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Submission File

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National Treasury / South African Revenue Service

BY E-MAIL:

SAICA COMMENTS ON THE CURRENT STATUS OF THE GLOBAL MINIMUM TAX (PILLAR II) IMPLEMENTATION

The Transfer Pricing Committee, on behalf of the South African Institute of Chartered Accountants ("SAICA"), welcomes the opportunity to make representation to the National Treasury and the South African Revenue Service ("SARS") on the status of the Global Minimum Tax (Pillar II) legislation in South Africa.

This submission follows the meeting held between the SAICA Transfer Pricing Subcommittee and the SARS Transfer Pricing Unit on 21 May 2025, as well as a separate meeting held on 15 July 2025 between SAICA and the SARS Director: Large Business & International and the Head: Large Business Segment Operations, where certain concerns regarding the implementation of Pillar II legislation were raised, together with the recent global uncertainty on international alignment because of the United States' stance on Pillar II and its recent agreement with the G7 as announced on 28 June 2025.

We submit this request for SARS and National Treasury to consider holding the implementation of the Global Minimum Tax (Pillar II) legislation in abeyance until 2027 or until greater international clarity and certainty is achieved. Our request is grounded in the concerns as set out below, which we believe warrant careful consideration to ensure effective and equitable implementation. We once again thank National Treasury and SARS for the ongoing opportunity to provide constructive comments in this regard.

SAICA continues to believe that a collaborative approach is best suited in seeking solutions to complex challenges and should you wish to clarify any of the matters addressed in this submission please do not hesitate to contact us.

Yours sincerely

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Uncertainty in International Alignment

There remains significant uncertainty regarding the alignment between the proposed OECD framework for Pillar II and the approach being considered by the United States.

It appears unlikely that a cohesive, side-by-side solution will be achieved in the near term.

Implementing Pillar II in South Africa without global consensus risks creating misalignments that could undermine the policy's effectiveness and place unnecessary burdens on South African taxpayers. This misalignment creates substantial risk for South African multinational enterprises ("MNEs") that operate in both jurisdictions, potentially subjecting them to inconsistent or duplicative compliance requirements and possible double taxation. Retaliatory action by the United States on South Africa poses a further risk.

We therefore believe it would be prudent to await greater international consensus before finalising South Africa's implementation approach.

Although global rollout is underway with more than 50 jurisdictions which have already enacted Pillar II legislation, adoption continues with countries gradually aligning to the 15% global minimum tax through domestic and top-up tax rules.

The recent G7 statement which endorses the plan where US-parented MNE groups are exempt from the Income Inclusion Rule ("IIR") and Undertaxed Profits Rule ("UTPR") due to the United States' existing minimum tax rules (e.g. GILTI) is what is referred to as the "side-by-side" approach or solution.

Crucial to this agreement for a side-by-side solution was the removal of section 899 (a proposed retaliatory tax measure against countries imposing discriminatory taxes, for example the UTPR) from the United States Senate's version of the One Big Beautiful Bill Act. This removal was a precondition to the G7 "side-by-side" arrangement. Critics argue, however, that exempting United States MNEs may undermine fairness, favouring United States MNEs over others and fuelling competitive imbalances.

In addition to the above, the G7's "side-by-side" arrangement is non-binding and must still be approved by the OECD Inclusive Framework (which includes over 140 jurisdictions).

Whether consensus can or will be reached remains uncertain. Exempting US-parented groups may be pragmatically necessary but it raises significant concerns about equity and global coordination.

Crucially, premature adoption in South Africa would expose SA-headquartered and SA-based MNEs to inconsistent or duplicative compliance, with heightened risk of double taxation where rules diverge (for example, in scoping, safe harbours, ETR computations, or ordering between QDMTT/IIR/UTPR). It would also create competitive asymmetry if U.S.-parented groups benefit from an effective carve-in under U.S. rules while others remain fully within IIR/UTPR scope—an equity concern already raised by several stakeholders.

Prudent course of action. Given these unresolved alignment issues, South Africa should signal commitment to Pillar II in principle but defer domestic implementation until:



- there is formal, Inclusive-Framework-level agreement on the “side-by-side” mechanics;
- U.S. legislative and regulatory positions are settled; and
- key trading and investment peers (such as China, India and EU nations) have converged on consistent rules and safe harbours.

This sequencing protects the tax base while avoiding unnecessary compliance costs and double-taxation risk for South African MNEs—achieving Pillar II’s objectives **without disadvantaging** South Africa during a period of global rule-setting flux.

We strongly urge SARS to **defer domestic implementation of Pillar II to 2027 or later**, in line with the pace of other developing economies. This deliberate timing will allow South Africa to build administrative capacity, benefit from international consensus, and avoid creating a first-mover disadvantage. By aligning implementation with peer jurisdictions, South Africa can **protect its competitiveness as the investment gateway to Africa** while still signalling clear commitment to the OECD Inclusive Framework.

Significant Time and Resource Costs for Taxpayers

The preparation for Pillar II compliance is imposing substantial demands on taxpayers, particularly Multinational Enterprises (“MNEs”) headquartered in South Africa. These entities are currently dedicating significant financial and human resources to prepare for Pillar II implementation amid substantial uncertainty.

These enterprises are incurring considerable costs for system upgrades, consultancy fees, staff training, health checks and impact assessments - costs for which SARS is providing tax deductions, but which may ultimately prove unnecessary or misdirected if the final implementation differs significantly from current expectations. This represents an inefficient allocation of resources in an already challenging economic environment.

Cost and Complexity of Compliance

The technical complexity of Pillar II compliance presents a formidable challenge for taxpayers.

The intricate requirements, including detailed calculations and reporting obligations, necessitate specialised expertise and robust systems. This complexity disproportionately affects smaller MNEs and increases the risk of inadvertent non-compliance, further straining resources without guaranteed benefits to the fiscus.

In addition to our request to hold the implementation in abeyance, we urge SARS to provide comprehensive guidance and training on the legislative and technical implementation of the Global Minimum Tax and not merely refer taxpayers to the numerous pages of explanatory guidance issued by the OECD. Clear, accessible resources would greatly assist taxpayers in understanding and preparing for compliance, should the legislation proceed.

Recent communication from SARS on Pillar II also mentioned a registration requirement, i.e. *A Domestic Constituent Entity (DCE) of an in-scope MNE Group, Domestic Joint Venture or*



Domestic Joint Venture Subsidiary of a Domestic Joint Venture Group must register with SARS.

However, it is not clear in terms of which legislation this registration requirement is legislated and what the process of such registration entails. Similarly, more clarity on the notification requirements on eFiling will be appreciated. For example, SARS could consider sharing a template of the notification format and guidance on the submission process.

Revenue Impact Assessment

Our concerns are informed by the extensive experience of tax advisors on our National Tax and Transfer Pricing committees, who have assisted numerous South African-headquartered MNEs with health checks and impact assessments. These assessments indicate that the majority of these MNEs are unlikely to incur top-up tax liabilities payable in South Africa under Pillar II.

Consequently, we question the earlier estimate that Pillar II will contribute an additional R8 billion in top-up taxes to the fiscus for the 2025/2026 fiscal year. This suggests that the fiscal benefits of immediate implementation may be overstated, further supporting the case for a delay until greater certainty is achieved. This may be particularly true given that Pillar I and II were supposed to be complimentary proposals with the latter being more revenue positive for developing and market economies, though Pillar I's fate does seem even more unclear.

On the other hand, where Pillar II compliance costs are incurred and tax deductible, without any resultant top-up taxes payable to SARS, this may result in a loss to the fiscus if one does not take into account the revenue generated by South African resident advisory firms or where the Pillar II advice is received from foreign advisors.

As an alternative, in order to ensure that the South African fiscus does not lose out on the 'first bite at the cherry', simplified legislation may be implemented in South Africa for foreign-held MNE groups to provide that instead of the comprehensive Pillar II rules applying, where any top-up tax would have become payable in a foreign jurisdiction relating to undertaxed profits in South Africa, such taxes will be due and payable in South Africa.

We are not advocating for the complete abandonment of Pillar II.

Rather, we respectfully request that SARS hold the implementation in abeyance until there is greater clarity on the international framework, alignment with key jurisdictions like the United States, and resolution of compliance challenges.

This approach would provide taxpayers with the necessary time to prepare effectively while ensuring that SARS and National Treasury's objectives are met in a manner that is both practical and equitable.

SAICA respectfully requests a formal meeting with the SARS Global Minimum Tax team and/or National Treasury to discuss these issues in detail and explore collaborative solutions.

We appreciate your consideration of this submission, look forward to engaging with SARS and/or National Treasury on this matter and are available to arrange a meeting at your earliest convenience to discuss these concerns further. [END]