GLoBE Rules: Making a Start

Why in news?

On December 20, 2021, the OECD released the model Anti Global Base Erosion Rules to address the tax challenges arising from the digitalisation of the global economy.

What is the model rules about?

- The Model Rules (also referred to as the “GloBE” Rules) are part of a two-pillar solution
    - Pillar 1 gives taxing rights to market jurisdictions.
    - Pillar 2 establishes a **global minimum corporate tax of 15%.**
- The two-pillar solution has been agreed upon by 137 out of 141 member jurisdictions of the OECD/G20 Inclusive Framework on BEPS.
- The principles supporting the global minimum tax comprise
    - **Income Inclusion Rule (IIR)**
    - **Undertaxed Payment Rule (UTPR)-** which are implemented as a part of the domestic framework
    - **Subject to Tax Rules (STTR)-** which is implemented as a part of the treaty framework.
- The Rules have been designed as a common approach, leaving the decision to individual nations to adopt the Rules
- They provide a template that jurisdictions can translate into domestic-law changes, to implement Pillar Two within an agreed timeframe.

India is a member of the OECD/G20 Inclusive Framework on BEPS.

What is the significance of the model rules?

- The minimum tax will apply to MNEs with revenue above 750 million Euros and is estimated to generate around 150 billion dollars in additional global tax revenues annually.
- The GloBE rules will provide for a coordinated system of taxation intended to ensure large MNE groups pay the minimum level of tax on income arising in each of the jurisdictions in which they operate.
- The rules create a “top-up tax” to be applied on profits in any jurisdiction whenever the effective tax rate, determined on a jurisdictional basis, is below the minimum 15% rate.
- The Model Rules will bring a set of common principles at the domestic-law and treaty levels to tax income of specified businesses that are either not taxed or taxed at lower rates.

What will be the challenges in implementation?

- The ambitious timelines for domestic-law change by 2023
- The willingness on part of the US lawmakers to embrace a modified **GILTI (Global Intangible Low Taxed Income)—**a domestic US anti-abuse rule concerning overseas Controlled Foreign Companies of US companies.
- The apparent delay or possible failure of the U.S. in enacting a legislation that revamps its domestic GILTI rules
- Hurdles for the US law-making process in the Senate-approval stage.
- Uncertainity in the timing of adoption by India
- Numerous differences between India's tax system and the design aspects of GloBE
  - For instance, India does not have **Control Foreign Corporation** (CFC) rules and these will have to be legislated into its income tax law.
  - India does not rely on consolidation of income for tax purposes, a concept central to adoption of the GLoBE model.

What is the need of the hour?

- The world in 2022 appears to be changing by embracing multilateralism and this puts the onus on nations like India to align its domestic rules with international framework.
- A wholesome solution will depend upon
  - Effective incorporation in the domestic law
  - Countries staying committed to consistently implementation of Two-Pillar solution
  - Adoption of Pillar 1 by the US, as Pillar 2's acceptance by developing countries is largely based on Pillar 1 going ahead.

Reference

1. https://www.financialexpress.com/opinion/globe-rules-making-a-start/2400251/