period starts before 1 January 2026). The OECD May 2026 Administrative Guidance seeks to solve this issue by extending the Transitional UTPR Safe Harbour transition period to 3 January 2027. This has been included as an update to the OECD Commentary (Annex A - Transitional UTPR Safe Harbour). This tranche of draft legislation does not include an update to the Transitional UTPR Safe Harbour in section 111AK TCA 1997 to incorporate the proposed changes in the OECD May 2026 Administrative Guidance. A legislative amendment should be made to the meaning of "transition period fiscal year" in section 111AK(1) to reflect this guidance. It may be the case that this point will be addressed separately by policymakers as it sits outside of the Side-by-Side package of measures?
s111AKD(4)	In the calculation ATUJ – D. The phrase *"determined under the qualified domestic top-up tax payable"* to define "D" may be unclear. Similar phrase is used to define "D" in s111AKC(4). We suggest it is reviewed.
s111AKD(5)	As drafted, section 111AKD(5) requires a taxpayer to assess whether the jurisdiction (i) satisfies the conditions in subsection (5)(a) and (ii) is listed on the OECD Central Record. We would query whether there is a need for both steps in this process? Where a jurisdiction is included on the OECD Central Record, we are unclear why the draft legislation includes a separate requirement for taxpayers to assess whether that jurisdiction meets the test in subsection (5)(a). As outlined above, our understanding is that this assessment will already have been completed by the OECD Secretariat and approved by the members of the Inclusive Framework.
section 111AKD(6)	Please see our comments above on section 111AKC(6) in relation to the validity of elections, which also apply to this section.

s111AKD(7)	Please see our comments above on section 111AKC(7) in relation to an updated version of the GIR/TIR being listed in section 111B TCA 1997, which also apply to this section.
Subsection (2)	Subsection (2) of Tranche 2 (i.e. final paragraph) states that Paragraphs (a) and (c) of Subsection (1) shall apply in respect of a fiscal years commencing on or after 1 January 2026. Should the same commencement date apply to Paragraph (d) of Subsection 1?
Tranche 3 – Simplified ETR Safe Harbour	
s111P(2)	There appears to be two typos in the amendment proposed to Section 111P(2). We believe that the wording should be updated as follows: *(i) in paragraph (f) by the insertion of "**subject** ~~subsection~~ to section 111AKN(4)(b)(i)," before "asymmetric foreign currency gains or losses", and* *(ii) in paragraph (i) by the insertion of "**subject** ~~subsection~~ to section 111AKN(4)(b)(ii)," before "accrued pension expenses"*
s111AAAD	The OECD January 2026 safe harbour package will result in the inclusion of approximately 26 new elections within Part 4A TCA 1997. There are also a range of elections within the full GloBE Rules that will now have a wider application to the simplified ETR safe harbour (e.g., the 8 optional elections listed in section 111AKN). There are also cases where elections made in the simplified ETR computations will have an impact on future GloBE calculations and vice versa (e.g., the GloBE Loss election provisions in sections 111Y/111AKT, the M&A simplification provisions in sections 111AKX/111AN etc.). This creates a practical compliance burden for groups seeking to rely on the simplified ETR safe harbour. Given the number of elections that may need to be made and tracked across multiple jurisdictions, taxpayers may inadvertently make errors when compiling the GIR. We consider it is unnecessarily restrictive to require elections to be made only in a GIR filed on or before the specified return date, with no ability to correct or amend them after filing. We believe flexibility should be provided to allow

	taxpayers to amend GIR elections within a defined period after the original filing deadline.
s111AKE(2)	Paragraph 36 of the guidance states that the currency translation rules defined for GloBE purposes should also apply for simplified ETR safe harbour purposes. Where the safe harbour is applied for Irish QDTT purposes, section 111AKE(2) appears to require that the QDTT currency translation provisions be applied. However, these currency translation provisions are particularly challenging to apply in practice. Given the complexity associated with these provisions, we would query this as a strict requirement of the simplified ETR safe harbour guidance.
s111AKE(5)	We note that the term constituent entity is used throughout the simplified ETR safe harbour and that references to the term constituent entity should be deemed to include a reference to a JV and/or a JV affiliate. However, we understand that JVs should be treated as a separate tested jurisdiction pursuant to section 111AKF. In this context, the proposed wording in section 111AKE(5) appears to be incompatible with section 111AKF(3). Section 111AKF(3) allows all constituent entities that are not MOCEs to be grouped into a single tested jurisdiction with same-country investment entities. Our understanding is that section 111AKF(3) is intended to operate as a simplification by allowing investment entities in a jurisdiction to be grouped with "normal" constituent entities in that jurisdiction. However, the proposed wording in section 111AKE(5) potentially also applies to JVs and therefore conflicts with the provisions of Section 111AKF(1).
s111AKG(2)	The indentation of subsection (2) appears to be skewed. Also, we note that the formula contained in the subsection refers to SI as being the simplified income or simplified loss. SI should be defined by reference to simplified income only given that a simplified loss has its own limb and if a simplified loss arises, nothing meaningful can be obtained from a negative ETR calculation.

s111AKH(1)	We welcome the inclusion of an election to use US GAAP, Canadian GAAP or Japanese GAAP data in section 111AKH. However, we believe that it should also be made possible for a group to elect to use UPE CFS data from a wider range of accounting standards (e.g., IFRS, UK GAAP and potentially the range of GAAPs permitted under the Irish implementation of ATAD).
s111AKH(3)(b)	We understand that the OECD will undertake further work in relation to certain continuity provisions regarding the interaction of the simplified ETR safe harbour and the full GloBE rules. A continuity issue arises in relation to the use of different accounting standards and the requirement to maintain separate sets of GloBE books and records. For example, the following scenario could arise: - FY2026: Ireland passes the simplified ETR safe harbour. The safe harbour calculations are prepared using US GAAP data. - FY2027-FY2030: Ireland continues to pass the simplified ETR safe harbour. - FY2031: Ireland fails the simplified ETR safe harbour. Irish QDTT calculations need to be prepared using local financial statement data. The GloBE carrying values of certain assets/liabilities may need to be recomputed. - FY2033: After two years of zero QDTT arising, Ireland can re-enter the simplified ETR safe harbour. As the election in section 111AKH(b)(ii) must be made for all relevant jurisdictions, the Irish simplified ETR calculations must be prepared using US GAAP data. In this scenario, a group that wishes to utilise the simplified ETR safe harbour may need to maintain two separate sets of GloBE data over multiple years. It is likely that this continuity issue will limit the attractiveness of the safe harbour for many groups (i.e., it may only be utilised in a limited number of jurisdictions where the simplified ETR rate is expected to always exceed 15%). Companies could enter the simplified ETR safe harbour in good faith but find themselves falling back to the full rules inadvertently.

	To mitigate this continuity issue, an adjustment could be made to the local financial accounting standard rule to allow greater flexibility for groups to decide between using local financial statement data or group CFS data where that data comes from a designated list of accounting standards (i.e., the provisions in section 111AKH could be mapped into the full GloBE rules). As this would require an amendment to be made to the QDMTT safe harbour administrative guidance, we believe that this point should be raised at OECD level. Section 111AKH (3)(b)(ii) appears to permit an election back into the consolidated accounts where the relevant consolidated accounts are prepared in accordance with an alternative body of accounting standards. The alternative body of accounting standards has the meaning assigned in section 1400 of the Companies Act. However, this definition appears to limit this application to US, Canadian or Japanese GAAP. This seems to be unnecessarily narrow, unless there is a specific policy rational for doing so. This limitation may also give rise to unequal treatment between groups applying different accounting standards. Consideration should be given to whether the provision could be drafted more broadly to include a wider range of recognised accounting standards instead of cross-referencing to section 1400 of the Companies Act.
s111AKJ(1)	There appears to be a minor spacing typo in section 111AKJ(1). We recommend that the subsection be updated as follows: *(1) In this Chapter, 'simplified income or loss', in respect of a fiscal year for a tested jurisdiction, means the jurisdictional profit or loss before income tax in respect of that fiscal year for that tested jurisdiction, as adjusted in accordance with sections 111AKK, 111AKL, 111AKM, 111AKN, 111AKS, 111AKV, 111AKW,_111AKX , 111AKY, 111AKZ, 111AKZA, 111AKZB, and 111AKZF.*
s111AKK	There is a potential omission here. The draft text lists illegal payments and fines and penalties but it does not expressly mention bribes and kickbacks. Should bribes and kickbacks be mentioned separately?

s111AKN(2)(c)	While the majority of the elections listed in section 111AKN(2)(a) are 5-year elections, the election to exclude income related to qualifying debt releases is a transaction-specific election. We consider the language in section 111AKN(2)(c) should be amended such that it only applies where the election listed in section 111AKN(2)(a) is not an annual or transaction-specific election.
s111AKN(3)(b)	There appears to be a minor spacing issue in section 111AKN(3)(b). We recommend that the subsection be updated as follows: *Where the effect of the redetermination of the simplified effective tax rate for a fiscal year for a tested jurisdiction as set out in paragraph (a) is that the simplified effective tax rate exceeds the minimum tax rate, then notwithstanding section 111AF, the additional top-up tax for that fiscal year for the tested jurisdiction shall be nil.*
s111AKO(2)	The proposed text in section 111AKO(2)(B) does not appear to align with the equivalent wording in the OECD January 2026 Simplified ETR Safe Harbour guidance. We recommend that the wording be updated as follows: *...is the deferred tax expense recorded in the consolidated financial statements that is attributable to the constituent entities of an MNE group or large-scale domestic group, as the case may be, in the tested jurisdiction for a fiscal year, ~~and that is related to their financial accounting net income or loss~~ but which is not included in A.*
s111AKP(2)(b)	Suggest correcting spelling for consistency i.e. amend "transferrable" to "non-marketable transferable tax credit"
s111AKP(2)(d)	We note that the OECD January 2026 Simplified ETR Safe Harbour uses the wording "not included" instead of "excluded". We recommend updating Section 111AKP(2)(d) as follows: *excluding tax expenses with respect to income not included ~~excluded from~~ in the calculation of simplified income or loss of a tested jurisdiction under this Chapter,*
s111AKP(4)	We would welcome clarification that this subsection is trying to address part of paragraph 97 of section 4.2.2. of the OECD guidance.

s111AKQ(3)(c)	We understand that all terms that are defined in section 111A TCA 1997 have not been cross-referenced in the simplified ETR safe harbour. However, where terms are defined in other sections of Part 4A TCA 1997, the proposed simplified ETR safe harbour legislation cross-references these definitions. We therefore recommend that the following amendment be made to Section 111AKQ(3)(c): *subject to subsection (5), the amount of deferred tax expense attributable to a deferred tax liability that is not a recapture exception accrual within the meaning of section 111X*.
s111AKR	Overall, the draft legislation appears to reflect the relevant OECD guidance. However, section 111AKR(3) applies the phrase *"first-mentioned fiscal year"* in the context of references to multiple fiscal years, including *"each fiscal year"*. This drafting may create ambiguity, as the phrase "first-mentioned fiscal year" appears to refer to a single fiscal year, whereas the provision may apply across multiple fiscal years. We recommend that the drafting is refined to avoid such uncertainty.
s111AKS(3)	As drafted, section 111AKS(3) appears to cover scenarios where (i) the QRTC/MTTC is accounted for as a reduction to the jurisdictional income tax expense or (ii) the QRTC/MTTC relates to the acquisition or construction of an asset and the credit either reduces the carrying value of the asset or is recognised as deferred income over the useful life of the asset. The requirement in section 111AKS(3)(b) that the credit relates to the acquisition/ construction of an asset is unnecessarily restrictive (e.g., it potentially would not capture QRTCs relating to asset upgrades or enhancement expenditure). We recommend expanding the scope of section 111AKS(3)(b).
s111AKV(4)	There appears to be two minor spacing typos in Section 111AKV(4). We would recommend that the subsection be updated as follows: (4) *Where the election referred to in subsection (2)(a) is withdrawn, any income or covered taxes, as the case may be, taken into account in the preceding transaction year under the election shall be excluded from simplified income or*

	simplified taxes, as the case may be, of the tested jurisdiction for the fiscal year in respect of which the election is withdrawn.
s111AKV(7)(c)	There appears to be a minor spacing typo in Section 111AKV(7). We recommend that the subsection be updated as follows: *Where a constituent entity (in this paragraph referred to as the 'seller') has entered into a transaction with another constituent entity (in this paragraph referred to as the 'buyer'), and there is a transfer pricing taxable income adjustment (within the meaning of section 111AKZ) in the jurisdictions of the seller and the buyer in respect of the transaction, but a deferred tax asset is recorded in the financial accounts of the buyer instead of adjusting the carrying value of the asset which transferred in the transaction, the accrual of that deferred tax asset shall be excluded from the calculation of simplified taxes.*
s111AKX(1)	It should be clarified that the reference to "financial accounts" in section 111AKX(1) is a reference to the relevant financial accounts of the acquiring entity that are being used for the purposes of the simplified ETR safe harbour calculations for that fiscal year. As noted above, the relevant accounts that form the basis of the simplified ETR calculations could change in different fiscal years depending on (i) whether the conditions of section 111AAD(2)(e) are satisfied for that fiscal year and (ii) an election is made under section 111AKH(3). We also note that there appears to be a *"the"* missing from the final line of the current drafting of section 111AKX(1). As the M&A simplification in section 111AKX also has an impact on full GloBE computations for years when the simplified ETR safe harbour is not met, a continuity issue may arise in circumstances where the relevant entity computes the simplified ETR calculations using data that is different than the data that would be used for QDTT calculation purposes. To mitigate this issue arising in practice, we believe greater flexibility should be incorporated into the Irish QDTT local accounting standard provisions (see comments above).

s111AKZ(6)(b)	We understand that the purpose of section 111AKZ(6)(b) is to allow an acquiring entity to "follow the accounts" in a scenario where: (i) there is a transfer for book value consideration and (ii) a deferred tax asset is recognised due to a step-up in tax basis arising from the transaction. The deferred tax asset recognised for accounting purposes is recast (upwards or downwards) to the minimum rate to reflect the fact that the seller is required to include a gain based on FMV consideration in its computation of simplified income, pursuant to section 111AKZ(6)(a). While this may be helpful in certain circumstances, a continuity issue will arise where an MNE Group is required to exit and re-enter the simplified ETR safe harbour. The issue arises as there is no equivalent provision in Article 6.3.1/section 111AN. Under the full GloBE rules, the purchaser is required to use a GloBE carrying value. For jurisdictions that might be expected to fail the simplified ETR safe harbour in future years, these GloBE carrying values would potentially need to be tracked to ensure that full GloBE calculations could be performed at that stage. This is another example of a continuity issue that should be re-examined as the Inclusive Framework considers what simplifications from the simplified ETR safe harbour could be mapped across to the full GloBE rules. As mentioned previously, we believe that the simplified ETR safe harbour is unlikely to have broad appeal in an Irish context due to the risk of having to move between two alternative calculation approaches. It is important that efforts are made to ensure that the full GloBE rules are simplified wherever possible as a result.
s111AKZA(1) & (3)(b)	There appears to be a typo in subsection (1). The draft legislation refers to "deductible divided regime", we presume this should be "deductible dividend regime". There appears to be a minor spacing typo in section 111AKZA(3)(b). We recommend that the subsection be updated as follows: *(b) Where an ultimate parent entity, or a constituent entity referred to in section 111AR(5), is subject to a deductible dividend regime for a fiscal year, then the simplified income or loss and simplified taxes of the ultimate parent entity, or a constituent entity referred to in section 111AR(5), as the case may be, shall be deemed to be zero where—*

s111AKZE	There is a missing "the" in subsection 3 - *"For the purposes of subsection (2), where the MNE group or large-scale domestic group, as the case may be, includes constituent entities and same-country investment entities as a single tested jurisdiction, the requirement for the group..."*
s111AKZF(2)(a) & (4)(a)	We recommend that the text in section 111AKZF(2)(a) be adjusted as follows: *(2)(a) Where the matching principle would not otherwise be satisfied in respect of an intra-group transaction, and the MNE group or large-scale domestic group, as the case may be, adjusts the jurisdictional profit or loss before income tax of the constituent entity that recognised the expense to ~~and~~ exclude~~s~~ such expense from the calculation of its simplified income or loss within the tested jurisdiction for the fiscal year, then the matching principle shall be considered to be satisfied in respect of that intra-group transaction.* Also, there appears to be a typo in Section 111AKZF(4)(a). We recommend that the subsection be updated as follows: *(4)(a) Where the single expense and loss principle would not otherwise be satisfied, and the amount of the expense or loss that is deducted more than once is ~~be~~ excluded from the calculation of the jurisdictional profit or loss before income tax of all tested jurisdictions in which it was included, then the single expense and loss principle shall be considered to be satisfied in respect of that expense or loss.* The proposed text in section 111AKZF(4)(a) appears to align with the wording in the OECD January 2026 safe harbour package (once the update above has been made). However, the wording seems to suggest that where an expense is deducted in more than one jurisdiction, the expense must be removed from all jurisdictions (i.e., that multiple adjustments would be required meaning that the group would have no loss/expense in any jurisdiction). This approach conflicts with section 111AKZF(4)(b) which provides that the single expense and loss principle will be satisfied in circumstances where the expense is economically only deducted once by the group. We would recommend that the text in section 111AKZF(4)(a) be updated to clarify that either (i) adjustments should only be required to ensure that the group has

	a single expense/loss or (ii) how section 111AKZF(4)(a) interacts with section 111AKZF(4)(b).
s111AKZG(1)(b)	The draft legislative provisions map across the wording of the OECD January 2026 safe harbour package. However, the OECD guidance is framed as an option for implementing jurisdictions. We therefore believe that section 111AKZG(1)(b)(i) and (ii) need to be updated to clarify that the subsections would only apply where the relevant jurisdiction with taxing rights (either under a QDTT or IIR/UTPR) has provided an option for taxpayers to avail of the simplified ETR safe harbour for a fiscal year commencing on or after 31 December 2025. We therefore recommend that the wording of section 111AKZG(1)(b)(i) and (ii) be updated as follows: *(i) the qualified domestic top-up tax safe harbour under section 111AI applies with respect to the tested jurisdiction, a qualified simplified effective tax rate safe harbour is available for any fiscal years that commence on or after 31 December 2025 under the law of that jurisdiction and an election for the qualified simplified effective tax rate safe harbour is made by the MNE group or large-scale domestic group, as the case may be, with respect to that tested jurisdiction,* *(ii) only one jurisdiction has taxing rights under a qualified IIR, qualified UTPR or qualified domestic top-up tax, with respect to the tested jurisdiction, a qualified simplified effective tax rate safe harbour is available for any fiscal years that commence on or after 31 December 2025 under the law of that jurisdiction and an election for the qualified simplified effective tax rate safe harbour is made by the MNE group or large-scale domestic group, as the case may be, with respect to the tested jurisdiction, or*

Appendix 2

Example: SBTI safe harbour – interaction with the R&D Tax Credit

- Assume within substance cap and that the R&D Tax Credit can qualify as a QTI)
- Applies for a fiscal year commencing on or after 1 January 2026

Outstanding Point: Payable credits are NOT used to reduce covered taxes and are normally accounted for 'above the line'. How are payable credits or offsets used in the manner envisaged by the OECD?

Facts	**CT Computation**	**Pillar 2 – if ordinary credit**	**Pillar Two - QRTC**	**Side-by-Side package QTI election**
Pre-R&D Profit	11,000			
R&D Cost	(1,000)			
Case I Profit/FANIL	10,000	10,000	10,300	10,000
Tax at 12.5%	1,250	950	1,250	1,250 (1,250-300+300)
R&D Tax Credit	300			
Pillar Two ETR		9.5%	12.14%	12.5%
Expected Top-up Tax		550	295	250

Facts	**Below the line - QRTC**	**Below the line – QTI** (Assumes payable credits are "used")	**Above the line - QRTC**	**Above the line – QTI?** (Are payable credits "used"?)
Case I (see above)	10,000	10,000	10,000	10,000
Tax at 12.5%	(1,250)	(1,250)	(1,250)	(1,250)
R&D Tax Credit	300	300	300	300
Tax Per Accounts	(950)	(950)	(1,250)	(1,250)
Net Profit Before Tax	9,050	9,050	9,050	9,050
FANIL	10,300*	10,000*	10,300	10,300 No reduction for QTI?
Tax Per Accounts	950	950	1,250	1,250
QRTC	300**	N/A	-	-
Adjusted Covered Taxes	1,250	950	1,250	1,250
ETR	12.14%	9.5%	12.14%	12.14%
Jurisdictional TUT	1,545-1,250 = 295	1,500–(950+300**)= 250 [i.e. 300 SBTI S/H reduction = expected result of 45 lower	1,545-1,250 = 295	1,545-(1,250-???) =???
Notes	*After s111P(5)(a) **After s111U(2)(d)	*S111P(5)(a) is n/a if not QRTC **S111AKB(5)(b) SBTI S/H increase if substance cap met		Outstanding Point?