Chapter 4.6: Post-Filing Adjustments

Learning Objective

After completing this chapter, you will be able to apply Article 4.6's asymmetric treatment rules for post-filing adjustments, distinguishing between increases (added to current year) and decreases (requiring prior-year recalculation) in Covered Taxes, and understand the immaterial exception, rate change rules, and recapture mechanisms.

1. The Asymmetric Treatment Principle

GloBE treats increases and decreases in prior-year Covered Taxes differently:

Adjustment Type	Treatment	Rationale
Increase in prior-year Covered Taxes	Add to **current year** Covered Taxes	Simplicity; no refund mechanism
Decrease in prior-year Covered Taxes	**Recalculate** prior year ETR and Top-Up Tax	Prevent avoidance via later reductions

Why asymmetric? GloBE does not provide refunds of Top-Up Tax already paid. If a prior-year increase simply increased current-year Covered Taxes, but a decrease required recalculation, MNEs would face permanent overtaxation from increases but full correction for decreases. The asymmetry ensures fairness while maintaining anti-avoidance integrity.

2. Increases in Prior-Year Covered Taxes (Article 4.6.1)

2.1 The Rule

An increase to a Constituent Entity's Covered Taxes for a **prior fiscal year** is treated as an increase in Covered Taxes in the **current fiscal year**.

2.2 When This Applies

Scenario	Example
Audit settlement	Tax authority assessment upheld
Amended return	Voluntary correction increasing tax
UTP resolution	Uncertain position resolved with payment
Self-assessment adjustment	Error discovered, additional tax paid
Transfer pricing adjustment	Unilateral TP increase by authority

2.3 Practical Effect

```
 FY 2024: Filed GIR with Covered Taxes €10,000,000
              ETR = 18% → No Top-Up Tax

FY 2026: Audit concludes; additional €500,000 tax for FY 2024

Treatment:
  Add €500,000 to FY 2026 Covered Taxes
  FY 2024 remains unchanged
  No amended GIR for FY 2024
```

2.4 No Refund Mechanism

If the FY 2024 ETR was below 15% and Top-Up Tax was paid, the additional €500,000 does NOT trigger a refund of that Top-Up Tax. The increase simply improves FY 2026's position.

Consequence: MNEs that paid Top-Up Tax in a prior year and later have increased Covered Taxes for that year receive no benefit. This creates an incentive to resolve tax positions promptly.

3. Decreases in Prior-Year Covered Taxes

3.1 The General Rule

A **decrease** in Covered Taxes for a prior fiscal year requires: 1. Recalculation of the prior year's ETR and Top-Up Tax 2. Any incremental Top-Up Tax is paid in the current year (as Additional Current Top-Up Tax)

3.2 The Recalculation Process

Step 1: Identify the fiscal year to which the decrease relates

Step 2: Recalculate that year's Adjusted Covered Taxes (with decrease applied)

Step 3: Recalculate that year's ETR

Step 4: Recalculate Top-Up Tax using Article 5.1-5.3

Step 5: Determine incremental Top-Up Tax (new vs. original)

Step 6: Include incremental amount as Additional Current Top-Up Tax per Article 5.2.3

3.3 Worked Example

```
FY 2024 (as originally filed):
  GloBE Income:             €50,000,000
  Adjusted Covered Taxes: €8,500,000
  ETR:                      17% (above 15%)
```

```
  Top-Up Tax:             €0

FY 2026: Tax refund of €1,200,000 relating to FY 2024

Recalculation of FY 2024:
  GloBE Income:           €50,000,000 (unchanged)
  Adjusted Covered Taxes: €8,500,000 - €1,200,000 = €7,300,000
  Revised ETR:            14.6% (below 15%)
  Top-Up Tax %:           15% - 14.6% = 0.4%
  Top-Up Tax:             0.4% × €50,000,000 = €200,000

Result:
  Additional Current Top-Up Tax in FY 2026: €200,000
  No amended GIR for FY 2024 required
```

4. Immaterial Decrease Exception

4.1 The €1 Million Threshold

If the aggregate decrease in Covered Taxes for a jurisdiction in a fiscal year is **less than €1 million**, the MNE may **elect** to: - Treat the decrease as a reduction in current-year Covered Taxes - Avoid prior-year recalculation

4.2 Election Requirements

Requirement	Details
Threshold	< €1,000,000 aggregate decrease for jurisdiction
Scope	Annual election
Application	Must be made consistently

4.3 When to Use the Exception

Use exception when: - Administrative burden of recalculation outweighs benefit - Prior year already had ETR well above 15% - Decrease is truly immaterial

Do not use when: - Prior year ETR was close to 15% (decrease may trigger Top-Up Tax) - Multiple small decreases may aggregate to material impact

4.4 Example

```
 FY 2024 ETR: 22% (comfortably above 15%)
FY 2026: Refund of €400,000 relating to FY 2024

Option A: Recalculate FY 2024
  Revised ETR: Still above 15% → No Top-Up Tax
  Administrative burden: Moderate

Option B: Elect immaterial exception
  Reduce FY 2026 Covered Taxes by €400,000
  No recalculation required
  Administrative burden: Minimal

Decision: Use exception (same result, less effort)
```

5. Tax Rate Changes (Articles 4.6.2 and 4.6.3)

5.1 Rate Decreases (Article 4.6.2)

When a jurisdiction **reduces** its corporate tax rate below 15%:

Issue: Deferred tax liabilities created in prior years at the old rate will reverse at the new (lower) rate.

Rule: Recalculate the prior-year deferred tax expense based on the new rate.

Example:

```
Year 1: DTL created at 20% = €1,000,000 × 20% = €200,000
        Included in Year 1 Adjusted Covered Taxes

Year 2: Rate reduced to 10%
        DTL must be recomputed at 10%
        €1,000,000 × 10% = €100,000
        Difference: €200,000 - €100,000 = €100,000 reduction

Treatment:
  Recalculate Year 1 ETR with reduced deferred tax
  Any incremental Top-Up Tax → Additional Current Top-Up Tax in Year 2
```

5.2 Rate Increases (Article 4.6.3)

When a jurisdiction **increases** its corporate tax rate:

General rule: The increase is disregarded until the DTL unwinds and actual tax is paid.

Treatment: Additional tax paid when DTL reverses is treated as an increase in Covered Taxes for the **year the DTL was originally created**.

Example:

```
Year 1: DTL created at 20% = €1,000,000 × 20% = €200,000

Year 2: Rate increased to 25%

Year 3: DTL reverses; actual tax paid = €250,000

Treatment:
  Additional €50,000 (€250,000 - €200,000) treated as
  increase in Year 1 Covered Taxes
  Per Article 4.6.1, added to Year 3 Covered Taxes
```

6. Recapture Rules

6.1 Current Tax Recapture (Article 4.6.4)

Rule: If current tax expense included in Covered Taxes is **not paid within 3 years**, it must be recaptured.

Threshold: Only applies if unpaid amount exceeds **€1 million**.

Process: 1. At end of Year 3, assess unpaid current tax 2. If > €1 million unpaid, recalculate Year 1 ETR excluding unpaid amount 3. Any incremental Top-Up Tax → Additional Current Top-Up Tax

Timeline:

```
 Year 1: Current tax expense €5,000,000 included in Covered Taxes
Year 4: Only €3,800,000 paid; €1,200,000 still unpaid

Recapture triggered:
  Recalculate Year 1 ETR excluding €1,200,000
  Incremental Top-Up Tax paid in Year 4
```

6.2 Deferred Tax Recapture (Article 4.4.4)

Rule: If DTL does not reverse within **5 years**, recapture applies.

Distinction from current tax: | Aspect | Current Tax | Deferred Tax | |--------|-------------|--------------| | Recapture period | 3 years | 5 years | | Threshold | €1 million | No threshold | | Exceptions | None | Recapture Exception Accruals (REAs) |

7. Transfer Pricing Adjustments

7.1 General Principle

GloBE respects transfer pricing adjustments made by local tax authorities: - Unilateral adjustments are generally accepted - Corresponding adjustments ensure no double taxation

7.2 Unilateral Adjustment Treatment

When Country A's tax authority makes a TP adjustment:

If Country A is higher-taxed: Adjustment reduces Country A entity's expense → Increase Country A's GloBE Income → Corresponding decrease in Country B's GloBE Income

If Country A is under-taxed (ETR < 15%): No corresponding adjustment in Country B → Prevents artificial reduction of low-tax income

7.3 Post-Filing TP Adjustments

Scenario	Treatment
TP audit increases tax in Year 1 (discovered Year 3)	Add to Year 3 Covered Taxes (Art. 4.6.1)
TP audit decreases tax in Year 1 (discovered Year 3)	Recalculate Year 1 ETR; Additional Top-Up Tax in Year 3
Bilateral APA applied retroactively	Adjust per APA terms; follow 4.6.1/ recalculation rules
Self-initiated TP true-up	Complex—depends on timing and direction

7.4 Self-Initiated TP True-Ups

Issue: Many MNEs make year-end TP true-ups after books close but before returns filed.

GloBE treatment: - If true-up is made **before** GIR filed: Include in original GloBE computation - If true-up is made **after** GIR filed: Apply post-filing adjustment rules

Warning: True-ups that increase income in low-tax jurisdictions may increase Top-Up Tax exposure.

8. Audit Settlement Scenarios

8.1 Tax Authority Audit Resulting in Additional Assessment

```
Scenario: German tax authority audits SG Germany GmbH for FY 2024
         Assessment issued in FY 2027: Additional tax €800,000

Treatment:
  Add €800,000 to FY 2027 Covered Taxes
  No recalculation of FY 2024
  No amended GIR
```

8.2 Tax Authority Audit Resulting in Refund

```
Scenario: Irish Revenue audits SG Ireland Ltd for FY 2024
         Refund issued in FY 2027: €600,000

Treatment (assuming > €1M threshold not met at jurisdiction level):
  If immaterial election made: Reduce FY 2027 Covered Taxes
  If no election: Recalculate FY 2024 ETR
```

8.3 Mutual Agreement Procedure (MAP) Resolution

```
 Scenario: MAP resolves double taxation between UK and Germany
           UK receives additional tax €1,500,000
           Germany provides corresponding refund €1,500,000

Treatment:
  UK: Add €1,500,000 to current year Covered Taxes
  Germany:
    If ≥ €1M: Recalculate prior year
    If < €1M with election: Reduce current year Covered Taxes
```

9. Post-Filing Adjustment Timeline

```
 YEAR 1 (GIR FILED)         YEAR 2                  YEAR 3
       │                      │                        │
       ▼                      ▼                        ▼
┌──────────────┐        ┌──────────────┐         ┌──────────────┐
│ GIR Filed    │        │ Audit Begins │         │ Assessment   │
│ FY 2024      │        │              │         │ Issued       │
│              │        │              │         │              │
└──────────────┘        └──────────────┘         └──────────────┘
                                                       │
                                                       ▼
                                                ┌──────────────────┐
                                                │ If INCREASE:     │
                                                │ Add to Year 3    │
                                                │ Covered Taxes    │
                                                │                  │
                                                │ If DECREASE:     │
                                                │ Recalculate      │
```

```
│ Year 1 ETR │
└──────────────────┘
```

10. Stratos Worked Example: Post-Filing Adjustments

Scenario: Stratos Group has three post-filing adjustments in FY 2027 relating to FY 2025:

10.1 Data

Jurisdiction	Adjustment	Amount (€)	Type
Germany	Tax audit assessment	+750,000	Increase
Singapore	TP adjustment (refund)	-1,400,000	Decrease
Ireland	R&D credit error correction	+180,000	Increase

10.2 FY 2025 Original Position (for reference)

Jurisdiction	GloBE Income	Covered Taxes	ETR
Germany	€53,880,000	€12,250,000	22.7%
Singapore	€4,000,000	€352,500	8.8%
Ireland	€15,000,000	€1,875,000	12.5%

10.3 Treatment Analysis

1. Germany (+€750,000 increase)

```
Article 4.6.1 applies:
  Add €750,000 to FY 2027 German Covered Taxes
  No recalculation of FY 2025
```

2. Singapore (-€1,400,000 decrease)

```
Decrease > €1M → Cannot use immaterial exception
Must recalculate FY 2025 Singapore ETR:

Original:
  GloBE Income:    €4,000,000
  Covered Taxes:   €352,500
  ETR:             8.8%
  Top-Up Tax %:    6.2%
  Top-Up Tax:      €248,000

Revised:
  GloBE Income:    €4,000,000
  Covered Taxes:   €352,500 - €1,400,000 = NEGATIVE

Wait—this creates negative Covered Taxes.
Need to verify: The refund likely relates to tax paid in
FY 2025, reducing Covered Taxes.

Revised Covered Taxes: -€1,047,500 (negative)
Revised ETR: Negative ETR → Top-Up Tax % = 15%
Revised Top-Up Tax: 15% × €4,000,000 = €600,000

Original Top-Up Tax: €248,000
Incremental: €600,000 - €248,000 = €352,000

Additional Current Top-Up Tax in FY 2027: €352,000
```

3. Ireland (+€180,000 increase)

```
Article 4.6.1 applies:
  Add €180,000 to FY 2027 Irish Covered Taxes
  No recalculation of FY 2025
```

10.4 Summary Impact on FY 2027

Item	Amount (€)
Germany Covered Taxes adjustment	+750,000
Ireland Covered Taxes adjustment	+180,000
Singapore Additional Current Top-Up Tax	+352,000

Note: The Singapore refund results in additional Top-Up Tax because the original ETR (8.8%) was already below 15%. The refund pushes Covered Taxes negative, worsening the ETR significantly.

11. Post-Filing Adjustment Checklist

11.1 When Adjustment Identified

- [ ] Determine fiscal year to which adjustment relates
- [ ] Classify as increase or decrease in Covered Taxes
- [ ] Identify jurisdiction affected

11.2 For Increases

- [ ] Add to current year Covered Taxes (Article 4.6.1)
- [ ] Document adjustment in GIR workpapers
- [ ] No amended GIR required

11.3 For Decreases

- [ ] Calculate aggregate decrease for jurisdiction

- [ ] If < €1M: Consider immaterial election
- [ ] If ≥ €1M or no election: Recalculate prior year ETR
- [ ] Calculate incremental Top-Up Tax
- [ ] Include as Additional Current Top-Up Tax (Article 5.2.3)
- [ ] Document recalculation workpapers

11.4 For Rate Changes

- [ ] Identify affected deferred tax balances
- [ ] Apply Article 4.6.2 (decrease) or 4.6.3 (increase)
- [ ] Recalculate as required

11.5 For Recapture

- [ ] At Year 3 end: Review unpaid current tax by jurisdiction
- [ ] Trigger recapture if unpaid > €1M
- [ ] At Year 5 end: Review unreversed DTLs (excluding REAs)
- [ ] Trigger recapture as required

12. Common Pitfalls

12.1 Pitfall 1: Treating Decreases Like Increases

Issue: Adding decreases to current year Covered Taxes without recalculation

Impact: Understates Top-Up Tax; potential penalty exposure

Solution: Always recalculate prior year for decreases (unless immaterial election applies)

12.2 Pitfall 2: Ignoring Transfer Pricing Timing

Issue: Self-initiated TP true-ups made after GIR filed create unexpected adjustments

Impact: May increase or decrease Covered Taxes with complex consequences

Solution: Complete TP true-ups before GIR filing where possible

12.3 Pitfall 3: Missing Recapture Deadlines

Issue: Failing to monitor 3-year (current tax) and 5-year (deferred tax) periods

Impact: Missed recapture triggers; ETR errors

Solution: Implement tracking system for unpaid taxes and unreversed DTLs

12.4 Pitfall 4: Aggregating Jurisdictions Incorrectly

Issue: Applying €1M immaterial threshold at entity level instead of jurisdiction level

Impact: Incorrect use of exception

Solution: Aggregate all CEs in jurisdiction when assessing threshold