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QC 76121

Base erosion and profit shifting

How the OECD and Australia address base erosion and profit shifting, a tax avoidance strategy used by multinationals.

Last updated 21 June 2022

What is base erosion and profit shifting

Base erosion and profit shifting (BEPS) refers to the tax planning strategies used by multinational companies to exploit gaps and differences between tax rules of different jurisdictions internationally. This is done to artificially shift profits to low or no-tax jurisdictions where there is little or no economic activity.

The Organisation for Economic Co-operation and Development (OECD) conservatively estimates the annual revenue loss due to BEPS at $100 to $240 billion USD.

Effects of base erosion and profit shifting

BEPS results in tax not being paid in the jurisdiction where economic activity occurs – eroding revenue bases of countries and undermining the fairness and integrity of their tax systems. Although some schemes are illegal, most aren't.

Businesses that operate across borders may use BEPS strategies to gain a competitive advantage over others that operate at a domestic level. Additionally, when taxpayers see multinational enterprises legally avoiding income tax, it weakens voluntary compliance by all taxpayers.

The OECD BEPS Action Plan

Due to rising government and community concern about BEPS strategies, G20 finance ministers asked the OECD to develop an action

plan addressing BEPS issues in a coordinated and comprehensive manner. This resulted in the release of the OECD BEPS 15 Action Plan in mid-2013:

- **Action 1:** Address the tax challenges of the digital economy
- **Action 2:** Neutralise the effects of hybrid mismatch arrangements
- **Action 3:** Strengthen controlled foreign company (CFC) rules
- **Action 4:** Limit base erosion involving interest deductions and other financial payments
- **Action 5:** Counter harmful tax practices more effectively, taking into account transparency and substance
- **Action 6:** Prevent treaty abuse
- **Action 7:** Prevent the artificial avoidance of the permanent establishment status
- **Actions 8–10:** Assure that transfer pricing outcomes are in line with value creation
- **Action 11:** Establish methodologies to collect and analyse data on BEPS and the actions to address it
- **Action 12:** Require taxpayers to disclose their aggressive tax planning arrangements
- **Action 13:** Re-examine transfer pricing documentation
- **Action 14:** Make dispute resolution mechanisms more effective
- **Action 15:** Develop a multilateral instrument to modify bilateral tax treaties

The ensuing work by the OECD G20 Project involving over 60 countries culminated in the October 2015 release of the BEPS final package – 13 reports covering the 15 actions.

Australia's implementation of the BEPS package

Australia is committed to acting to address BEPS risks and has implemented recommendations from BEPS Actions 2, 5, 6, 8–10, 13, 14 and 15.

The legislation to give effect to BEPS Action 2, *Treasury Laws Amendment (Tax Integrity and Other Measures No. 2) Act 2018,* received Royal Assent on 24 August 2018. Schedules 1 and 2 introduced new Division 832 of the ITAA 1997 and the necessary amendments to give effect to the OECD Hybrid Mismatch rules. The

rules apply to certain payments after 1 January 2019 and income years commencing on or after 1 January 2019.

Australia signed the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS (MLI) on 7 June 2017 (BEPS Action 15) and it entered into force on 1 January 2019. It is expected the MLI will modify 35 of Australia's tax treaties to implement integrity provisions to protect those treaties from being exploited and to improve tax treaty related dispute resolutions mechanisms. Australia has also agreed to mandatory arbitration in relation to tax treaty related disputes.

In October 2018, we updated our mutual agreement procedures (MAP) guidance to implement recommendations in BEPS Action 14. Taxation Ruling TR 2000/16 *Income tax: international transfer pricing and profit reallocation adjustments, relief from double taxation and the Mutual Agreement Procedure* was withdrawn.

An updated **PCG 2017/2** *Simplified transfer pricing record keeping options* was released on 9 January 2019 which implements BEPS Actions 8–10 transfer pricing simplification recommendation for low value-adding intragroup services.

We have fully implemented Country-by-Country (CbC) Reporting (BEPS Action 13), including from June 2018, the exchange of CbC reports with partner jurisdictions via the OECD Common Transmission System (CTS).

As part of the MLI, Australia adopted the principal purposes test in Article 7 to prevent treaty abuse and deny treaty benefits in certain circumstances (BEPS Action 6). An updated **PS LA 2020/2** *Administering general anti-abuse rules, such as a principal or main purposes test, included in any of Australia's tax treaties,* released on 1 October 2020, provides guidance on the administrative process of applying a principal or main purposes test in Australia's tax treaties.

Inclusive framework

The OECD established the inclusive framework on BEPS implementation in December 2015. Aims of the inclusive framework include monitoring implementation of BEPS measures, in particular the minimum standard recommendations for Actions 5, 6, 13 and 14. The OECD has undertaken annual reviews of the implementation of the minimum standards.

The inclusive framework will also support the development of toolkits for low-capacity developing countries. Australia is one of over 140 members of the inclusive framework.

More information

Australia's current work on implementing the BEPS package

- Hybrid mismatch rules (BEPS Action 2)
- Automatic exchange of information on cross-border arrangements (BEPS Action 5)
- Country-by-country reporting (BEPS Action 13)
- Mutual agreement procedure (BEPS Action 14)
- Multilateral Instrument (MLI) (BEPS Action 15)

OECD information

- OECD BEPS
- BEPS Actions
- Background Brief: Inclusive Framework on BEPS (PDF, 205KB)

QC 52546

Hybrid mismatch rules

How hybrid mismatch rules work and when they apply.

Last updated 4 November 2025

Why we have hybrid mismatch rules

Australia's hybrid mismatch rules largely follow The Organisation for Economic Cooperation and Development (OECD) hybrid mismatch and branch mismatch rules from Action Item 2 of the OECD Base Erosion and Profit Shifting (BEPS) action plan.

The ATO, in consultation with the Board of Taxation, designed and implemented hybrid mismatch rules to prevent multinational companies from gaining an unfair competitive advantage by avoiding income tax or obtaining double tax benefits through hybrid mismatch arrangements.

Hybrid mismatch arrangements exploit differences in the tax treatment of an entity or instrument under the laws of 2 or more tax jurisdictions. This has an overall negative impact on competition, efficiency, transparency and fairness.

What the rules apply to

The rules apply to payments that give rise to hybrid mismatch outcomes which can be summarised as:

- deduction or non-inclusion mismatches (D/NI) where a payment is deductible in one jurisdiction and non-assessable in the other jurisdiction
- deduction or deduction mismatches (D/D) where the one payment qualifies for a tax deduction in 2 jurisdictions
- imported hybrid mismatches where receipts are sheltered from tax directly or indirectly by hybrid outcomes in a group of entities or a chain of transactions.

These rules operate in Australia to neutralise hybrid mismatches by cancelling deductions or including amounts in assessable income.

The rules also contain a targeted integrity provision that applies to certain deductible interest payments, or payments under a derivative, made to an interposed foreign entity where the rate of foreign income tax on the payment is 10% or less.

Subject to some exceptions, the rules apply to certain payments after 1 January 2019, and to income years commencing on or after 1 January 2019. Limited transitional arrangements – impacting frankable distributions – apply for Additional Tier 1 regulatory capital issued by banks or insurance companies.

In addition, the imported mismatch rules will only apply in respect of 'structured arrangements' for income years commencing on or after 1 January 2019. The complete imported mismatch rule will be delayed to income years starting on or after 1 January 2020. This aligns with the European Union (EU) introduction of the hybrid mismatch rules.

Who the rules apply to

The rules apply to payments between:

- related parties
- members of a control group
- parties under a structured arrangement.

Unlike the diverted profits tax or multinational anti-avoidance law measures, the hybrid mismatch rules do not have a de minimis or materiality threshold.

Clarifying the operation of hybrid mismatch rules

Australia's hybrid mismatch rules have been updated with a number of technical amendments in order to clarify and improve the rules' operation.

In the 2019–20 Budget on 2 April 2019, the government announced the measure Tax Integrity – clarifying the operation of the hybrid mismatch rules. Subsequently, the government handed down the 2019–20 Mid-Year Economic and Fiscal Outlook (MYEFO) on 16 December 2019 and announced Tax integrity – improving the operation of the hybrid mismatch rules. These measures announced a number of minor technical amendments to Australia's hybrid mismatch rules to clarify and improve their operation.

On 3 September 2020 the Treasury Laws Amendment (2020 Measures No.2) Act 2020, which fully implemented the above measures and some additional changes, received royal assent.

The amendments:

- clarify the operation of the hybrid mismatch rules for trusts and partnerships
- clarify the circumstances in which an entity is a deducting hybrid
- clarify the operation of the dual inclusion income rule by
  - deeming certain types of foreign sourced income to be subject to Australian income tax in determining if that income is dual inclusion income
  - removing the need for non-corporate entities to reduce their dual inclusion income where they have a foreign income tax offset
  - clarifying the operation of the dual inclusion income on-payment rule
  - expanding the definition of dual inclusion income group such that, if in a country 2 or more entities share the same multiple liable entities (and those alone), then those entities are members of a dual inclusion income group in that country
- amend the definition of 'foreign hybrid mismatch rules' so that it refers to a foreign law corresponding to any of Subdivisions 832-C to 832-H of the *Income Tax Assessment Act 1997* (ITAA 1997) and clarify the operation of provisions that have regard to the operation of corresponding foreign hybrid mismatch rules
- clarify that, for the purpose of applying the hybrid mismatch rules, foreign income tax does not include foreign municipal or state taxes (except in considering the application of the integrity rule)
- clarify that the hybrid mismatch rules apply to multiple entry consolidated (MEC) groups in the same way as they apply to consolidated groups

- ensure that the integrity rule can apply appropriately to financing arrangements that have been designed to circumvent the operation of the hybrid mismatch rules
- allow franking benefits on franked distributions made on certain Additional Tier 1 (AT1) capital instruments that would otherwise be denied. For further information on these amendments and their specific administrative treatment, refer to Franked distributions on AT1 capital instruments.

Furthermore, on 10 December 2024, the Treasury Laws Amendment (Multinational—Global and Domestic Minimum Tax) (Consequential) Act 2024 implementing the Global Anti-Base Erosion Model Rules (Pillar Two) received royal assent. This Act further amended the meaning of 'subject to foreign income tax' for the purpose of applying the hybrid mismatch rules, clarifying that foreign GLoBE tax (that is, foreign DMT tax, foreign IIR tax and foreign UTPR tax) and other foreign minimum taxes are disregarded in determining if an amount is subject to foreign income tax. These amendments clarify that Australia's hybrid mismatch rules will continue to operate notwithstanding the implementation of Pillar Two by Australia and other jurisdictions.

Application dates for the amendments

The September 2020 amendments apply to income years starting on or after 1 January 2019, except for amendments to the:

- integrity rule (other than the state and municipal taxes changes), which applies apply to income years starting on or after 2 April 2019
- definition of 'foreign hybrid mismatch rules', which applies to income years starting on or after 1 January 2020.

The December 2024 amendments apply in relation to income years ending on or after 1 January 2024.

Administering amendments to the hybrid mismatch rules

As a number of the changes have retrospective effect, taxpayers will need to either:

- decide to comply with the law (pre-amendments), or
- 'anticipate' the amendments (now enacted law) for the purposes of their income tax return lodgments.

We won't apply our resources to checking whether these self-assessments are correct (in accordance with the law (pre-

amendments)), but taxpayers will need to review their lodged returns now that the proposed amendments have been enacted.

Taxpayers should refer to **Administrative treatment of retrospective legislation** for further information and practical guidance on our administrative approach to law change proposals with retrospective effect.

Taxpayers should also refer to **Lodgment and payment obligations and related interest and penalties**, which sets out our administrative approach to lodgment and payment obligations and related charging of interest and penalties where taxpayers may be affected by the introduction of a new tax measure.

For further information about how we administer retrospective changes refer to Law Administration Practice Statement **PS LA 2007/11** *Administrative treatment of taxpayers affected by announced but unenacted legislative measures which will apply retrospectively when enacte*d to explore its applications and provisions.

Franked distributions on Additional Tier 1 capital instruments

Where franked distributions made on AT1 capital instruments give rise to a foreign income tax deduction, the retrospective changes ensure:

- franking benefits on those distributions continue to be allowed (assuming relevant requirements are satisfied, such as the holding period rule, the related payments rule and the dividend washing integrity rule)
- an amount equal to the amount of the foreign income tax deduction is included in the assessable income of the entity that makes the distribution.

We will continue to work with issuers of AT1 instruments to identify when franked distributions give rise to foreign income tax deductions on these capital instruments, to ensure correct application of the new law.

For investors in AT1 capital instruments, your ability to claim franking benefits attached to franked distributions that are paid on these capital instruments, won't be impacted by a foreign income tax deduction that arises for that distribution.

Legislation and supporting material

The hybrid mismatch rules received royal assent on 24 August 2018 (as contained in Schedule 1 and 2 of Treasury Laws Amendment (Tax

Integrity and Other Measures No. 2) Act 2018).

The September 2020 amending legislation clarifying the operation of the hybrid mismatch rules received royal assent on 3 September 2020 (as contained in Schedule 1 of The Treasury Laws Amendment (2020 Measures No. 2) Act 2020).

The December 2024 amending legislation clarifying the meaning of subject to foreign income tax post enactment of the Global Anti-Base Erosion Model Rules (Pillar Two) received royal assent on 10 December 2024 (as contained in Schedule 1 of Treasury Laws Amendment (Multinational—Global and Domestic Minimum Tax) (Consequential) Act 2024).

Law companion rulings

The following Law Companion Rulings (LCRs) have been released so far:

- On 13 January 2021 we finalised **LCR 2021/1** *OECD hybrid mismatch rules – targeted integrity rule*. This outlines the ATOs interpretation of the hybrid mismatch targeted integrity rule set out in Subdivision 832-J of the ITAA 1997. The finalised version incorporates feedback received on the 2 previous drafts and addresses changes introduced as part of the amending legislation.
- On 24 July 2019 we finalised **LCR 2019/3** *OECD hybrid mismatch rules – concept of structured arrangement*. This outlines the ATOs view of the law about the phrases 'structured arrangement' and 'party to the structured arrangement' set out in section 832-210 of the ITAA 1997.

Taxation determinations

To date, the following Taxation Determinations (TDs) have been released.

On 29 June 2022 we published **TD 2022/9** *Income tax: is section 951A of the US Internal Revenue Code a provision of a law of a foreign country that corresponds to section 456 or 457 of the Income Tax Assessment Act 1936 for the purpose of subsection 832-130(5) of the Income Tax Assessment Act 1997?* This TD explains the ATO's view that section 951A of the US Internal Revenue Code, known as the global intangible low-taxed income 'GILTI' regime, doesn't correspond to section 456 or 457 of the ITAA 1936 (the operative provisions of Australia's controlled foreign company regime). Rather, section 951A and other related provisions of the US Internal Revenue Code are widely considered to be a US 'minimum tax regime' for which there is no equivalent in Australia.

On 3 July 2024 we published **TD 2024/4** *Income tax: hybrid mismatch rules – application of certain aspects of the 'liable entity' and 'hybrid payer' definitions*. This TD explains the ATO's view that hypothetical income or profits within the tax base of a country can be used to identify a 'liable entity' or entities in the country for the purpose of section 832-325, and a 'non-including country' for the purpose of subsection 832-320(3) of the 'hybrid payer' definition can be a jurisdiction other than the country where the payee of the relevant payment is located or resides.

Practical compliance guidelines

To date, the following Practical Compliance Guidelines (PCGs) have been released.

PCG 2021/5

On 16 December 2021 we finalised **PCG 2021/5** *Imported hybrid mismatch rule – ATO's compliance approach*. This contains practical guidance on the ATO's assessment of the relative levels of tax compliance risk associated with hybrid mismatches addressed by Subdivision 832-H of the ITAA 1997 (the imported mismatch rule).

PCG 2019/6

On 24 July 2019 we finalised **PCG 2019/6** *OECD hybrid mismatch rules – concept of structured arrangement*. It contains practical guidance for taxpayers when assessing the risk of the newly legislated hybrid mismatch rules applying to their circumstances – in particular with relation to the concept of 'structured arrangement' in section 832-210 of the ITAA 1997.

This PCG should be read in conjunction with **LCR 2019/3** *OECD hybrid mismatch rules – concept of structured arrangement*.

PCG 2018/7

On 25 October 2018, we finalised **PCG 2018/7** Part IVA of the *Income Tax Assessment Act 1936* (ITAA 1936) and restructures of hybrid mismatch arrangements to help clients wishing to eliminate hybrid tax outcomes that would otherwise fall foul of the newly legislated hybrid mismatch rules.

This PCG will help clients manage their compliance risk by outlining straightforward (low risk) restructuring to which we will not seek to apply Part IVA. The PCG also encourages early engagement with us by those taxpayers whose arrangements fall outside the low-risk parameters outlined in the PCG.

Clients potentially affected by the rules and considering restructuring should refer to this PCG to understand our compliance approach.

Payments within United States (US) consolidated groups

All references are to the *Income Tax Assessment Act 1997* (ITAA 1997), unless otherwise stated.

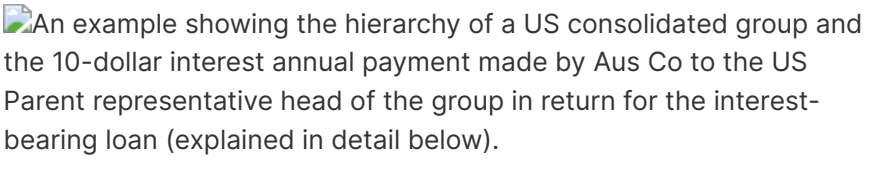
We have been asked whether an intercompany payment between members of a US consolidated group can be regarded as 'subject to foreign income tax' in the US in a foreign tax period under subsection 832-130(1).

To the extent an intercompany payment is included as gross income in the calculation of the recipient member's 'separate taxable income' for US federal income tax purposes for the foreign tax period, the intercompany payment can be regarded as 'subject to foreign income tax' in the US under subsection 832-130(1).

The calculation of the 'separate taxable income' of a member of a US consolidated group for US federal income tax purposes is addressed by the US federal tax regulations, and is subject to certain modifications, including modifications for transactions between members of a US consolidated group.

You must also consider the effect of subsections 832-130(3) and (4) however, in ultimately determining whether an intercompany payment can be regarded as 'subject to foreign income tax' in the US.

The following example illustrates our view.


An example showing the hierarchy of a US consolidated group and the 10-dollar interest annual payment made by Aus Co to the US Parent representative head of the group in return for the interest-bearing loan (explained in detail below).

US Parent, US Sub 1 and US Sub 2 are each US resident corporations that file on a consolidated group basis for US federal income tax purposes. US Parent is the representative head of the group that files the consolidated return as agent for the group members. A 'check-the-box' election has been made to treat Aus Co as a 'disregarded entity' of US Sub 1 for US federal income tax purposes.

US Parent made a $100 interest-bearing loan to Aus Co in Year 1, in return for payment of $10 of interest annually by Aus Co at the end of each year, and repayment of $100 at the end of Year 5. For US federal income tax purposes, US Sub 1 is treated as the borrower in respect of the loan and the related interest expense of Aus Co is treated as an expense of US Sub 1.

If the full $10 of interest income received by US Parent in a foreign tax period is included as gross income in the calculation of US Parent's 'separate taxable income' for the foreign tax period, the full $10 of

interest income can be regarded as ‘subject to foreign income tax’ in the US under subsection 832-130(1).

For example, the full $10 of interest income received by US Parent may be included as gross income in the calculation of US Parent’s ‘separate taxable income’ if no amount of the $10 of interest income is required to be redetermined or adjusted in accordance with any US federal income tax law or regulation.

This outcome is notwithstanding that for US federal income tax purposes:

- US Sub 1 may be entitled to deduct the full $10 of corresponding interest expense in calculating its ‘separate taxable income’ for the same foreign tax period, and
- US Parent’s and US Sub 1’s ‘separate taxable incomes’ are combined in calculating the consolidated taxable income of the US consolidated group for the foreign tax period.

Subject to the operation of subsection 832-130(3), the $10 interest payment won't give rise to a deduction or non-inclusion mismatch under section 832-105. However, the interest payment will instead give rise to a deduction or deduction mismatch under subsection 832-110(1) if US Sub 1 is entitled to deduct all or part of the interest payment in working out its ‘separate taxable income’.

When we engage with you, we will likely request copies of relevant parts of the US consolidated tax return and relevant supporting documents as evidence of the extent to which an intercompany payment has been included in a recipient member’s ‘separate taxable income’ in a foreign tax period.

Media releases

- Treasurer's media release – Making sure multinationals pay their fair share: Addressing hybrid loopholes, 7 March 2018
- Treasurer's media release – Turnbull Government clampdown on multinational tax avoidance hits hybrids, 24 November 2017
- Joint media release – A new Tax Avoidance Taskforce, 3 May 2016

Contact us

If you have any questions or would like to contact us, email us at international@ato.gov.au.

QC 61035

International Compliance Assurance Programme (ICAP)

The ATO is participating in ICAP launched by the Organisation for Economic Co-operation and Development (OECD).

Last updated 31 August 2021

ICAP is a voluntary risk assessment and assurance programme to facilitate open and co-operative multilateral engagements between multinational enterprise (MNE) groups willing to engage actively and transparently with tax administrations in jurisdictions where they have activities.

By co-ordinating conversations between an MNE group and multiple tax administrations, ICAP supports the effective use of transfer pricing documentation, including the MNE group's country-by-country (CBC) report, as part of a multilateral risk assessment process. Where an area is identified as needing further attention, work conducted in ICAP can improve the efficiency of compliance action taken outside the programme, if needed.

The OECD has noted that the key benefits of ICAP include:

- targeted and consistent interpretation and use of CBC reports
- better use of resources for tax administrations and MNEs
- a co-ordinated and transparent approach to engagement
- faster multilateral tax certainty
- fewer disputes entering into a mutual agreement procedures (MAP).

More information about ICAP, including a handbook for the multilateral risk assessments and a list of the participating tax administrations, can be found on the OECD website.

ICAP complements the ATO's Top 100 risk categorisation approach and Top 1,000 tax performance program, as well as other initiatives, such as our advance pricing arrangement and advice and guidance programs to provide tax certainty to MNEs.

For more information about the ATO's involvement in ICAP email **internationalrelations@ato.gov.au**. Australian multinationals that wish to discuss possible participation in ICAP should contact us via this email address.

QC 55206

MLI Article 4(1) administrative approach

Australia-New Zealand joint administrative approach for non-individual dual residents impacted by MLI Article 4(1).

Last updated 16 November 2022

Australia and New Zealand administrative approach

Australia and New Zealand are signatories to the Multilateral Convention[(1)] (MLI) and have both deposited their instruments of ratification with the OECD. This reinforces the commitment of Australia and New Zealand to addressing base erosion and profit shifting (BEPS) risks and ensuring a better functioning international tax system.

In recognition of the Single Economic Market agenda between Australia and New Zealand, which seeks to create a seamless trans-Tasman business environment, and the fact that our respective tax systems and administrations are comparable and both countries are committed to adopting measures to address BEPS risks, this joint approach represents a measured risk-based approach that seeks to provide certainty and minimise compliance costs for taxpayers. It is envisaged that this approach will only be implemented between Australia and New Zealand at this stage.

For taxpayers who satisfy all of the eligibility criteria outlined below for the relevant year, the Australian Taxation Office (ATO) and New Zealand Inland Revenue (IR) jointly determine that:

- Where an eligible taxpayer reasonably self-determines its place of effective management (PoEM) to be located in Australia, it will be deemed to be a resident of Australia for the purposes of the *Convention between Australia and New Zealand for the avoidance of double taxation with respect to taxes on income and fringe benefits and the prevention of fiscal evasion* (Australia-New Zealand treaty).
- Where an eligible taxpayer reasonably self-determines its PoEM to be located in New Zealand, it will be deemed to be a resident of New Zealand for the purposes of the Australia-New Zealand treaty.

This determination is made for the purposes of the Australia-New Zealand treaty as modified by Article 4(1) of the MLI.

Where an eligible taxpayer reasonably self-determines its PoEM to be located in New Zealand and it is deemed to be a resident of New Zealand for the purposes of the Australia-New Zealand treaty, the taxpayer will also be a prescribed dual resident under the definition in subsection 6(1) of the *Income Tax Assessment Act 1936* (ITAA 1936).

This approach is designed to reduce the compliance burden and costs for lower materiality taxpayers as they are able to assess their eligibility based on readily available information. It also allows the ATO and IR to focus compliance resources on arrangements that could have material revenue consequences and/or pose higher risk of non-compliance with the tax laws.

Where the taxpayer is uncertain as to whether they satisfy the eligibility criteria or uncertain as to the self-determination of PoEM, we encourage the taxpayer to engage with either competent authority about their circumstances. If the taxpayer does not meet the eligibility criteria, then an application will need to be **lodged**.

The ATO and IR will monitor the operation of this administrative approach to ensure it remains fit for purpose.

Eligibility criteria

Structure

1. The taxpayer is an ordinary company(2) incorporated under either the *Corporations Act 2001* in the case of Australia or the *Companies Act 1993* in the case of New Zealand.
2. The taxpayer has reasonably self-determined its place of effective management to be solely in either Australia or New Zealand for the purposes of the Australia-New Zealand treaty.

Financials

3. The taxpayer's group(3) annual accounting income(4) is less than AUD $250 million or NZD $260 million based on prepared financial statements for the most recent reporting period(5).
4. The taxpayer's gross passive(6) income is less than 20% of its total assessable income for the most recent income tax year.
5. The total value of intangible assets(7) (other than goodwill) held by the taxpayer is less than 20% of the value of its total assets based on prepared financial statements for the most recent reporting period.

Compliance activities

6. The taxpayer or any member of the group[(8)] is currently **not**, and has **not** been in the last 5 years, subject to any compliance activity[(9)] undertaken by either the ATO or IR which relates to the determination of residency for taxation purposes.
7. The taxpayer or any member of the group[(10)] is currently **not** engaged in an objection[(11)], challenge[(12)], settlement procedure or litigation in either Australia or New Zealand in relation to a dispute with either the ATO or IR.

   Where the taxpayer has only failed criterion 7 (that is, the taxpayer meets all other criteria), we encourage the taxpayer to contact either competent authority to discuss their particular facts and circumstances prior to lodging an application for a competent authority determination.

The administrative approach will only be valid if the taxpayer satisfies all of the following conditions on an on-going basis:

8. Upon being notified by either the ATO or IR of a new compliance activity[(13)], the taxpayer notifies the ATO or IR that it has been eligible for the dual resident administrative approach and the jurisdiction of residence for the purposes of the Australia-New Zealand treaty has been determined under this approach.
9. The taxpayer or any member of the taxpayer group[(14)] has **not** entered into, or carried out:
   - a tax avoidance scheme whose outcome depends, in whole or part, on the location of its residence
   - a tax avoidance scheme affecting the location of its central management and control, including previous or subsequent 'migration' of residency
   - arrangements to conceal ultimate beneficial or economic ownership
   - arrangements involving abuse of board processes (including backdating of documents) or the board not truly executing its functions, or
   - arrangements under which any benefits under the Australia-New Zealand treaty would be potentially denied under the conditions of the Principal Purpose Test in paragraph 1 of MLI Article 7.

Taxpayer obligations

Where there is a material change, the taxpayer is required to re-assess their eligibility and approach either competent authority if the practical administrative approach no longer applies to their circumstances.

Where the taxpayer has assessed their circumstances and eligibility to apply the practical administrative approach, they are still required to meet the general record-keeping requirements under domestic law(15). This includes supporting documentation that must be clearly identifiable for each relevant year for which they have determined their residency for the purposes of the Australia-New Zealand treaty under this approach.

Review of agreement

The ATO and IR will generally not seek to review a taxpayer's self-determined PoEM as long as all material facts and circumstances remain the same. The ATO and IR reserve the right to review the outcome of a taxpayer's self-determined PoEM especially in instances where the ATO or IR is of the opinion that any anti-avoidance rules may apply.

In most circumstances, the tax law puts a time limit on the period in which the ATO or IR can amend a tax assessment. These time limits provide certainty and finality for both the taxpayer and the Commissioner. Generally the period of review of a taxpayer's assessment is 4 years. However, in a case where the ATO or the IR forms an opinion of fraud or evasion, there is no time limit for amending an assessment.

When a review concludes, the outcome will be communicated in writing, generally within 7 days of a decision. If the outcome of the review results in the reversal of a taxpayer's self-determined position the result will be retrospectively applied from the later of:

- the date of the MLI (1 January 2019)
- the date of the change in a taxpayer's circumstances that resulted in the determination ceasing to be correct.

[1] *Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting*.

2 Ordinary company takes its meaning from plain English that is, an entity that is not a trust, partnership, cooperative, or other like vehicle. For the purposes of assessing this criterion, 'ordinary company' does not include an entity acting in the capacity of a trustee.

3 For the purposes of assessing this criterion, 'group' consists of an ultimate Australian or New Zealand parent together with all the entities (including any offshore subsidiaries) it is required by the Australian Accounting Standard AASB 10 Consolidated Financial Statements or the New Zealand Accounting

Standard equivalent NZ IFRS 10 to include in its consolidated financial statements (or would be required to consolidate if it had been required to prepare consolidated financial statements). If there are 2 or more entry points into Australia that are under the control of the same offshore ultimate parent, for the purposes of assessing this criterion, 'group' includes all relevant Australian top-tier parent entities and their subsidiaries as required by AASB 10 to be included in their respective consolidated financial statements (or would be required to be consolidated if the entities had been required to prepare consolidated financial statements). If there are 2 or more entry points into New Zealand that are under the control of the same offshore ultimate parent, for the purposes of assessing this criterion, 'group' includes all relevant New Zealand top-tier parent entities and their subsidiaries as required by NZ IFRS 10 to be included in their respective consolidated financial statements (or would be required to be consolidated if the entities had been required to prepare consolidated financial statements).

4 Income includes revenue, gains from investment activities and other inflows that go to the determination of the profit or loss in accordance with the Australian Accounting Standard AASB 101 Presentation of Financial Statements or with the New Zealand Accounting Standard equivalent NZ IAS 1. For the avoidance of doubt, if the Australian or New Zealand parent is within a larger global group, criterion 3 refers to the consolidated annual accounting income of the ultimate Australian or New Zealand parent (for multiple entry groups, it will be the sum of the consolidated annual accounting income of the relevant top-tier parent entities (refer to note 3)).

5 If the taxpayer starts or ceases a business part way through a reporting period, a reasonable estimate of what their annual accounting income would have been if the entity had carried on the business for the entire reporting period should be used.

6 For the purposes of assessing this criterion, 'passive income' is any of the following as defined in section 23AB of the Income Tax Rates Act 1986, dividends other than non-portfolio dividends, franking credits on such dividends, non-share dividends, interest income (some exceptions apply), royalties, rent, gains on qualifying securities, net capital gains and income from trusts or partnerships, to the extent it is referable (either directly or indirectly) to an amount that is otherwise base rate entity passive income.

7 'Intangible asset' is as defined under the Australian Accounting Standard AASB 138 Intangible Assets and under the New Zealand Accounting Standard NZ IAS 38 Intangible Assets.

8 Determined under the same definition contained in note 3.

9 This includes any risk review, audit or any other compliance activity carried out by the ATO or IR and notified to the taxpayer.

10 Determined under the same definition contained in note 3.

11 An objection lodged by a taxpayer against an assessment under section 175A of ITAA 1936 is a formal avenue of dispute resolution which attracts appeal rights. This is in contrast to a request for amendment of an assessment under section 170 of the ITAA 1936 to correct a mistake or omission where there is no dispute about the facts or the law.

12 The challenge process in Part 8A of the Tax Administration Act 1994 (TAA) is a formal avenue of dispute resolution which attracts appeal rights. This is in contrast to a request for amendment of an assessment under section 113 of the TAA to correct a mistake or omission where there is no dispute about the facts or law.

13 This includes any risk review, audit or any other compliance activity carried out by the ATO or IR and notified to the taxpayer.

14 Determined under the same definition contained in note 3.

15 Section 262A of the ITAA 1936 or section 22 of the TAA.

QC 59062

Global and domestic minimum tax

The implementation of Pillar Two of the OECD/G20 Two-Pillar Solution for multinational businesses in Australia.

Last updated 23 January 2026

Pillar Two implementation in Australia

Australia has implemented the Global Anti-Base Erosion Model Rules (GloBE Rules) by introducing a global and domestic minimum tax.

The GloBE Rules provide for a coordinated system of taxation intended to ensure multinational enterprise groups (MNE groups) are subject to a global minimum tax rate of 15% in each of the jurisdictions where they operate. They are a key part of the Organisation for Economic Co-operation and Development (OECD)/G20 Two-Pillar Solution, to address the tax challenges arising from the digitalisation of the economy.

On 10 December 2024, primary legislation that implements the framework of the GloBE Rules in Australia received royal assent. The primary legislation also makes consequential amendments. These amendments include provisions necessary for the administration of top-up tax within the existing tax administration framework, consistent with the GloBE Rules.

On 23 December 2024, subordinate legislation containing the detailed computational rules was registered as a legislative instrument and is now in force.

The global and domestic minimum tax comprises of:

- a global minimum tax which consists of 2 interlocking rules
  - the **Income Inclusion Rule** (IIR) – acts as the primary rule which broadly allows Australia to apply a top-up tax on multinational parent entities located in Australia if the group's effective tax rate in another jurisdiction is below 15%
  - the **Undertaxed Profits Rule** (UTPR) – acts as a backstop rule which allows Australia to apply a top-up tax on constituent entities located in Australia if the group's effective tax rate in another jurisdiction is below 15% and where the profit is not brought into charge under an IIR
- a **domestic minimum tax**, which operates consistently with the GloBE Rules and provides Australia the ability to claim primary rights to impose top-up tax over any low-taxed profits in Australia, in priority over the IIR and UTPR.

The IIR and the domestic minimum tax will apply to fiscal years starting on or after 1 January 2024. The UTPR will apply to fiscal years starting on or after 1 January 2025.

The primary legislation can be found here:

- Taxation (Multinational–Global and Domestic Minimum Tax) Act 2024
- Taxation (Multinational–Global and Domestic Minimum Tax) Imposition Act 2024
- Treasury Laws Amendment (Multinational–Global and Domestic Minimum Tax) (Consequential) Act 2024

The subordinate legislation containing the detailed computational rules can be found here:

- Taxation (Multinational–Global and Domestic Minimum Tax) Rules 2024

Other supporting subordinate legislation including supplementary administrative lodgment rules and the list of jurisdictions with qualified status for the purpose of the IIR and domestic minimum tax can be found here:

- Taxation Administration (Exemptions from Requirement to Lodge Australian IIR/UTPR Tax Return and Australian DMT Tax Return) Determination 2025

- Taxation (Multinational–Global and Domestic Minimum Tax) (Qualified GloBE Taxes) Determination 2025

ATO guidance

We are continuously considering the need for guidance products to support the new measure, along with whether there is a need to update existing guidance.

As part of ongoing ATO consultation, we have been seeking feedback on guidance that will best support implementation of the new measure. We will continue to seek feedback as Australia's implementation of Pillar Two progresses.

To date, we have published Practical Compliance Guideline PCG 2025/4 *Global and domestic minimum tax lodgment obligations – transitional approach*.

You can also contact us if you have any feedback on priority issues for public advice and guidance.

Administering potential amendments

The Australian global and domestic minimum tax must be applied consistently with the GloBE Rules for Australia to achieve qualification status. This requires maintaining consistent outcomes set out in specific OECD materials, including future publications and how and in what timeframe a jurisdiction addresses identified inconsistencies with its law. These OECD materials are the GloBE Model Rules, Commentary, and agreed Administrative Guidance.

An inconsistency may arise when Australia has yet to implement agreed Administrative Guidance or there has been a minor drafting oversight in the Australian law compared to OECD materials. Any potential amendment to Australian law to address inconsistencies remains a policy decision as a matter for the government and future governments.

As explained in the Explanatory Memorandum, the primary legislation includes a rule making power so that future OECD materials can be incorporated efficiently and in a timely manner. This can apply retrospectively to maintain Australia's qualification.

While any decision regarding amendments is a matter for government, we expect future amendments to address inconsistencies may generally have retrospective application where relevant to maintain qualification.

We will apply our usual practical guidance for the **administrative treatment of retrospective legislation** for taxpayers that anticipate

legislative amendments to address these inconsistencies, whether or not there has been a separate formal announcement.

- Taxpayers can self-assess based on the existing law. Where the amendment to address the inconsistency would increase liabilities, taxpayers will need to amend their returns and pay the increased liability if the law is ultimately changed retrospectively.
- We will not advise taxpayers to self-assess by anticipating law change to address inconsistencies. However if taxpayers choose to do so, we will not direct our compliance resources to checking whether self-assessments comply with existing law (pre-amendments), in respect of the anticipated law change. Where taxpayers anticipate a change, they should internally document the inconsistency identified between the Australian law and the OECD materials.

Taxpayers should also refer to our related guidance on **Lodgment and payment obligations and related interest and penalties**, which we will apply in relation to interest and penalties for taxpayers that anticipate legislative amendments to address inconsistencies.

If you identify any inconsistencies between Australian law and the OECD materials, share them with us or Treasury. We may also be able to confirm whether we consider the identified provision is inconsistent with the OECD materials. Contact us to discuss any inconsistencies at **Pillar2Project@ato.gov.au**.

OECD side-by-side announcement

The OECD has announced an agreement of the Inclusive Framework (IF) on a side-by-side package (Side-by-Side Package [5 January 2026] [PDF, 1.1MB]). The package includes several components, including simplifications, a one-year extension of the **transitional CBC reporting safe harbour**, a safe harbour dealing with qualified tax incentives, and the introduction of a side-by-side system.

The adoption of the side-by-side package into Australian law is a matter for government. Any proposed retrospective legislative amendments for the side-by-side package will be administered in line with our usual practical guidance as set out above.

A key component of the package is the side-by-side safe harbour which under the IF agreement applies to fiscal years commencing on or after 1 January 2026. The safe harbour is available to MNE groups that have an ultimate parent entity located in a jurisdiction that has a qualified side-by-side regime. The United States is currently the only jurisdiction that the IF has determined as having a qualified side-by-side regime. Under the side-by-side safe harbour, IIR and UTPR top-up tax would be deemed as zero for all constituent entities of an eligible

MNE group, as well as in respect of the MNE group's interests in GloBE joint ventures.

The side-by-side safe harbour if enacted would not change the **Australian lodgment requirements** for fiscal years that commenced in 2024 or 2025, and would only impact lodgment and payment obligations for fiscal years commencing from 1 January 2026 (generally due from March 2028). In addition, the side-by-side safe harbour does not impact the application of Australian domestic minimum tax, or the requirement to lodge Australian DMT tax returns (DMTRs), for any fiscal year.

Engaging with us for advice

Contact us about Pillar Two

You can direct questions about our administration or operation of the Australian global and domestic minimum tax to Pillar2Project@ato.gov.au.

Private ruling applications

Taxpayers can apply for a private ruling regarding the application of a relevant provision of a tax law relating to the global and domestic minimum tax.

The Commissioner of Taxation may decline to provide a ruling in respect of the global or domestic minimum tax in certain circumstances.

The Explanatory Memorandum to the primary legislation provides some examples of situations where the Commissioner may determine it is unreasonable to provide a private ruling, including where:

- the OECD Inclusive Framework has published new Administrative Guidance which Australia is planning on incorporating into domestic law but has not yet done so
- the OECD Inclusive Framework has identified an issue which requires Administrative Guidance, or is drafting Administrative Guidance on a GloBE or domestic minimum tax issue, and has yet to publish an agreed version of that Administrative Guidance
- issuing a ruling would require assumptions to be made on how other jurisdictions apply their respective domestic rules implementing the GloBE Rules and domestic minimum tax.

We have updated Taxation Ruling **TR 2006/11** *Private Rulings* following the enactment of the Australian global and domestic minimum tax.

If you are considering applying for a private ruling, before submitting a private ruling or early engagement application contact us at

Pillar2Project@ato.gov.au. This will allow us to facilitate preliminary discussions, where we will work with you to identify and clarify the issues and determine the most appropriate form of advice.

OECD guidance materials

OECD guidance materials are intended to promote a consistent and common interpretation of the GloBE Rules to provide certainty for MNE groups and to facilitate coordinated outcomes under the rules.

OECD guidance materials released to date include:

- Model GloBE Rules (20 December 2021)
- Consolidated Commentary to the GloBE Rules (9 May 2025), supplemented by Administrative Guidance that provides further clarification on:
  - The scope of the GloBE Rules, issues relating to the income and taxes calculation, issues related to insurance companies, the transition rules and the design of the Qualified Domestic Minimum Top-up Tax (QDMTT) – Agreed Administrative Guidance (2 February 2023) (PDF, 1.2MB)
  - Currency conversion rules, tax credits, the Substance-based Income Exclusion, the design of QDMTT and the QDMTT and transitional UTPR safe harbours – Agreed Administrative Guidance (17 July 2023) (PDF, 1.1MB)
  - Purchase price accounting adjustments, the Transitional CBC Reporting Safe Harbour, consolidated revenue threshold, mismatches in Fiscal Years, allocation of Blended Controlled Foreign Corporation Tax Regime, transitional filing for short reporting fiscal years, and NMCE simplified calculation safe harbour – Agreed Administrative Guidance (18 December 2023) (PDF, 478KB)
  - The recapture rule applicable to deferred tax liabilities, divergences between GloBE and accounting carrying values, cross-border allocation of current and deferred taxes, allocation of profits and taxes in certain structures involving Flow-through Entities, and the treatment of securitisation vehicles – Agreed Administrative Guidance (17 June 2024) (PDF, 3MB)
  - The basis to complete the GIR – Administrative Guidance on Article 8.1.4 and 8.1.5 (15 January 2025) (PDF, 390KB)
  - The treatment of certain deferred tax assets – Administrative Guidance on Article 9.1 (15 January 2025) (PDF, 427KB)
  - Side-by-side package – Side-by-Side Package (5 January 2026) (PDF, 1.1MB)

  - The qualified status of jurisdictions' legislation – Administrative Guidance, Legislation with Transitional Qualified Status (PDF, 500KB)

- GloBE Information Return (January 2025 update to version released July 2023)
- Safe Harbours and Penalty Relief (20 December 2022) (PDF, 460KB)
- Illustrative Examples (25 April 2024) (PDF, 1.88MB)

Quick reference guides

We have developed quick reference guides to provide a broad overview of different aspects of the global and domestic minimum tax:

- Download the Pillar Two overview for inward and outward investors quick reference guide (NAT 75778, PDF, 75KB)
- Download the Transitional CBC reporting safe harbour quick reference guide (NAT 75777, PDF, 41KB)

More information

For more information, see:

- Global agreement on corporate taxation: addressing the tax challenges arising from the digitalisation of the economy

When and how the Pillar Two rules apply

Work out how the Pillar Two global and domestic minimum tax rules work and when and who they apply to.

Lodging, paying and other obligations for Pillar Two

Pillar Two obligations, including returns, payment and key dates.

Pillar Two interactions with other provisions

Pillar Two interactions with Australia's existing corporate tax system.

Transitional CBC reporting safe harbour

How to apply the transitional CBC reporting safe harbour available under Pillar Two.

Pillar Two interactions with consolidation

How the Pillar Two rules apply to consolidated groups.

Specific issues for Pillar Two

Specific issues identified by stakeholders via consultation and other channels not covered in other Pillar Two content.

QC 102592

When and how the Pillar Two rules apply

Work out how the Pillar Two global and domestic minimum tax rules work and when and who they apply to.

Last updated 17 December 2025

The Australian Pillar Two rules

The Australian global and domestic minimum tax implements the Global Anti-Base Erosion Model Rules (GloBE Rules) through primary and subordinate legislation, referred to together as the Minimum Tax law.

The primary legislation includes the:

- *Taxation (Multinational—Global and Domestic Minimum Tax) Act 2024* (Minimum Tax Act)
- *Taxation (Multinational—Global and Domestic Minimum Tax) Imposition Act 2024* (Minimum Tax Imposition Act)
- *Treasury Laws Amendment (Multinational—Global and Domestic Minimum Tax) (Consequential) Act 2024* (Minimum Tax Consequential Act)

The subordinate legislation includes the:

- *Federal Register of Legislation – Taxation (Multinational–Global and Domestic Minimum Tax) Rules 2024* (Australian Minimum Tax Rules)
- *Federal Register of Legislation - Taxation (Multinational–Global and Domestic Minimum Tax) (Qualified GloBE Taxes) Determination 2025*

The Minimum Tax law is to be interpreted in a manner consistent with specific Organisation for Economic Co-operation and Development (OECD) guidance materials for GloBE. Such materials include the GloBE Model Rules, commentary, and agreed administrative guidance.

When the rules apply

The primary legislation provides that the:

- Income Inclusion Rule (IIR) and the domestic minimum tax apply to fiscal years starting on or after 1 January 2024.
- Undertaxed Profits Rule (UTPR) applies to fiscal years starting on or after 1 January 2025.

Who the rules apply to

The Australian global and domestic minimum tax applies to constituent entities that are members of a multinational enterprise group (MNE group) with annual revenue of 750 million Euros or more in the consolidated financial statements of the ultimate parent entity (UPE).

Broadly, constituent entities are members of an MNE group which are not classified as excluded entities under the Minimum Tax law. An MNE group is a group, in most cases determined under accounting consolidation principles, for which there is at least one entity or permanent establishment that is not located in the jurisdiction of the UPE.

- An entity means any legal person (other than a natural person) or an arrangement that is required to prepare separate financial accounts, such as a partnership or trust.
- The primary legislation defines the term permanent establishment for the purposes of the Australian global and domestic minimum tax (explained further below).

If the MNE group's annual revenue, as shown in the UPEs consolidated financial statements, meets or exceeds the revenue threshold in at least 2 of the 4 fiscal years preceding the test year, then the MNE group is in-scope.

The domestic minimum tax broadly applies to Australian constituent entities in MNE groups to which the global minimum tax applies.

Entities excluded from the rules

Certain entities of an MNE group are excluded from the operation of the Australian global and domestic minimum tax (known as GloBE excluded entities).

Some examples of excluded entities include government entities, international organisations, non-profit organisations, certain service entities and pension funds, as well as UPEs which are either an investment fund or a real estate investment vehicle.

The definition for GloBE excluded entities in the Minimum Tax law is based on the GloBE Rules. A subsidiary of a GloBE excluded entity is not automatically excluded and should be evaluated in its own respect.

Records must be kept that explain their determination as being an excluded entity.

Consequence of being a GloBE excluded entity

Broadly, if an entity in a MNE group is a GloBE excluded entity then it will:

- not have an obligation to lodge returns for the purposes of the Australian global and domestic minimum tax
- not be liable to top-up tax, since IIR, UTPR and the domestic minimum tax do not apply.

Where an MNE group is composed entirely of GloBE excluded entities, the group is excluded from the operation of the Australian global and domestic minimum tax completely.

Where an MNE group is not wholly comprised of GloBE excluded entities, some obligations may still apply in respect to excluded entities. For example:

- revenue of GloBE excluded entities is included in ascertaining whether the 750 million Euro revenue threshold has been satisfied
- certain disclosures in respect of GloBE excluded entities that are within a MNE group may be required in the GloBE Information Return.

How the rules apply

The Australian global and domestic minimum tax is applied to an entity with an IIR, DMT or UTPR top-up tax amount. Broadly, the top-up tax amount is calculated via the following steps:

1. **Calculate the effective tax rate (ETR) of a jurisdiction:** The net income of each constituent entity located in the jurisdiction is determined, followed by the taxes attributable to the net income

(subject to reporting simplifications). The ETR is determined by dividing the total taxes by the total net income. The mechanisms for calculating net income and attributable taxes are located in the Australian Minimum Tax Rules and refers to financial accounting data with GloBE specific adjustments.

2. **Calculate the top-up tax for the jurisdiction:** MNE groups with an ETR in a jurisdiction below 15% are charged top-up tax relating to the jurisdiction. The tax charged is based on the difference between the 15% minimum rate and the ETR in the jurisdiction. While this is the base case, there are other situations in which top-up tax may arise under the Australian Minimum Tax Rules.

3. **Determine the top-up tax liability for the entity:** The jurisdiction's top-up tax is allocated among the relevant entities, determined by mechanisms located in the Australian Minimum Tax Rules. If the MNE group's ETR in Australia is below 15%, constituent entities located in Australia will be allocated and liable for a domestic top-up tax amount. If the MNE group's ETR in a foreign jurisdiction is below 15%, an IIR or UTPR top-up tax amount may be imposed on constituent entities located in Australia, depending on the MNE group's structure and ordering rules located in the Australian Minimum Tax Rules. In some situations, stateless constituent entities with an ETR below 15% can also be allocated domestic top-up tax amounts.

Further detail can also be found in the OECD's Pillar Two Model Rules Fact Sheets (PDF, 170KB).

Top-up tax can also be applied to an MNE group in respect to certain joint arrangements.

Special rules apply when calculating the top-up tax amounts for certain entities, groups, and arrangements. These rules are intended to cater for different tax regimes and holding structures and can classify entities based on various characteristics, including how they might be treated for tax or accounting purposes.

These special rules can apply to entities, groups and arrangements such as a GloBE permanent establishment, flow-through entity, GloBE JV or GloBE JV subsidiary, GloBE investment entity, minority-owned entity and multi-parented group. They may adjust:

- the jurisdiction the constituent entity is treated as being located in, or whether it is considered stateless (stateless entities are effectively each treated as being located in a separate fictional jurisdiction for the purposes of calculating top-up tax)
- whether the ETR is calculated on a standalone basis separate from other constituent entities in the same jurisdiction
- the income and taxes attributed to a certain jurisdiction

- which entity is allocated and liable for the top-up tax.

Multinationals must thoroughly evaluate their group structure and how their entities are treated in each jurisdiction when determining how the rules apply.

GloBE location

Each constituent entity is treated as being in one jurisdiction only for a fiscal year, including where it changes its location. There are rules in Division 4 of Part 5 of the Minimum Tax Act to determine the location of entities and GloBE permanent establishments.

Where an entity changes its location, it is taken to be located in the jurisdiction in which it was located at the start of the fiscal year.

Most entities will be treated as being located in Australia if considered an **Australian resident for tax purposes**. If not an Australian resident, the location is generally the place of management or place of creation. Specifically, where an entity that is not a flow-through entity, is an Australian resident under section 6 of the *Income Tax Assessment Act 1936*, and is not, for the purposes of a **tax treaty**, deemed a resident solely of a foreign country under the treaty's tie-breaker rules, it is treated as being located in Australia.

Different rules may apply if the entity is considered a GloBE permanent establishment, fiscally transparent, or is dual located.

Dual located entities

If an entity is considered to be located in more than one jurisdiction (that is, dual located), **section 10-60** of the Australian Minimum Tax Rules contains its own tie-breaker rules to determine location.

Where a tax treaty between the relevant jurisdictions contains a residency tie-breaker rule, and that rule deems an entity to be resident only of one of the jurisdictions for the purposes of the treaty, the entity will be located in that jurisdiction.

In other cases, the rules deem location broadly based on the amount of taxes paid or tangible fixed assets and payroll expenditure in each jurisdiction, or otherwise where the entity was created if the entity is the UPE.

Dual located parent entities

An override to the tie-breaker rules may apply if the overseas jurisdiction does not apply the IIR and the relevant entity is a parent entity.

Specifically, if an Australian resident parent entity is considered dual located, and section 10-60 of the Australian Minimum Tax Rules deems

it as located in a jurisdiction that has not implemented the IIR, section 10-65 deems the parent entity as being located in Australia where Australia is not restricted from taxing the parent entity under the relevant tax treaty.

GloBE permanent establishments

The application of the rules to permanent establishments depends on whether the arrangement meets the definition of a GloBE permanent establishment. This concept is defined differently to how a permanent establishment is defined in other legislation, such as the *Income Tax Assessment Act 1997*.

GloBE permanent establishments are treated as constituent entities and subject to top-up tax. Any liabilities and obligations are placed on the main entity. A main entity:

- is the entity that includes the financial accounting net income or loss of the GloBE permanent establishment in its financial accounts, and
- must be located in a separate jurisdiction.

Section 19 of the Minimum Tax Act defines a GloBE permanent establishment to include the following simplified scenarios:

1. Where an entity has a place of business in a jurisdiction, that constitutes a **permanent establishment** in accordance with an applicable tax treaty, if the income attributable to it is taxed by that jurisdiction in accordance with a provision similar to Article 7 of the OECD Model Tax Convention.
2. Where there is no tax treaty, but the entity has a place of business in a jurisdiction and the income attributable to that place of business is taxed under the local income tax laws on a net basis similar to how its residents are taxed.
3. Where a jurisdiction has no corporate income tax system, but the entity has a place of business in the jurisdiction that would have been treated as a permanent establishment under the OECD Model Tax Convention and had the right to tax in accordance with Article 7 of that Convention.
4. Where scenarios 1–3 do not apply, a place of business through which an entity's operations are conducted outside the jurisdiction in which the entity is located, if the income attributable to it is exempt from taxation in the entity's jurisdiction.

Any top-up tax that would otherwise be allocated to a permanent establishment is imposed on the main entity. The allocation of income and taxes between the main entity and permanent establishment depends on the scenario type of the GloBE permanent establishment.

For scenarios 1–3, it follows the attribution of income and expenses under the tax treaty, local tax laws where the permanent establishment is located, or the amounts that would have been attributed in accordance with Article 7 under the OECD Model Tax Convention.

The location of the GloBE permanent establishments falling under scenario 1–3 is where the place of business was determined to be. A GloBE permanent establishment falling under scenario 4 is considered stateless.

Flow-through entities

Broadly, under Chapter 10 of the Australian Minimum Tax Rules, an entity is a flow-through entity to the extent that it is fiscally transparent with respect to its income, expenditure, profit or loss in the jurisdiction the entity was created. A constituent entity is treated as fiscally transparent when the income, expenditure, profit or loss of that entity is treated as if it were derived or incurred by the direct owner in proportion to its ownership interest.

The Australian Minimum Tax Rules also have different classifications of an entity depending on whether it is fiscally transparent in its creation jurisdiction, its owner's jurisdiction or both. Flow-through entities will be a:

- tax transparent entity if its owners treat it as fiscally transparent
- reverse hybrid entity if the owners treat it as opaque.

These classifications impact the allocation of income and taxes between the constituent entity and its owners, noting there are special rules that apply to flow-through entities that are UPEs.

A flow-through entity that is a UPE or required to apply a qualified IIR will be treated as located where it was created. A flow-through entity that is neither a UPE nor required to apply a qualified IIR will be considered stateless.

Joint arrangements

The Australian global and domestic minimum tax may apply to certain types of arrangements. This may include arrangements classified as joint arrangements under accounting standards.

The first consideration is whether the arrangement falls within the definition of entity under **section 13** of the Minimum Tax Act (or gives rise to a GloBE permanent establishment of a main entity). Joint arrangements can be unincorporated and so must prepare separate financial accounts to be an entity. An unincorporated arrangement that is not a legal person and which is not required to prepare separate financial accounts, is not an entity for this purpose.

If the arrangement meets the definition of entity, its treatment depends on how the arrangement is classified under the global and domestic minimum tax framework, including whether it is a GloBE JV or a constituent entity. If an arrangement does not meet an applicable classification (and it is not GloBE permanent establishment of an in-scope entity) it is not directly recognised under the Australian global and domestic minimum tax and will not be subject to separate top-up tax or reporting obligations.

Classifications of joint arrangements

This table is a guide only. It provides examples of the classification of an arrangement, once it is determined to be an entity, in certain fact patterns. Every arrangement must be evaluated based on their particular facts and circumstances.

Type	Conditions	Treatment
GloBE JV	Equity-accounted UPE holds ≥ 50% ownership interest percentage. Not excluded under subsection 26(2).	Top-up tax calculated separately for a deemed JV group, which consists of the GloBE JV and its subsidiaries. • DMT top-up tax directly imposed on GloBE JV and GloBE JV subsidiaries. • IIR and UTPR top-up tax imposed on the MNE group in respect of the GloBE JV.
Constituent entity	Consolidated line-by-line in the UPE's financial statements (i.e. be a group entity). Not a GloBE excluded entity.	Top-up tax calculated at the jurisdictional level pooling all constituent entities in that jurisdiction that are part of the same ETR calculation.

If your arrangement does not constitute an entity or a GloBE permanent establishment, or does not fall into either of the above classifications, it will not be subject to separate top-up tax and reporting obligations. However, in some cases the accounting results or income from such arrangements may still be included in an MNE group's top-up tax calculations, where the investor in the arrangement is a constituent entity or GloBE JV. For example:

- where the arrangement constitutes an entity but not a constituent entity or GloBE JV, the investor may still be required to include distributions from the entity in its GloBE income or loss under rules applying to certain portfolio shareholdings
- where an unincorporated arrangement does not constitute an entity because it is not required to prepare separate financial accounts, its investors would generally include their share of its financial results in their top-up tax calculations.

Careful consideration of the classification of joint arrangements is required to determine how top-up tax is calculated and whether obligations apply to the arrangement itself or to the parties involved.

GloBE joint ventures

The Australian global and domestic minimum tax can apply in respect of certain entities which are not themselves constituent entities of an MNE group. An entity that is not considered a separate constituent entity under **section 16** of the Minimum Tax Act on the basis that their accounting results are not consolidated on a line-by-line basis in the consolidated financial statements of the UPE, may still be classified as a GloBE JV and be subject to special deeming rules.

An entity is classified as a GloBE JV if it meets the definition in **section 26**. This section requires:

1. the entity's financial results are reported under the equity method in the consolidated financial statements of the UPE of the MNE group for the fiscal year
2. the UPE's ownership interest percentage in the entity is at least 50%.

Subsidiaries of a GloBE JV which are, or would be, consolidated by the GloBE JV on a line-by-line basis under applicable accounting standards may also be in scope and are referred to as GloBE JV subsidiaries.

GloBE joint venture exclusions

An entity is not a GloBE JV if any of the exceptions in **subsection 26(2)** apply:

- It is the UPE of an applicable MNE group.
- It is a GloBE excluded entity that is a governmental entity, international organisation, non-profit organisation, pension fund, or an investment fund or real estate investment vehicle that is a UPE.
- The group entities that hold direct ownership interests in it are GloBE excluded entities of the type referred to above, where either the entity

  - exclusively or almost exclusively holds assets or invests funds for the benefit of its direct owners
  - only carries out ancillary activities related to the functions of the excluded entity owners.
- The MNE group is comprised exclusively of GloBE excluded entities.

How the rules apply to GloBE joint ventures

Special deeming rules apply to arrangements that qualify as a GloBE JV or GloBE JV subsidiary of an MNE group. The special rules apply by deeming the arrangements as constituent entities of a separate MNE group.

Broadly, top-up tax for these entities is calculated separately from the MNE group whose UPE owns 50% or more ownership interest in the GloBE JV. The GloBE JV and its GloBE JV subsidiaries are treated as constituent entities of a separate deemed group, and the GloBE JV as the UPE of the deemed separate MNE group.

Stakeholders have raised questions about how Part 7-1 of the Australian Minimum Tax Rules applies where a GloBE JV, treated as the UPE of a separate MNE group, is a flow-through entity. We consider that Part 7-1 applies to the GloBE JV as a deemed UPE in these cases.

About which entity is allocated and liable for top-up tax:

- GloBE JV and GloBE JV subsidiaries are not themselves liable for IIR or UTPR top-up tax.
- Any liability for IIR or UTPR top-up tax in respect of a GloBE JV or GloBE JV subsidiary is imposed on members of the MNE group (not on the GloBE JV or GloBE JV subsidiary) in proportion to the MNE group's share of the top-up tax.
- Domestic minimum tax is imposed directly on the GloBE JVs and GloBE JV subsidiaries.

Interactions with accounting standards

Accounting standards generally divide joint arrangements into 2 types:

1. Joint venture (equity accounting)
2. Joint operation (proportional consolidation on a line-by-line basis).

Accounting joint ventures will not ordinarily be constituent entities of an MNE group under the Minimum Tax Act as their accounting results are equity accounted in the consolidated financial statements of the UPE. Otherwise, they may be a GloBE JV or GloBE JV subsidiary of an MNE group, depending on the facts and circumstances. However, not all arrangements that are classified as joint ventures under accounting standards will be a GloBE JV or GloBE JV subsidiary and vice versa.

Accounting joint operations are consolidated on a line-by-line basis using proportional consolidation method by the parent entity. Accordingly, they may be constituent entities. However, to be considered a constituent entity, a joint operation must first qualify as an entity under the Minimum Tax Act, either as a separate legal person, or as an arrangement required to prepare separate financial accounts. A joint operation that does not meet that condition may still be treated as a constituent entity if it gives rise to a GloBE permanent establishment of another constituent entity or GloBE JV.

Accounting joint operations

There is no concept of a joint operation under the Australian global and domestic minimum tax. An MNE group that has an accounting joint operation may need to consider if the arrangement constitutes a separate constituent entity under the Minimum Tax Act.

If a joint operation is a constituent entity, then the MNE group could have separate calculation, reporting and liability requirements in relation to it. For information on reporting and liability requirements, see **Lodging, paying and other obligations for Pillar Two**.

How the rules apply to joint operations

If a joint operation is:

- a constituent entity, top-up tax will be calculated in respect of the joint operation based on amounts included in the consolidated financial statements of the UPE;
  - it may also be classified as a flow-through entity or a GloBE permanent establishment depending on the facts and circumstances
  - the classification of the joint arrangement will affect how income and tax is allocated between the constituent entity and its owners
- a constituent entity and a flow-through entity, its owners that are constituent entities will generally be required to include their share of the joint operations' amounts in their top-up tax calculations
- not a constituent entity because it does not meet the definition of an entity, its owners that are constituent entities will generally include their share of its financial results in their top-up tax calculations.

Safe harbours

The Minimum Tax law reflects the safe harbours developed by the OECD. Broadly, there are 4 safe harbours available.

1. **Transitional country-by-country (CBC) reporting safe harbour**

The **transitional CBC reporting safe harbour** allows an MNE group to use CBC reporting and financial accounting data as the basis for the safe harbour calculation. Thereby eliminating the need to undertake detailed GloBE calculations.

This safe harbour applies to fiscal years beginning on or before 31 December 2026 but not including a fiscal year that ends after 30 June 2028. An MNE group may elect to use the safe harbour if it can demonstrate, based on their **qualified CBC reports** and **qualified financial statements**, that it meets one of the following tests for a jurisdiction:

- **de minimis test**
- **simplified effective tax rate test**, or
- **routine profits test**.

The effect of applying this safe harbour is that the MNE group's jurisdictional top-up tax for that jurisdiction for the fiscal year is taken to be zero.

For more information on how the CBC reporting safe harbour applies, see **Transitional CBC reporting safe harbour**.

2. **Qualified Domestic Minimum Top-Up Tax (QDMTT) safe harbour**

An MNE group may elect to apply the permanent QDMTT safe harbour. The permanent QDMTT safe harbour reduces the top-up tax of a jurisdiction to zero. This is for the purpose of applying an IIR or UTPR in Australia in respect of the jurisdiction, where that jurisdiction applies a QDMTT that has QDMTT safe harbour status. This provides a practical compliance solution to avoid needing to carry out both QDMTT and IIR or UTPR calculations in respect of a jurisdiction.

3. **Non-Material Constituent Entity (NMCE) simplified calculations safe harbour**

MNE groups may elect to use the simplified calculations safe harbour, which includes a simplified method in determining the GloBE income or loss, GloBE revenue and adjusted covered taxes of a NMCE.

This permanent safe harbour allows MNE groups to use these simplified calculations for NMCEs in determining whether the de minimis test, routine profits test or effective tax rate test has been met for a jurisdiction under the safe harbour.

Broadly, an NMCE is a constituent entity that has not been consolidated in the UPE's consolidated financial statements solely due to size or materiality.

Where an MNE group meets one of the simplified calculations safe harbour tests, the top-up tax for the jurisdiction is taken to be zero, with some limited exceptions. Simplified calculations are currently only available for NMCEs. Constituent entities other than NMCEs have to apply the usual GloBE computational rules as part of the simplified calculations safe harbour.

4. **Transitional UTPR safe harbour**

The transitional UTPR safe harbour allows an MNE to reduce their UTPR top-up tax amount in respect of the UPE jurisdiction (only) to nil during the transitional period, if the UPE jurisdiction has a nominal corporate income tax rate of at least 20%. This safe harbour applies to fiscal years beginning on or before 31 December 2025 and ending before 31 December 2026.

The consolidated commentary provides further information on the safe harbours available and applicable tests where relevant. For details, download the OECD Commentary to the GloBE Rules and refer to Annex A – Safe Harbours: Global Anti-Base Erosion Rules (Pillar Two).

The Australian Minimum Tax Rules also include its own de minimis exclusion in Part 5-5 that can apply for particular jurisdictions.

Additional simplifications

To ensure qualification of Australia's global and domestic minimum tax, we are unable to provide concessions, simplifications or safe harbours that are inconsistent with the outcomes provided for in the GloBE Model Rules and administrative guidance.

More information

For more information, see:

- OECD GloBE Rules
  - Safe Harbours and Penalty Relief (20 December 2022) (PDF, 460KB)
  - Illustrative Examples (25 April 2024) (PDF, 1.88MB)
  - Agreed Administrative Guidance (2 February 2023) (PDF, 1.24MB)
  - Agreed Administrative Guidance (17 July 2023) (PDF, 1.05MB)
  - Agreed Administrative Guidance (18 December 2023) (PDF, 478KB)
  - Agreed Administrative Guidance (17 June 2024) (PDF, 3MB)

- Administrative Guidance, Legislation with Transitional Qualified Status (15 January 2025) (PDF, 469KB)
- Administrative Guidance on Article 8.1.4 and 8.1.5 (15 January 2025) (PDF, 390KB)
- Administrative Guidance on Article 9.1 (15 January 2024) (PDF, 427KB)
- Pillar Two Model Rules Fact Sheets (PDF, 170KB)

QC 103566

Lodging, paying and other obligations for Pillar Two

Pillar Two obligations, including returns, payment and key dates.

Last updated 6 January 2026

New lodgment requirements

Four new lodgment requirements are introduced as part of the Australian global and domestic minimum tax, consistent with the Global Anti-Base Erosion Model Rules (GloBE Rules). These are:

1. GloBE Information Return (GIR)
2. Foreign lodgment notification
3. Australian IIR/UTPR Tax Return (AIUTR)
4. Australian DMT Tax Return (DMTR).

We are currently developing forms for the foreign lodgment notification, the AIUTR and the DMTR. We anticipate that the foreign lodgment notification, AIUTR and DMTR will be combined in one form, the combined global and domestic minimum tax return (CGDMTR).

The forms are being developed in consultation with external stakeholders through the Pillar Two Global and Domestic Minimum Tax Working Group and Digital Service Provider Working Group. These products will be available to taxpayers via Online services for business, Online services for agents and some business software providers in advance of the first lodgments, due from 30 June 2026.

GIR and foreign lodgment notification

The GIR is an information return:

- developed by the Organisation for Economic Co-operation and Development (OECD) Inclusive Framework
- containing data to enable tax administrators to assess a multinational enterprise groups' (MNE groups) compliance with the GloBE Rules.

Under Subdivision 127-A in Schedule 1 to the *Taxation Administration Act 1953* (TAA), the default requirement is for **each group entity** of an MNE group that is GloBE located in Australia to lodge a GIR. In the usual case, a group entity is an entity or arrangement that, through relationships of ownership or control, have their assets, liabilities, income, expenses and cash flows included in the consolidated financial statements of the ultimate parent entity (UPE).

Consistent with the GloBE Rules, Subdivision 127-A in Schedule 1 provides the ability for group entities to nominate another entity in the MNE group to lodge one single GIR on their behalf. This can comprise of:

- a designated local entity (DLE) lodging with the ATO
- a foreign UPE or a designated filing entity (DFE) lodging with a foreign government agency
  - in this case, each Australian group entity must either lodge its own foreign lodgment notification, or the nominated DLE can lodge a single foreign lodgment notification on behalf of each group entity.

An Australian group entity must lodge a GIR with the Commissioner, even if the Australian IIR/UTPR tax or Australian DMT tax amount is nil.

DFE or UPE lodging the GIR overseas

When lodging the GIR with a foreign government agency and not locally with the ATO, to effectively fulfil each Australian group entity's GIR lodgment obligation:

- The GIR must be lodged on time in that foreign jurisdiction (if not met, the group will still have Australian filing obligations).
- Notification must be given to the Commissioner of Taxation by either each Australian group entity itself or the nominated DLE by lodging a foreign lodgment notification form.
- The foreign government agency that the GIR is lodged with must have a Qualifying Competent Authority Agreement (QCAA) with Australia. The GIR will then be exchanged with the ATO as per the

QCAA and in line with the dissemination approach agreed by the OECD Inclusive Framework.

- If the GIR is lodged with a foreign government agency but it is not exchanged with the ATO within the time period specified in the QCAA, the ATO may by written notice require that the GIR be locally lodged with the ATO.
- We will provide details on our website of any QCAAs that Australia enters into with foreign jurisdictions.

Entities will still have obligations to lodge the AIUTR and DMTR even if the GIR is lodged overseas.

DLE lodging the GIR in Australia

When lodging the GIR locally with the ATO, either each Australian group entity or a DLE of an MNE group can lodge. There is no need to lodge a foreign lodgment notification with the ATO.

The GIR will be lodged separately from the AIUTR and DMTR. It is not contained in the CGDMTR.

AIUTR and DMTR

The AIUTR and DMTR are Australian domestic tax returns. They are currently being developed to enable the triggering of Australia's domestic assessment and pay provisions. The GIR is an information only return and does not result in a top-up tax assessment.

The AIUTR is for the global minimum tax, while the DMTR is for the domestic minimum tax.

Under Subdivision 127-A in Schedule 1 to the TAA, each group entity:

- is required to lodge an AIUTR where they have an Australian IIR/UTPR tax amount (including a nil amount), unless a lodgment exemption applies
- is required to lodge a DMTR where they have an Australian DMT tax amount (including a nil amount), unless a lodgment exemption applies.

Group entities can appoint a DLE to lodge their AIUTR and DMTR on their behalf.

Note: Excluded entities don't have an obligation to lodge the AIUTR or DMTR, nor do they have an obligation to lodge the GIR and foreign lodgment notification form.

Example 1: Australian headquartered group does not nominate a DLE

Paddington MNE group is an Australian headquartered MNE group which is in scope of Pillar Two. The Australian entities have not nominated a DLE and have not lodged the GIR overseas through a DFE.

As a result, each Australian entity is required to lodge the GIR. In addition, each Australian entity is required to lodge the AIUTR and DMTR with the ATO (subject to any applicable exemptions for the AIUTR and DMTR).

Generally, we anticipate that where there is an Australia UPE, the GIR will be lodged in Australia.

Example 2: Australian headquartered group nominates DLE

Assume the same facts as Example 1 except that Herbert Limited has been appointed to be the DLE for GIR, AIUTR and DMTR purposes in respect to the Paddington MNE group.

As the DLE, Herbert Limited lodges the GIR, AIUTR and DMTR on behalf of all Australian entities that have a lodgment obligation. The effect is that each group entity that has a lodgment obligation is taken to have lodged at the time the DLE lodges the returns.

Each group entity that has a lodgment obligation is taken to have satisfied their lodgment obligations on time if Herbert Limited lodges the GIR and the AIUTR and DMTR electronically, in the approved form and by the due date.

Example 3: foreign headquartered group

Archie Enterprises is the UPE of a foreign headquartered applicable MNE group with Australian operations.

The MNE group nominates Archie Enterprises to file the GIR with a foreign revenue agency on behalf of the group. Australia has an applicable QCAA with that foreign jurisdiction. All Australian group entities are discharged of their obligation to lodge the GIR with the Commissioner if Archie Enterprises lodges the GIR with their foreign revenue agency by the due date.

However, all Australian entities are still required to lodge the AIUTR and DMTR (subject to any applicable exemptions) and give a completed foreign lodgment notification to the ATO. In this circumstance, a nominated DLE can lodge the AIUTR, DMTR and foreign lodgment notification form on behalf of the Australian entities.

Nomination of a DLE

An MNE group can nominate a DLE to lodge a GIR or foreign lodgment notification on behalf of Australian group entities. If they do so, they can also choose to nominate that same DLE to lodge AIUTRs and DMTRs on behalf of Australian group entities.

A DLE must:

- be a group entity that is GloBE located in Australia for the fiscal year
- be nominated by every other group entity that is GloBE located in Australia for the fiscal year to lodge the GIR or foreign lodgment notification
- be nominated by every group entity with an AIUTR and DMTR lodgment obligation to lodge those returns, if the MNE group also wishes to nominate the DLE to lodge the AIUTR and DMTR
- not be an excluded entity or a permanent establishment.

If an MNE group does not nominate a DLE, or only nominates one for the GIR and not the CGDMTR (which includes the AIUTR and DMTR), each individual entity with those lodgment obligations must lodge its own return or notice.

Example: GIR lodged in Australia

Alpha MNE group is an Australian headquartered in-scope MNE group. Bravo Pty Ltd is an Australian group entity of the MNE group that is also the head company of a tax consolidated group. Charlie Limited and Delta Pty Ltd are the only Australian group entities of the MNE group that are not members of the tax consolidated group.

All Australian group entities of the MNE group have nominated Charlie Limited to be the DLE for the GIR. Charlie Limited lodges a single GIR on time with the ATO on behalf of all Australian group entities.

Based on the Commissioner's legislative instrument, all subsidiary members of Bravo Pty Ltd tax consolidated group have qualified for an exemption to lodge the AIUTR and DMTR.

Accordingly, only Bravo Pty Ltd is required to lodge a AIUTR and DMTR in respect of the tax consolidated group. In addition, Charlie Limited and Delta Pty Ltd, not being members of the tax consolidated group, are each required to lodge an AIUTR and DMTR.

Bravo Pty Ltd and Delta Pty Ltd nominate Charlie Limited as the DLE to lodge the AIUTR and DMTR with the ATO on their behalf. Charlie Limited files the single CGDMTR on behalf of itself, Bravo Pty Ltd and Delta Pty Ltd.

Example: GIR lodged overseas

Echo MNE group is a foreign headquartered in-scope MNE group with group entities in Australia. Foxtrot Enterprises is the UPE of the MNE group that lodges the GIR in a foreign jurisdiction which has a QCAA with Australia.

Golf Pty Ltd is an Australian group entity that has been nominated by all Australian group entities to be the DLE for the foreign lodgment notification. It has also been nominated to lodge AIUTRs and DMTRs by group entities with lodgment obligations. Golf Pty Ltd lodges the foreign lodgment notification form, the AIUTRs and DMTRs in the CGDMTR on behalf of those group entities, on time with the ATO.

How to nominate a DLE

There is no specific form that an MNE group must lodge or use to nominate a group entity as a DLE. MNE groups must identify the DLE in the relevant section of the GIR and the CGDMTR for the fiscal year. The DLE must complete relevant declarations in those returns as the filing entity.

An MNE group must keep appropriate internal written records of each group entity nominating the DLE. We may request a copy of the nomination records for compliance and engagement purposes.

Lodgment due dates

The GIR, foreign lodgment notification, AIUTR and DMTR are required to be lodged:

- 18 months after the end of the first fiscal year, and
- 15 months after the end of the subsequent fiscal years.

The Commissioner has the ability to extend the lodgment deadline for the AIUTR and DMTR, but not the GIR or the foreign lodgment notification.

Lodgment due dates for the first fiscal year

Year-end date	Lodgment due date
Fiscal years ending before 31 December 2024 (fiscal years less than 12 months)	30 June 2026
31 December 2024	30 June 2026
31 January 2025	31 July 2026
28 February 2025	31 August 2026
31 March 2025	30 September 2026
30 April 2025	31 October 2026
31 May 2025	30 November 2026
30 June 2025	31 December 2026
31 July 2025	31 January 2027
31 August 2025	28 February 2027
30 September 2025	31 March 2027
31 October 2025	30 April 2027
30 November 2025	31 May 2027

Legislative instrument

Entities may be exempt from certain lodgment aspects of the Australian global and domestic minimum tax in certain circumstances.

Specifically, subsections 127-35(5) and 127-45(5) in Schedule 1 to the TAA allow the Commissioner to, by way of a legislative instrument, make a determination specifying circumstances in which a group entity need not lodge an AIUTR and DMTR for a fiscal year, respectively.

The Commissioner cannot exempt entities from lodging the GIR or foreign lodgment notification.

LI 2025/28

The Legislative Instrument **LI 2025/28** *Taxation Administration (Exemptions from Requirement to Lodge Australian IIR/UTPR tax return and Australian DMT tax return) Determination 2025* together with its **explanatory statement** has been registered and published on the Federal Register of Legislation on 22 December 2025.

Under the legislative instrument, entities that may be exempt from lodging a DMTR for a fiscal year include:

- certain subsidiary members of tax consolidated groups or multiple entry consolidated (MEC) groups
- entities that are not GloBE located in Australia, other than a stateless constituent entity created in Australia or a main entity of an Australian GloBE permanent establishment
- certain GloBE securitisation entities
- certain flow-through entities that cannot have an Australian DMT tax liability.

Given the AIUTR covers both Australian IIR tax and Australian UTPR tax liabilities, entities will only be exempt from lodging an AIUTR for a fiscal year under specific circumstances in which these liabilities will always be nil.

The legislative instrument sets out 2 circumstances that must both be met for a fiscal year before the exemption will apply:

1. Entities that may fall within the first circumstance include:
    - entities that are not parent entities, or which are parent entities but which are not GloBE located in Australia
    - parent entities that are GloBE located in Australia but which only hold direct and indirect ownership interests in other group entities or GloBE joint ventures that are themselves GloBE located in Australia
    - parent entities that are GloBE located in Australia but which cannot have an Australian IIR tax liability greater than zero because a higher-tier parent entity is required to apply a qualified income inclusion rule.
2. These entities must also be covered by the second circumstance in order to benefit from the exemption. Entities that may do so include:
    - certain subsidiary members of consolidated groups and MEC groups

- entities that are not GloBE located in Australia, other than a main entity of an Australian permanent establishment
- entities that would have an Australian UTPR tax liability of nil due to the application of one or more qualified income inclusion rules or in combination with the group's eligibility for the transitional UTPR safe harbour
- certain GloBE investment entities, insurance investment entities and GloBE securitisation entities.

Entities may be exempt from the requirement to lodge one or both of AIUTR and DMTR for a fiscal year depending on their circumstances.

Obligations and liabilities for specific entity types

GloBE permanent establishments

For GloBE permanent establishments located in Australia, all lodgment and payment obligations are placed on its main entity. The main entity is required to give the Commissioner a GIR, AIUTR, and DMTR in respect of the GloBE permanent establishment. The GIR and foreign lodgment notification requirements apply to the main entity as if it were located in Australia.

GloBE joint ventures

GloBE JVs and GloBE JV subsidiaries are not required to separately lodge the GIR or the AIUTR. However, disclosure requirements regarding GloBE JVs and GloBE JV subsidiaries are required in the GIR for applicable MNE groups that hold ownership in GloBE JVs.

GloBE JVs and GloBE JV subsidiaries are required to lodge a DMTR under **section 127-55** of the TAA and may be liable to pay domestic minimum tax. The Commissioner's legislative instrument outlines circumstances in which a GloBE JV or GloBE JV subsidiary need not lodge a DMTR.

A GloBE JV of an applicable MNE group and its GloBE JV subsidiaries may appoint a DLE of that applicable MNE group to lodge their DMTRs on their behalf. If an entity is a GloBE JV of 2 applicable MNE groups for a fiscal year, the GloBE JV and its GloBE JV subsidiaries may only appoint a DLE of one of those groups to lodge their DMTRs.

Accounting joint operations

Stakeholders have specifically asked us what the lodgment obligations are for arrangements that are treated as joint operations for accounting purposes. There is no concept of a joint operation for

accounting purposes under the global and domestic minimum tax. Whether such an arrangement has lodgment obligations depends on whether it is classified as a constituent entity. If it is, the standard lodgment obligations applicable to group entities can apply, which includes lodgment of the GIR, AIUTR and DMTR. For more information on the classification of joint operations, see **When and how the Pillar Two rules apply**.

The legislative instrument includes exemptions that may apply to certain joint operations classified as constituent entities. These include the following:

- About the **AIUTR**
  - A group entity that is not GloBE located in Australia will not be required to lodge an AIUTR, unless it is a main entity of an Australian permanent establishment (refer to section 11 of the instrument). Also, this exemption covers a joint operation created in Australia that is classified as a flow-through entity, except where it is a parent entity that must apply Australia's IIR.
- About the **DMTR**
  - A joint operation that is not GloBE located in Australia will not be required to lodge a DMTR (refer to section 8 of the instrument). However, this particular exemption does not apply to a joint operation created in Australia that is classified as a flow-through entity. Neither does it apply to an entity that is a main entity of an Australian permanent establishment.
  - Where the joint operation is a flow-through entity created in Australia, lodgment will not be required where the Australian domestic top-up tax amount cannot be greater than zero provided certain circumstances are met (refer to section 10 of the instrument). These circumstances include that the joint operation is neither a reverse hybrid entity, a main entity of an Australian permanent establishment, or a UPE that is GloBE located in Australia. In addition, for the exemption to apply, the joint operation must have all its Financial Accounting Net Income or Loss reduced to zero under the Australian Minimum Tax Rules and must not have a domestic top-up tax amount greater than zero.

We anticipate that a number of joint operations that are flow-through entities may not have an obligation to lodge an AIUTR and DMTR based on the exemptions above. Taxpayers should consider the legislative instrument carefully regarding whether they meet the conditions for the relevant exemption.

About the **GIR**, joint operations classified as constituent entities are not required to lodge a GIR if they are not GloBE located in Australia.

This includes flow-through entities created in Australia that are treated as stateless constituent entities.

However, MNE groups must still report information about each constituent entity in the GIR. We will apply an administrative approach and accept GIRs that do not list joint operations as separate constituent entities, provided the following specific circumstances are met:

- The joint operation is a flow-through entity created in Australia and is not a trust, GloBE partnership, reverse hybrid entity or main entity of an Australian permanent establishment.
- The joint operation could not have an Australian domestic top-up tax amount greater than zero.
- The financial records available for the joint operation do not enable separate reporting as a constituent entity in the GIR for the detailed disclosure requirements.
- The participants in the joint operation that are group entities are constituent entities and report their proportionate share of the joint operation's income, covered taxes, and other relevant information as part of their disclosures in the GIR.

Extended application to unincorporated entity types

Targeted rules accommodate different entity types to ensure obligations and liabilities imposed can be administered effectively.

For trusts, partnerships and other unincorporated entities, Subdivision 128-B in Schedule 1 to the TAA extends the entities to which obligations and liabilities in respect of the Australian global and domestic minimum tax apply.

Extended application under the TAA

Entity type	Entity subtype	Entity that obligation, offences and joint and several liability is applied to	Provisio
Trusts	n/a	The trustees, regardless of whether the trustee is a member of the applicable MNE group	128-15

GloBE partnerships	Not a GloBE JV or GloBE JV subsidiary	The partners, regardless of whether the partner is a member of the applicable MNE group.	128-20
GloBE partnership	Unincorporated GloBE JV	Each partner of the unincorporated JV that is a group entity of the applicable MNE group.	128-25
GloBE partnership	Unincorporated GloBE JV subsidiary	Each partner that is the GloBE JV, or another GloBE JV subsidiary, or a group entity of the applicable MNE group.	128-25
Not trust or GloBE partnership	Unincorporated GloBE JV	Each group entity of the applicable MNE group that holds a direct ownership interest in the GloBE JV.	128-25
Not trust or GloBE partnership	Unincorporated GloBE JV subsidiary	The GloBE JV and each group entity of the applicable MNE group that holds a direct ownership interest in the GloBE JV.	128-25
Not trust or GloBE partnership	Unincorporated group entities	Each group entity of the applicable MNE group to which a portion of the unincorporated group entity's assets,	128-25

		income, expenses, cashflows and liabilities belong, or that is a member of the management committee of the unincorporated group entity.	

Note: Both columns under entity type (entity type and entity subtype) must be met for the relevant provision to apply.

Generally, any entity listed above that the extended application applies to can discharge the obligation or liability.

Liability

Top-up tax liabilities

Global and domestic minimum tax is payable by entities that have a top-up tax amount for the fiscal year.

The global minimum tax brings the total effective tax in another jurisdiction up to 15% by charging:

- Australian IIR tax equal to the sum of its IIR top-up tax amounts
- Australian UTPR tax equal to the sum of its UTPR top-up tax amounts.

The domestic minimum tax brings the total effective tax in Australia up to 15% by charging Australian DMT tax equal to the sum of its domestic top-up tax amounts.

An entity becomes liable for top-up tax on the same day the return that gives rise to the assessment is due, generally 15 months after fiscal year end and 18 months after the first fiscal year end. Shortfall interest charge, general interest charge and penalties can also apply. Where an Australian group entity is a member of a tax consolidated group, the head entity is allocated the top-up tax amounts for the purposes of liabilities for DMT and UTPR tax.

The *Multinational – Global and Domestic Minimum Tax Rules 2024* and associated Explanatory Statement (PDF, 1.3MB) detail the mechanisms for allocating and computing top-up tax amounts.

Joint and several liability

All group entities of the MNE group become jointly and severally liable to pay top-up tax, meaning the ATO can collect global or domestic minimum tax amounts or related charges from any group entity in the MNE group. Generally, any group entity can discharge the liability on behalf of all group entities in the group.

Specifically, section 128-5 in Schedule 1 to the TAA provides that if an amount is payable by a group entity of an applicable MNE group, that group entity and each other group entity of that group is jointly and severally liable to pay that amount. An amount includes top-up tax, general interest charge, shortfall interest charge, and penalties.

Additional joint and several liability rules apply to GloBE JVs of an applicable MNE group. Where GloBE JVs and GloBE JV subsidiaries are liable to pay top-up tax, each of these entities and the group entities of the MNE group that have direct ownership interest in the JV are jointly and severally liable to pay the amount.

There are exceptions to this. Joint and several liability does not apply:

- to entities that meet the conditions in subsection 820-39(3) of the *Income Tax Assessment Act 1997*, or
- where Australian law prohibits the entity from entering into an arrangement under which it becomes subject to such a liability.

Period of review

4-year period of review

A 4-year period of review applies where we may amend global and domestic minimum tax assessments. This period of review may be extended or refreshed. After the period of review ends, an amendment will only be made by us in limited circumstances:

- For assessments of Australian IIR/UTPR tax, the 4-year period starts on the later of
  - the day the GIR is given to the Commissioner
  - the day the AIUTR is given to the Commissioner.
- For assessments of Australian DMT tax, the 4-year period starts on the later of
  - the day the GIR is given to the Commissioner
  - the day the DMTR is given to the Commissioner.

When is the GIR given to the Commissioner

The GIR is generally considered given to the Commissioner:

- if lodged in Australia, on the date it is lodged
- if lodged on-time with a foreign government agency in accordance with section 127-20 in Schedule 1 to the TAA, on the date it is given to the foreign government agency.

The foreign government agency that the GIR is lodged with must have a QCAA with Australia.

Penalties

What administrative penalties can apply

The existing uniform penalty provisions contained in Schedule 1 to the TAA apply, with base penalty amounts similar to those imposed for **significant global entities**. This means, for example:

- penalties for failure to lodge on time, which can apply to entities that do not lodge an approved form by the due date. The base penalty amount is multiplied by 500.
- penalties for false and misleading statements or for taking a position that is not reasonably arguable. The base penalty amount is doubled.

In addition, an administrative penalty can apply for failing to keep records about the global and domestic minimum tax.

OECD guidance on penalties

The OECD has released guidance on transitional penalty relief, which outlines that administrators should consider providing a soft landing for MNE groups during a transition period.

This includes recommending administrators consider not applying penalties or sanctions in connection with the filing of the GIR during the transition period where an MNE group has taken 'reasonable measures' to ensure the correct application of the GloBE Rules. 'Reasonable measures' is not defined and should be understood in light of each jurisdiction's existing rules and practices.

ATO guidance on penalties

We have published Practical Compliance Guideline **PCG 2025/4** *Global and domestic minimum tax lodgment obligations – transitional approach*. The PCG outlines:

- our proposed approach to the enforcement of penalties during a transition period, and

- expectations in respect of lodgment obligations for the global and domestic minimum tax.

We have also published minor updates to existing ATO guidance products relating to the administration of penalties for the global and domestic minimum tax, including to:

- MT 2008/1 *Penalty relating to statements: meaning of reasonable care, recklessness and intentional disregard*
- MT 2008/2 *Shortfall penalties: administrative penalty for taking a position that is not reasonably arguable*
- MT 2012/3 *Administrative penalties: voluntary disclosures*
- PS LA 2005/2 *Penalty for failure to keep or retain records*
- PS LA 2011/15 *Lodgment obligations, due dates and deferrals*
- PS LA 2011/19 *Administration of the penalty for failure to lodge on time*
- PS LA 2012/4 *Administration of the false or misleading statement penalty – where there is no shortfall amount*
- PS LA 2012/5 *Administration of the false or misleading statement penalty – where there is a shortfall amount*.

Record keeping

The legislation inserts Subdivision 382-C in Schedule 1 to the TAA which provides record keeping requirements on the Australian global and domestic minimum tax.

Broadly, the provision requires an Australian group entity, as well as GloBE JVs and GloBE JV subsidiaries, of an MNE group, to keep records that fully explain whether it has complied with the global and domestic minimum tax legislation. This includes, but is not limited to, all records that explain and show the basis of every disclosure in the GIR, AIUTR and DMTR lodged or exchanged with the Commissioner.

Excluded entities, which may not have an obligation to lodge, are still required to keep records relating to their status as an excluded entity.

Entities that are exempt from lodgment obligations under the legislative instrument are still required to keep records showing why they qualified for the exemption for a fiscal year.

Records must be kept in writing in English, or in a format that is readily accessible and convertible to English and must enable the entity's liability to top-up tax to be readily determined.

Records must be kept until either:

- the end of 8 years after those records were prepared or obtained
- 8 years after the completion of the transactions or acts to which those records relate
- the end of the period of review for an assessment to which those records relate (if extended), whichever is the later.

Australian record keeping requirements for the GIR

As part of the requirement to keep records that fully explain whether you have complied with the global and domestic minimum tax legislation, you are required to keep records that support the disclosures in the GIR. This is notwithstanding that the UPE or DFE of the MNE group may lodge the GIR with a foreign government agency.

The records required to be kept are dependent on the information required to be provided under the dissemination approach, agreed upon by the OECD Inclusive Framework. The dissemination approach sets out which sections of the GIR are to be distributed to each country based on the MNE group's structure and the requirements of the rule order. More specifically, the UPE country receives the complete GIR, countries with taxing rights receive the detailed calculations for those jurisdictions in which it has taxing rights in relation to, and all countries receive the corporate structure. Based on this, the ATO should receive:

- general information, such as the group's corporate structure and summary information
- detailed top-up tax computations for those jurisdictions in respect of which Australia has taxing rights (including computations in relation to Australia itself)
- detailed sections relating to safe harbours and exclusions where Australia has taxing rights (including Australia itself)
- the whole GIR where there is an Australian UPE
- computations for Australian DMT tax.

Broadly, this means records must be kept for all disclosures in the GIR in relation to overseas jurisdictions where Australia has taxing rights.

Where there is a foreign UPE and Australia does not have taxing rights for an overseas jurisdiction, records must be kept that support that Australian constituent entity has no IIR/UTPR taxing rights as per the agreed rule order. Records must still be kept for all detailed disclosures in the GIR in relation to Australia itself.

Records must also be kept in relation to the MNE group structure regardless of whether Australia has taxing rights over a foreign jurisdiction.

Where there is an Australian UPE, records must be kept for all disclosures in the GIR.

More information

For more information, see:

- Download Combined global and domestic minimum tax return (PDF, 744KB) for a Group Entity (GE) – sample only
- Download Combined global and domestic minimum tax return (PDF, 814KB) for a Designated Local Entity (DLE) – sample only
- OECD GloBE Rules
- GloBE Information Return (January 2025) – update to version released July 2023
- GloBE Information Return (Pillar Two) XML Schema
- GloBE Information Return (Pillar Two) Status Message XML Schema (PDF, 2.2MB)

QC 103565

Pillar Two interactions with other provisions

Pillar Two interactions with Australia's existing corporate tax system.

Last updated 16 May 2025

Interaction with other provisions

Australia's implementation of the Global Anti-Base Erosion Model Rules (GloBE Rules) includes consequential amendments to Australia's income tax law to clarify its interaction with Pillar Two. The amendments are included in the Multinational—Global and Domestic Minimum Tax (Consequential) Act 2024.

In particular, the Consequential Act includes amendments to specific Australian cross-border tax provisions. These include rules concerning foreign income tax offsets, controlled foreign companies, hybrid mismatches and foreign hybrids.

Foreign income tax offset rules

Australia's foreign income tax offset (FITO) rules do not provide a foreign tax credit for taxes paid under a foreign income inclusion rule (IIR) and foreign undertaxed profits rule (UTPR).

However, to the extent you satisfy the usual eligibility criteria and integrity rules, a FITO may be claimed in respect of foreign domestic minimum top-up tax (DMT) paid on income included in your Australian assessable income.

The amount of the FITO allowed in respect of foreign DMT taxes is subject to an additional safeguard.

New FITO integrity rule for foreign DMT taxes

The amount of DMT tax which an entity is treated as having paid is reduced by:

- the amount of a refundable tax credit that is refunded to an entity because the credit exceeds income tax liability
- consideration received for the transfer of a transferable tax credit to which an entity was entitled in respect of a foreign income tax of that jurisdiction
- cash or cash equivalent amounts recognised as government grants under *International Accounting Standard 20* (or a comparable accounting standard applicable under a foreign law)
- a benefit of a kind specified by the Minister in respect of a specified jurisdiction.

This new integrity rule complements the existing FITO integrity rule. The existing rule reduces the amount of foreign income tax that an entity is considered to have paid:

- to the extent it is entitled to refunds of the foreign income tax, or
- by any other benefits worked out by reference to the amount of foreign income tax.

Example: New FITO integrity rule for foreign DMT

Entity A (a constituent entity located in unlisted country Jurisdiction A) is a Controlled Foreign Company (CFC), wholly owned by Aus Co, which is part of the same multinational enterprise group (MNE group).

Jurisdiction A has a corporate tax rate of 10% and has enacted a Qualified Domestic Minimum Top-up Tax.

Entity A receives a $6 grant from the government of Jurisdiction A (recognised as a government grant under an applicable accounting standard).

Entity A derived $85 of attributable income, which is wholly attributable to Aus Co. In arriving at the $85 of attributable income, a notional deduction of $10 for corporate income tax and $5 for a foreign DMT tax paid in Jurisdiction A is claimed.

Assuming other relevant conditions in the FITO rules are satisfied, the amount of FITO that could have been available for Aus Co would have been $15 (the combination of $10 CIT and $5 DMT), disregarding the new integrity rule.

However, under the new integrity rule, the FITO is reduced by the government grant ($6), capped at the amount of foreign DMT tax paid ($5).

Therefore, the FITO allowed is $15 - $5 = $10.

Controlled foreign company rules

The CFC rules work to attribute foreign income earned by a foreign company back to Australia in certain circumstances. The interactions between the CFC rules and Pillar Two are such that:

- Tax imposed under CFC tax regimes (including Australia) are taken into account when calculating the effective tax rate of a jurisdiction for Pillar Two purposes.
- Foreign DMT, IIR or UTPR taxes are excluded from the meaning of 'subject to tax' for CFCs and transferor trusts located in a listed jurisdiction under section 324 of the *Income Tax Assessment Act 1936* (ITAA 1936). This will also impact whether certain income is considered eligible designated concession income (EDCI) and therefore taxed in Australia.
- Taxpayers are precluded from notionally deducting foreign IIR tax and foreign UTPR tax in calculating attributable income under section 393 of the ITAA 1936.
- A notionally allowable deduction may be available for payments of foreign DMT tax.

Australia's Qualified Domestic Minimum Tax (QDMT) is given priority in its application to Australian income and does not take into account taxes imposed under other CFC tax regimes.

Example: Eligible designated concessional income

Australian Entity A Co is an attributable taxpayer in respect of B Co, which is located in an overseas listed country. The listed country has implemented the IIR, UTPR and DMT.

The listed country applies a QDMT, which includes an item of income from B Co in its Effective Tax Rate (ETR) calculation. This income is otherwise exempt for corporate income tax purposes in the listed country.

In determining whether the item of income has been subject to tax in a listed country, the taxpayer is required to disregard any imposition of GloBE taxes (IIR, UTPR and DMT). The item is still considered as EDCI.

The taxpayer is also entitled to a notional deduction for any foreign DMT paid in respect of the EDCI included in its notional assessable income.

Hybrid mismatch rules

The operation of Australia's hybrid mismatch rules broadly continues to operate unaffected by the Australian global and domestic minimum tax.

Foreign DMT, IIR or UTPR and other foreign minimum taxes are disregarded when determining if an amount of income is subject to foreign income tax per the hybrid mismatch rules under section 832-130 of the *Income Tax Assessment Act 1997*. This ensures that a hybrid mismatch can be identified irrespective of whether a jurisdiction has implemented an IIR, UTPR or DMT.

The disregarding of such taxes also applies in the context of Australia's targeted integrity rule in Subdivision 832-J. Specifically, a foreign GloBE tax does not impact whether a payment of interest or an amount under a derivative financial arrangement is subject to foreign income tax at a rate of 10% or less. However, the application of foreign IIR, UTPR and DMT taxes may still be a relevant factor under the principal purpose test in determining whether it is reasonable to conclude that an entity entered a scheme with the requisite purpose.

Foreign hybrid rules

Similarly, Australia's foreign hybrid rules broadly continues to operate unaffected by the Pillar Two regime.

Australia’s foreign hybrid rules ensure that an entity that qualifies as a ‘foreign hybrid’ is treated as a partnership (rather than a company) for Australian tax purposes.

One of the requirements for entities to be treated as foreign hybrids is that no foreign income tax is imposed on the entity itself. References to 'foreign income tax' do not include foreign IIR, UTPR and DMT taxes and other foreign minimum taxes, ensuring that the foreign hybrid rules are not impacted by a foreign jurisdiction's decision to impose such taxes at the level of the foreign hybrid entity.

Example: Foreign hybrid limited partnership

Polar LLP is located in Jurisdiction A. AusCo, located in Australia, is a limited partner of Polar LLP. Under the corporate income tax regime of Jurisdiction A, Polar LLP is treated as fiscally transparent, and the imposition of taxes are on partners of Polar LLP of which AusCo is one.

Assuming all other relevant conditions are met under Australia's foreign hybrid rules, Polar LLP is treated as a fiscally transparent partnership for Australian tax purposes. One of the requirements to be met is that foreign income tax is imposed on the partners of Polar LLP (including AusCo) and not on Polar LLP itself.

Jurisdiction A implements a IIR, UTPR and DMT, and legislates for these GloBE and DMT related liabilities to be imposed on limited partnerships (such as Polar LLP) instead of on its partners.

AusCo is required to disregard the imposition of those taxes on the partnership and will continue to treat Polar LLP as a foreign hybrid limited partnership under Division 830.

More information

For more information, see:

- Foreign income tax paid by a controlled foreign company
- Hybrid mismatch rules

QC 104816

Transitional CBC reporting safe harbour

How to apply the transitional CBC reporting safe harbour available under Pillar Two.

Last updated 6 January 2026

Pillar Two safe harbours

The minimum tax law contains **4 safe harbours**. These safe harbours provide different degrees of simplification to multinational enterprise groups (MNE groups) in working out whether they have an Australian top-up tax liability. One of these safe harbours is the transitional country-by-country (CBC) reporting safe harbour.

The transitional CBC reporting safe harbour provisions are:

- contained in Chapter 8 of the Taxation (Multinational–Global and Domestic Minimum Tax) Rules 2024 (Australian Minimum Tax Rules)
- supported by OECD materials and the broader legislative framework established by the **primary legislation**.

What is the transitional CBC reporting safe harbour

The transitional CBC reporting safe harbour can relieve a MNE group from having to undertake detailed top-up tax calculations for a jurisdiction. This is when the MNE group can demonstrate, based on CBC reporting and financial accounting data, that it meets one of 3 tests for that jurisdiction. It is only available during a transitional period.

An eligible MNE group can elect to apply the transitional CBC reporting safe harbour from the first fiscal year the MNE group becomes subject to the global and domestic minimum tax for a jurisdiction. Where it applies, it deems jurisdictional top-up tax to be zero for that fiscal year.

Even where the CBC reporting safe harbour applies, an Australian IIR/UTPR return and Australian DMT return showing Australian IIR, UTPR and DMT tax amounts of zero must still be lodged unless exempted under the **legislative instrument**.

For an overview of the transitional CBC reporting safe harbour, download the Transitional CBC reporting safe harbour quick reference guide (NAT 75777, PDF 41KB).

Election to use transitional CBC reporting safe harbour

An MNE group must make an election for the transitional CBC reporting safe harbour to apply. Subject to the conditions below, an MNE group can elect to apply the transitional CBC reporting safe harbour for a jurisdiction for a fiscal year.

The election is made annually by a filing constituent entity in Section 2 of the GloBE Information Return (GIR). The filing constituent entity must specify in that section the particular jurisdiction and fiscal year to which the transitional CBC reporting safe harbour applies.

An election covers ordinary constituent entities and minority-owned constituent entities located in that jurisdiction. However, it will not cover an investment entity or insurance investment entity located in that jurisdiction unless that entity meets certain conditions.

As the transitional CBC reporting safe harbour is tested and applied separately to joint ventures of an MNE group from constituent entities located in the same jurisdiction, a separate transitional CBC reporting safe harbour election must be made in respect of each joint venture group. This election can also be made in Section 2 of the GIR by specifying the joint venture subgroup, jurisdiction and fiscal year.

If you elect to apply the transitional CBC reporting safe harbour, we may ask you to provide information to confirm your eligibility as part of our client engagement approach for Pillar Two. This includes providing information confirming that amounts used for the relevant computations are sourced from qualified CBC reports or directly from qualified financial statements.

Conditions

An MNE group will be eligible for the transitional CBC reporting safe harbour in respect of a jurisdiction for a fiscal year where the relevant conditions are met, as follows.

Transitional CBC reporting safe harbour exclusions

The jurisdiction must not be subject to any specific transitional CBC reporting safe harbour exclusions. The following jurisdictions are excluded:

- A jurisdiction in which a stateless constituent entity is taken to be located.
- A jurisdiction with an eligible distribution tax system, in respect of which the MNE group has made a deemed distribution tax election.
- Any jurisdiction of a multi-parented MNE group that does not file a single CBC report that includes all the information for the combined groups.
- A jurisdiction in respect of which the MNE group did not apply the transitional CBC reporting safe harbour in the previous fiscal year

(once out, always out), unless the current year is the first fiscal year within the transitional period that the MNE group has a constituent entity in the jurisdiction.

- The jurisdiction in which a constituent entity, that is both a flow-through entity and a UPE of the MNE group, is located, unless all ownership interests in the UPE are held by qualified persons.

MNE has a qualified CBC report

Generally, the MNE group must use information from a **qualified CBC report** prepared and filed using **qualified financial statements** for the transitional CBC reporting safe harbour. In some cases where a MNE group is not required by a jurisdiction to file a CBC report, it can be treated as having a qualified CBC report for this purpose.

Passes a transitional CBC reporting safe harbour test

The MNE group must satisfy at least one of the following 3 transitional CBC reporting safe harbour tests for the jurisdiction and the fiscal year to which the election applies:

1. **De minimis test**
2. **Simplified EFT (effective tax rate) test**
3. **Routine profits test**

The test must be satisfied using the prescribed **transitional CBC reporting safe harbour data**. There are certain entities which may have restrictions or required adjustments, including certain investment entities, joint ventures, and flow-through UPEs.

Effect of transitional CBC reporting safe harbour

The effect of applying the transitional CBC reporting safe harbour is that the MNE group's jurisdictional top-up tax for that jurisdiction for the fiscal year is deemed to be zero.

An exception to this applies for any investment entities or insurance investment entities located in that jurisdiction. The top-up tax of such an entity is not deemed to be zero unless it meets certain conditions. Non-qualifying investment entities or insurance investment entities must apply the full top-up tax computation rules.

The transitional CBC reporting safe harbour must also be tested, elected and applied separately to joint venture groups.

You do not need to apply the full top-up tax computational rules for the jurisdiction in which the safe harbour applies. You are still obligated to satisfy any filing obligations in Australia, such as the GIR, Australian IIR/UTPR tax return and the Australian DMT tax return. This includes disclosing any Australian IIR, UTPR and DMT tax amounts of zero.

For jurisdictions not covered by the transitional CBC reporting safe harbour for a fiscal year, MNE groups will need to consider the application of the full top-up tax computational rules or other safe harbour, as applicable.

The election to use the transitional CBC reporting safe harbour may impact top-up tax calculations in later fiscal years. This includes certain rules dealing with tax attributes upon MNE groups entering the first year being in-scope of the global and domestic minimum tax.

Transitional period

The transitional CBC reporting safe harbour only applies to a fiscal year within the transition period, being a fiscal year that:

- begins on or before 31 December 2026
- ends on or before 30 June 2028.

The following table shows examples of years when a transition period may apply.

Table 1: Fiscal years

Fiscal year start	Fiscal year end	Within transition period
1 January 2024	31 December 2024	Yes
1 January 2026	30 June 2026	Yes
31 December 2026	30 June 2028	Yes
1 January 2027	31 December 2027	No

Decision-making table

For a summary of how to apply the transitional CBC reporting safe harbour, refer to the decision-making table below.

Table 2: Transitional CBC reporting safe harbour decision-making table

Step	Action	Decision

1	Has the entity prepared a **qualified CBC report** using **qualified financial statements**?	**No** – go to Step 2 **Yes** – go to Step 4
2	Is the entity in a jurisdiction that does not require a CBC report?	**No** – transitional CBC reporting safe harbour NOT available **Yes** – go to Step 3
3	Does the entity have financial statements prepared using authorised or acceptable accounting standards? For a permanent establishment, the financial statements referred to are those used for financial reporting, tax reporting or internal management or control purposes.	**No** – transitional CBC reporting safe harbour NOT available **Yes** – go to Step 4
4	Has the entity failed the CBC reporting safe harbour in the past?	**Yes** – transitional CBC reporting safe harbour NOT available **No** – go to Step 5
5	**De minimis test**: Does the entity have revenue of less than 10 million euros and profit less than 1 million euros for its jurisdiction? or **Simplified ETR test**: Is the entity's effective tax rate (ETR) above the minimum rate? ETR = simplified covered tax (tax from accounts) ÷ profit? or **Routine profits test**: Is the entity's revenue (including a loss) below the substance based income exclusion ('SBIE' – see full GloBE Rules) amount for its jurisdiction?	**No, for all 3 tests** – transitional CBC reporting safe harbour NOT available **Yes, for one or more tests** – transitional CBC reporting safe harbour available

More information

The application of the transitional CBC reporting safe harbour relies on specific definitions and data requirements. For more detailed information, refer to Chapter 8 of the Australian Minimum Tax Rules.

De minimis test

How to apply the de minimis test for the transitional CBC reporting safe harbour under Pillar Two.

Simplified ETR test

How to apply the simplified ETR test for the transitional CBC reporting safe harbour under Pillar Two.

Routine profits test

How to apply the routine profits test for the transitional CBC reporting safe harbour under Pillar Two.

Transitional CBC reporting safe harbour data

Work out what data can be used when applying the transitional CBC reporting safe harbour under Pillar Two.

QC 105660

De minimis test

How to apply the de minimis test for the transitional CBC reporting safe harbour under Pillar Two.

Last updated 22 October 2025

What is the de minimis test

The de minimis test is one of the 3 tests that can be used to determine if the transitional country-by-country (CBC) reporting safe harbour applies to a jurisdiction for a fiscal year.

The de minimis test uses revenue and profit amounts from **qualified CBC reports** to determine whether the multinational enterprise group's (MNE group) financial activity in a jurisdiction is below prescribed thresholds.

The test is set out in **Subdivision B of Division 2 of Part 8-2 of the Taxation (Multinational–Global and Domestic Minimum Tax) Rules 2024** (Australian Minimum Tax Rules).

Conditions to meet the de minimis test

To satisfy the de minimis test, the MNE group must meet both of the following conditions for the tested jurisdiction for the fiscal year:

1. Its **total revenue** for the jurisdiction is less than 10 million euros.
2. Its **profit (loss) before income tax** for the jurisdiction is less than 1 million euros.

These revenue and profit figures must be taken from the **qualified CBC report** and may be subject to special rules or exclusions.

However, an MNE group will **not** satisfy the de minimis test for a jurisdiction if the combined total of the following exceeds 10 million euros for a fiscal year:

- total revenue for the jurisdiction as reported in the group's qualified CBC report, and
- total revenue of each constituent entity of the MNE group that is located in that jurisdiction and that is excluded from the ultimate parent entity's consolidated financial statements solely on the grounds that the constituent entity is held for sale.

QC 105661

Simplified ETR test

How to apply the simplified ETR test for the transitional CBC reporting safe harbour under Pillar Two.

Last updated 22 October 2025

What is the simplified ETR test

The simplified effective tax rate (ETR) test is one of the 3 tests that can be used to determine if the transitional country-by-country (CBC) reporting safe harbour applies to a jurisdiction for a fiscal year.

The simplified ETR test uses income tax amounts from **qualified financial statements** and profit amounts from **qualified CBC reports** to determine whether the simplified ETR for a jurisdiction is above prescribed thresholds.

The simplified ETR is only used to determine whether the group meets the test for the transitional CBC reporting safe harbour and not to calculate any top-up tax liabilities for jurisdictions where the safe harbour does not apply.

The test is set out in **Subdivision C of Division 2 of Part 8-2 of the Taxation (Multinational–Global and Domestic Minimum Tax) Rules 2024** (Australian Minimum Tax Rules).

Simplified ETR formula

A multinational enterprise group (MNE group) satisfies the simplified ETR test if its **simplified ETR** for the jurisdiction for the fiscal year is equal to or greater than the **transition rate** for that fiscal year.

An MNE group's simplified ETR for a jurisdiction is its: **simplified covered taxes ÷ profit (loss) before income tax**.

Transition rates

The transition rates for fiscal years starting in the following years are as follows:

Transition rates

Year	Rate
2024	15%
2025	16%
2026	17%

Where the simplified ETR is equal to or greater than the applicable transition rate, the transitional CBC reporting safe harbour will apply.

QC 105662

Routine profits test

How to apply the routine profits test for the transitional CBC reporting safe harbour under Pillar Two.

Last updated 22 October 2025

What is the routine profits test

The routine profits test is one of the 3 tests that can be used to determine if the transitional CBC reporting safe harbour applies to a jurisdiction for a fiscal year.

The test compares the multinational enterprise group's (MNE group) profit for the jurisdiction, as reported in its **qualified CBC report**, against a prescribed percentage of its eligible payroll costs and tangible assets for the jurisdiction.

The test is set out in **Subdivision D of Division 2 of Part 8-2 of the Taxation (Multinational–Global and Domestic Minimum Tax) Rules 2024** (Australian Minimum Tax Rules).

Conditions to meet the routine profits test

To satisfy the routine profits test for a fiscal year, the MNE group's **profit (loss) before income tax** must be equal to or less than its substance-based income exclusion (SBIE) amount for the tested jurisdiction.

The test is passed if: profit (loss) before income tax ≤ SBIE amount.

SBIE amount

Unlike the profit (loss) before income tax, the SBIE amount is determined under the detailed computational rules in Part 5-3 of the Australian Minimum Tax Rules, with certain modifications.

These modifications ensure that the calculation only includes an amount from a constituent entity if it is both located in, and a CBC reporting resident of, the jurisdiction for the fiscal year.

The SBIE amount for a jurisdiction for a fiscal year is, broadly, the sum of:

1. **payroll carve-out amount** for these constituent entities – (eligible payroll costs for eligible employees – exclusions) × percentage
    - eligible payroll costs include employee compensation expenditures, payroll and employment taxes, social security contributions and stock-based compensation recorded in financial accounts

- eligible employees include employees of the constituent entity, as well as certain independent contractors
- excludes amounts capitalised as eligible tangible assets and certain costs related to international shipping.

2. **tangible asset carve-out amount** for these constituent entities – (total carrying values of each eligible tangible asset – exclusions) × percentage
   - eligible tangible assets include property (including plant and equipment) and natural resources located in the jurisdiction and owned by the constituent entity, a lessee's right to use tangible assets located in the jurisdiction and certain licenses from a government to use immovable property or exploit natural resources in the jurisdiction
   - generally excludes the carrying value of assets held for sale, lease or investment.

This summary does not include all adjustments that may be required to be made in calculating an SBIE amount. For further information, MNE groups should refer to **Part 5-3** of the Australian Minimum Tax Rules.

The percentages applied to calculate both amounts are set out under **section 9-30** and **section 9-35** of the Australian Minimum Tax Rules, explained below.

Carve-out amount transitional percentages

The percentages to be applied in determining the payroll and tangible asset carve-out amounts are as follows:

Transitional percentages

Fiscal year begins	Tangible asset percentage	Payroll percentage
2024	7.8	9.8
2025	7.6	9.6
2026	7.4	9.4

Automatic qualification

If a jurisdiction has a loss or zero profits, it automatically passes the routine profits test for that fiscal year. There is no need to calculate its SBIE amount.

Worked example

Example: SBIE amount worked example

For the fiscal year 1 July 2025 to 30 June 2026, MNE group A has:

- $10 million in payroll costs in Country A
- $20 million in tangible assets in Country A.

The payroll carve-out percentage is 9.6% and the tangible asset carve-out percentage is 7.6% for fiscal years beginning in 2025. Therefore:

- payroll carve-out amount = $10 million × 9.6% = $960,000
- tangible asset carve-out amount = $20 million × 7.6% = $1,520,000
- total carve-out = $2,480,000.

If MNE group A's profit before income tax for Country A for the fiscal year is equal to or less than $2.48 million, it will satisfy the routine profits test.

QC 105663

Transitional CBC reporting safe harbour data

Work out what data can be used when applying the transitional CBC reporting safe harbour under Pillar Two.

Published 22 October 2025

Source of data

The transitional country-by-country (CBC) reporting safe harbour tests use amounts, such as profit (loss) before income tax, total revenue and simplified covered taxes, to determine if a multinational enterprise group (MNE group) is eligible to apply the safe harbour in respect of a particular jurisdiction for a fiscal year.

To correctly apply a transitional CBC reporting safe harbour test, the amounts used in the calculations must meet certain requirements. Broadly, the amounts used in the calculation must be:

- sourced directly from qualified data
- adjusted where required.

The specific source and adjustments required depend on which test is being applied, as shown in the table below:

Source of data

Safe harbour test	Data points/amounts	Data source	Thresh
De minimis test	• Total revenue for the jurisdiction • Profit (loss) before income tax for the jurisdiction	• Qualified CBC report	If a jurisdict has < €1 profit ar €10m to revenue
Simplified ETR test	• Profit (loss) before income tax for the jurisdiction • Simplified covered taxes for the jurisdiction	• Profit (loss) from qualified CBC report • Income tax expense from qualified financial statements	If the jurisdict simplifie ETR ≥ transitio rate (for fiscal ye starting in 2024, is 15%)
Routine profits test	• Profit (loss) before income tax for the jurisdiction • Substance-based income exclusion (SBIE) for the jurisdiction	• Profit from qualified CBC report • SBIE amount calculated under GloBE rules, as modified.	If profit SBIE amount

The transitional CBC reporting safe harbour is tested, elected and applied separately to joint venture (JV) groups. For that purpose, a special rule applies to JV groups, which requires data to be sourced from qualified financial statements, instead of qualified CBC reports.

The rules are predominately set out in **Division 2 of Part 8-2 of the Taxation (Multinational–Global and Domestic Minimum Tax) Rules 2024** (Australian Minimum Tax Rules).

Adjustments to amounts reported

Where an amount is to be sourced from the qualified CBC report or qualified financial statements, it must directly reflect what is reported in the qualified CBC report or financial statements. No adjustments are permitted unless they are expressly allowed.

Qualified CBC report

The term 'qualified CBC report' is defined in **section 8-35** of the Australian Minimum Tax Rules as a country-by-country (CBC) report prepared in relation to a jurisdiction and filed using **qualified financial statements**.

Interaction with existing CBC regime

The CBC report is a key element of the **CBC reporting regime**, which is a pre-existing regime separate to Pillar Two that requires certain entities to report their financial and tax data for each jurisdiction in which they operate.

Access to the transitional CBC reporting safe harbour depends on whether an MNE group has filed a CBC report as required, or can be treated as having done so under specific assumptions:

Access to transitional CBC reporting safe harbour

Scenario	Assumption required	Treatment under assumption	Access t transitio CBC reportin safe har
MNE group **files** a CBC report as required under a jurisdiction's CBC reporting regime.	None	None	Can acce the transition CBC repo safe harb
MNE group **fails to file** a CBC report as required under a	None	None	Cannot access transition CBC repo safe harb

jurisdiction's CBC reporting regime.			
Ultimate parent entity (UPE) jurisdiction has a CBC reporting regime but the particular MNE group is **not required** to file a CBC report in relation to a jurisdiction.	Assume that the MNE group filed a CBC report in relation to the jurisdiction in accordance with those requirements.	The data from the MNE group's qualified financial statements that would have been reported as total revenue and profit (loss) before income tax in that CBC report is **treated as reported in the group's qualified CBC report**.	Can acce the transition CBC repo safe harb
UPE jurisdiction does **not have** a CBC reporting regime and the MNE group is **not required** to file a CBC report in relation to a jurisdiction.	• Assume that the MNE group filed a CBC report in accordance with both: • the OECD's CBC reporting Guidance on the Implementation of Country-by-Country: BEPS Action 13 • Transfer Pricing Documentation and Country-by-Country Reporting Action 13 – 2015 Final Report.	The data from the MNE group's qualified financial statements that would have been reported as total revenue and profit (loss) before income tax in that CBC report is **treated as reported in the group's qualified CBC report**.	Can acce the transition CBC repo safe harb

Careful consideration is required to ensure the CBC report is based on data from qualified financial statements.

Qualified financial statements

The qualified CBC report must be prepared and filed using qualified financial statements. Qualified financial statements are financial accounts or statements that meet certain standards as set out in section 8-70 of the Australian Minimum Tax Rules.

Qualified financial statements

Provision	Qualified financial statements	Requirements
8-70(1)(a)	Financial **accounts** used to prepare the **consolidated financial statements** of the UPE of the MNE group.	Generally, the consolidated financial statements of the UPE are required to be prepared under either: • an acceptable financial accounting standard • an authorised financial accounting standard, adjusted for **material competitive distortions**. Refer to section 34 of the *Taxation - (Multinational—Global and Domestic Minimum Tax) Act 2024* (Minimum Tax Act).
8-70(1)(b)	Separate financial **statements** of a constituent entity of an MNEgroup.	Where prepared under an acceptable or authorised financial accounting standard, information contained in them is: • maintained based on that accounting standard • reliable.
8-70(1)(c)	Separate financial **accounts** of a constituent entity of the MNEgroup not included in the consolidated financial statements on a line-	The accounts must be used for the preparation of the **MNE group's CBC report**.

	by-line basis on materiality grounds.	
8-70(1)(d)	Separate financial **statements** prepared by the main entity in respect of a GloBE permanent establishment.	Prepared for financial reporting, regulatory, tax reporting or internal management control purposes.

As set out in **section 8-75**, all of the relevant data used in the transitional CBC reporting safe harbour tests for each jurisdiction must be sourced from the same type or category of qualified financial statements. The MNE group must apply this type or category of qualified financial statements consistently for all entities in the jurisdictions and for all relevant computations.

The transitional CBC reporting safe harbour is not available where the data for computations is derived from a mixture of types of qualified financial statements or where not all entities in a jurisdiction use same data source. For example, it would not be available where profit (loss) before tax is sourced from financial accounts for a constituent entity used to prepare consolidated financial statements of the UPE and simplified covered tax is sourced from separate financial statements prepared under a different accounting standard. Exceptions to this apply for:

- non-material constituent entities excluded from consolidation
- GloBE permanent establishments
- the deferred tax component of the income tax expense.

Consolidated financial data

In Australia, we allow **CBC reports to be prepared using consolidated data at the jurisdictional level** if the CBC reporting parent is also the head entity of a tax consolidated group, the consolidated data is reported for each jurisdiction in Table 1 of the CBC report and consolidation is consistently used across the years.

Foreign-headquartered MNEs that file their CBC report in another jurisdiction instead of Australia may also prepare their CBC reports using consolidated data at the jurisdictional level, where the filing jurisdiction permits the use of consolidated data.

In a CBC report prepared using consolidated data, items of income and expense that arise from intra-group transactions between entities that are CBC reporting resident in the same jurisdiction are eliminated.

Where CBC reports are prepared using consolidated data at the jurisdictional level in accordance with the requirements of the CBC regime of the filing jurisdiction, the qualified financial statements

for the MNE group for the purposes of the transitional CBC reporting safe harbour are those statements or accounts that are prepared on a consolidated basis for the jurisdiction. This is subject to the requirement that the other conditions in section 8-70 are also satisfied, including:

- that the financial accounts are used in preparing the consolidated financial statements of the UPE (if paragraph 8-70(1)(a) is relied on)
- the accounting standard requirements for financial statements (if paragraph 8-70(1)(b) is relied on)
- the purchase accounting and goodwill impairment adjustments in subsections 8-70(2) to (5).

For the purposes of the transitional CBC reporting safe harbour, and subject to any adjustments specifically required under section 8-70, no further adjustments are required to the data drawn from qualified financial statements or the qualified CBC report where the qualified CBC report is prepared based on:

- financial accounts of constituent entities used in preparing the consolidated financial statements of the UPE, where those accounts eliminate items of income and expense from intra-group transactions between entities located in the same jurisdiction
- the consolidated financial statements of a constituent entity (which may cover a sub-group of entities of the MNE group located in the same jurisdiction) prepared in accordance with acceptable or authorised financial accounting standards.

A group may prepare its consolidated financial statements in various ways, and adjustments may be made at various stages of the consolidation process. This guidance applies regardless of the point at which consolidation adjustments are made in the process of preparing the CBC report.

Example: qualified financial statements and qualified CBC report

Entity A is a head entity of an Australian income tax consolidated group and a CBC reporting parent. Entity A completes the CBC report using consolidated data at the jurisdictional level for each jurisdiction in Table 1 of the report and has done so consistently over the years. This results in income and expenses arising from intra-group transactions between entities that are CBC reporting resident in Australia being eliminated in the CBC report.

The qualified statements are the financial accounts of Entity A and other constituent entities in Australia used in preparing consolidated financial statements of the UPE and that make

adjustments to eliminate income and expenses arising from intra-group transactions at the jurisdictional level (assuming all other conditions in section 8-70 are satisfied). The CBC report of Entity A is prepared and filed on a consolidated basis using these qualified financial statements and is a qualified CBC report.

As Australia allows Entity A to complete the CBC report using consolidated data at the jurisdictional level, the data can be used for the transitional CBC reporting safe harbour tests with no further adjustments other than those adjustments expressly required for the purposes of the safe harbour.

The same is true where Entity A prepares consolidated financial statements covering a sub-group of entities within Australia and those statements are prepared in accordance with Australian IFRS. Provided all other conditions in section 8-70 are satisfied, those statements are qualified financial statements, and the CBC report prepared and filed in relation to the Australia jurisdiction is a qualified CBC report. The data can be used for the transitional CBC reporting safe harbour with no further adjustments other than those adjustments expressly required for the purposes of the safe harbour.

Accounting standard definitions

The following terms are defined under **section 34** of the Minimum Tax Act:

- **Acceptable financial accounting standards** include Australian accounting standards, IFRS, or the generally accepted accounting principles (GAAP) of certain major economies such as the US, UK, EU member states, China, Japan, Canada, India, and others.
- An **authorised accounting standard** is a set of GAAPs approved by an authorised accounting body in the jurisdiction where the constituent entity is located.
- A **material competitive distortion** occurs when applying a specific GAAP principle results in a financial difference exceeding 75 million euros compared to IFRS, unless otherwise defined by regulation.

Profit (loss) before income tax

Profit (loss) before income tax is defined in **section 8-30** of the Australian Minimum Tax Rules and refers to the profit or loss before income tax amount reported in the qualified CBC report for a tested jurisdiction.

Certain adjustments to the profit (loss) before income tax amount may be required when performing the 3 transitional CBC reporting safe

harbour tests to:

- recognise certain intra-group transactions shown in the qualified financial statements
- neutralise hybrid arbitrage arrangements
- ensure profit or loss of investment entities and insurance investment entities are only reflected in the jurisdiction of its direct parent entities in proportion to their ownership interests under section 8-95
- disregard amounts attributable to direct ownership interest holders in a flow-through UPE but only if all direct ownership interest holders are qualified persons under section 7-5 (a similar adjustment is also required for UPEs that are subject to a deductible dividend regime).
- disregard net unrealised fair value losses on non-portfolio ownership interests in excess of 50 million euros
- disregard losses in the main entity jurisdiction to prevent double counting of losses that relate to its GloBE permanent establishment
- disregard certain goodwill impairment losses that do not have a reversal of a deferred tax liability or recognition of a deferred tax asset. This is explained further below.

Purchase price accounting adjustments

Some MNE groups incorporate purchase price accounting (PPA) adjustments into the financial accounts of a constituent entity used to prepare the CBC report or the separate financial statements of a constituent entity. In these cases, a special consistency reporting condition must be satisfied for those financial accounts or financial statements to be considered qualified financial statements.

If this condition is not met, the MNE group will not be able to access the transitional CBC reporting safe harbour using those financial accounts or statements.

The consistency reporting condition is met if:

- the MNE group has not submitted a CBC report for a fiscal year starting after 31 December 2022 that is based on the constituent entity's financial accounts or statements without PPA adjustments
- the MNE group has submitted such a CBC report but the constituent entity was required by law or regulation to change its financial accounts or statements to include PPA adjustments.

Where the consistency reporting condition is met, PPA adjustments could include the recognition of goodwill in the qualified financial statements. An MNE group must make an adjustment to its profit (loss)

before income tax to add back any reduction in a constituent entity's income from goodwill impairments related to transactions entered into after 30 November 2021, when applying the:

- routine profits test
- simplified ETR test, but only if the financial accounts or statements do not also have either
  - a reversal of deferred tax liability
  - recognition or increase of a deferred tax asset related to the impairment.

Adjustments for intra-group transactions

In some instances, intra-group payments between group entities of the MNE group may need to be recognised for the purposes of the transitional CBC reporting safe harbour test computations, regardless of their treatment in the CBC report.

If an intra-group payment made between group entities is treated as income in the qualified financial statements of the recipient and as an expense in the qualified financial statements of the payer, the income and expense must be included in the MNE group's profit or loss before income when performing transitional CBC reporting safe harbour calculations, irrespective of the tax treatment of that payment or its treatment in the CBC report.

This rule applies as follows to intra-group transactions between entities in the same jurisdiction:

- An MNE group whose qualified CBC report is prepared using qualified financial statements that eliminate items of income and expense relating to intra-group transactions between entities in the same jurisdiction, will not need to recognise these amounts in the MNE group's profit or loss before income tax.
- Where an MNE group's qualified CBC report is prepared using qualified financial statements that do not eliminate items of income and expense relating to intra-group transactions between entities in the same jurisdiction, no adjustments are to be made to those items based on the tax treatment of the transaction (these amounts must be included in the profit or loss before income tax, even if they are not shown in the CBC report).

Example: cross border intra-group transactions

Entity A is located in Jurisdiction X and Entity B is located in Jurisdiction Y. Both are part of the same MNE group. Entity A

subscribes for redeemable preference shares issued by Entity B during the fiscal year.

In the MNE group's qualified financial statements, the redeemable preference shares are treated as a debt instrument. In the qualified financial statements:

- Entity B records $10 million as interest expense
- Entity A records $10 million as interest income.

The tax law of jurisdiction Y treats redeemable preference shares as equity and any distributions as dividends.

In the MNE group's qualified CBC report, the profit or loss before income tax for Jurisdiction X includes the $10 million of interest income. For Jurisdiction Y, the profit or loss before income tax includes the $10 million of interest expense.

For the purposes of the transitional CBC reporting safe harbour tests, no further adjustment is to be made for the transaction in each jurisdiction's profit or loss before income tax, irrespective of the tax treatment of the payment by Jurisdiction Y. Making any further adjustments will make the MNE group ineligible for the transitional CBC reporting safe harbour.

Profit adjustments for hybrid arrangements

Certain expenses and losses reflected in the profit or loss before income tax amount may need to be excluded if the expense or loss arose as a result of a hybrid arbitrage arrangement entered into after 15 December 2022. This is provided for under **section 8-110**.

The specific arrangements that need to be neutralised are:

- a deduction/non-inclusion arrangement defined in **section 8-120**
- a duplicate loss arrangement defined in **section 8-125**.

Tax adjustments are not required for these 2 arrangements.

Adjustments may not be required where an arrangement does not give rise to an expense or loss in the qualified financial statements of a constituent entity.

The rules on hybrid arrangements contained in Subdivision G of Part 8-2 of the Australian Minimum Tax Rules are complex and require careful consideration.

Intra-group arrangements within tax consolidated groups

The following guidance relates to the issue of whether a deduction/non-inclusion arrangement under section 8-120 can arise with respect to certain transactions occurring within an Australian

income tax consolidated group. In these transactions, a constituent entity provides credit or otherwise invests in another constituent entity that is part of the same tax consolidated group. That credit or investment results in an accounting expense in the financial statements of the recipient. There is no corresponding taxable income for the investor due to the application of the income tax consolidation single entity rule. If the hybrid arbitrage arrangement rules were to apply to these arrangements, the effect would be to increase the MNE group's profit or loss before income tax for the Australian jurisdiction.

As set out above, where the MNE group's CBC report is prepared using consolidated data at the jurisdictional level, in accordance with the requirements of the CBC regime of the filing jurisdiction, the qualified financial statements are those consolidated statements or accounts. As there would be no expense (or income) relating to the intra-group arrangement between members of the income tax consolidated group reflected in those accounts or statements, those items will not need to be recognised in the MNE group's profit or loss before income tax for the purposes of the transitional CBC reporting safe harbour. Similarly, the hybrid arbitrage arrangement rules could not have any operation because there would not be any expense from the arrangement in the qualified financial statements.

Where the applicable CBC regime does not allow for jurisdictional reporting on a consolidated basis and instead requires data to be reported on an aggregated basis, the qualified financial statements for the MNE group for the purposes of the transitional CBC reporting safe harbour may not eliminate items of income and expense relating to intra-group transactions between entities in the same jurisdiction. In these circumstances, there may be an interest expense in the qualified financial statements and the MNE group may need to consider the potential application of the hybrid arbitrage arrangement rules relating to deduction/non-inclusion arrangements.

However, subject to any further guidance from the OECD, we will not apply compliance resources to test the application of section 8-120 (and, consequently, section 8-110) to an intra-group financing arrangement where:

- the MNE group prepares its qualified CBC report for the Australian jurisdiction on an aggregated basis
- an intra-group arrangement involving the provision of credit or making of an investment by an investor occurs between members of an Australian tax consolidated group (TCG) or multiple entry consolidated (MEC) group of the MNE group, and results in an expense in the qualified financial statements
- the net effect of the intra-group financing arrangement on the profit or loss before income tax for Australia for the fiscal year in the

qualified CBC report is the same as it would have been had the qualified CBC report been prepared and filed using consolidated data for the jurisdiction.

We are adopting this compliance approach because in these cases there is no net expense in the jurisdictional profit or loss before income tax from the arrangement. There could be no beneficial impact for an MNE group for the purposes of meeting the transitional CBC reporting safe harbour tests from entering the arrangement. As such, these arrangements do not appear to involve an exploitation of differences between tax and financial accounting treatment.

Net unrealised fair value loss adjustment

Net unrealised fair value losses over 50 million euros must be excluded from profit (loss) before income tax.

Broadly, net unrealised fair value losses are the sum of all losses, as reduced by any gains, which arise from changes in fair value of ownership interests (excluding portfolio shareholdings).

Example: net unrealised fair value losses

Koala Pty Ltd holds a 6% ownership interest in Emu Ltd, and Wombat Holdings Ltd holds a 7% ownership interest in Emu Ltd. These interests are held directly and grant equal rights to profits, capital, reserves, and voting rights in Emu Ltd.

Koala Pty Ltd and Wombat Holdings Ltd are both constituent entities of the same MNE group and are both located in the same jurisdiction.

During the fiscal year:

- Koala Pty Ltd records a fair value loss of 30 million euros on its ownership interest in Emu Ltd
- Wombat Holdings Ltd records a fair value loss of 35 million euros on its ownership interest.

The aggregate ownership interest of the MNE group in Emu Ltd is 13%, so it is not a portfolio shareholding. The net unrealised fair value loss is 65 million euros, which must be excluded from the aggregate profit (loss) before income tax for the jurisdiction.

Total revenue

The total revenue of an MNE group is defined in **section 8-25** of the Australian Minimum Tax Rules and refers to the revenue amount reported in the qualified CBC report for the tested jurisdiction.

The following adjustments must be made to total revenue:

- adjustments to recognise intragroup transactions (a similar rule that applies to profit (loss) before income applies to total revenue)
- adjustments to ensure total revenue of investment entities and insurance investment entities is only reflected in the jurisdiction of their direct parent entities, in proportion to their ownership interests, under section 8-95.

Simplified covered taxes

The term simplified covered taxes is defined in **section 8-50** of the Australian Minimum Tax Rules. It refers to the income tax expense for a jurisdiction that would be reported in the MNE group's qualified financial statements for a fiscal year if certain assumptions were made.

Under those assumptions, the following are disregarded:

- taxes for constituent entities whose income or loss was not included in the CBC report (for example, held-for-sale entities)
- taxes in respect of constituent entities whose profits are reported in a different jurisdiction in the CBC report
- taxes that are not covered taxes (which is defined under **section 4-40**)
- uncertain tax positions.

Other adjustments can apply to:

- exclude taxes of investment entities to ensure amounts are only reflected in the jurisdiction of their direct parent entities in proportion to their ownership interests under **section 8-95**
- exclude duplicate taxes arising in respect of a duplicate tax recognition hybrid arbitrage arrangement
- reduce simplified covered taxes by amounts attributable to direct ownership interest holders in a flow-through UPE but only if all direct ownership interest holders are qualified persons under **section 7-5** (a similar adjustment is required for UPEs that are subject to a deductible dividend regime).

Taxes that are not covered taxes

Simplified covered taxes only include amounts in respect of covered taxes.

A covered tax is, broadly, a tax recorded in the financial accounts of a constituent entity in respect of its income or profits. Taxes paid by

insurance companies in respect of returns to policyholders, goods and services tax, payroll and property tax are excluded from being considered a simplified covered tax.

Tax adjustments for hybrid arrangements

Certain tax expenses reflected in the simplified covered tax amount may need to be excluded if the amount was from a hybrid arbitrage arrangement entered into after 15 December 2022.

The specific arrangements that need to be neutralised in respect of the simplified covered taxes amount are duplicate tax recognition arrangements, as defined under **section 8-130**.

Tax adjustments for special entities

Broadly, the simplified ETR calculations do not require cross border allocation of taxes for GloBE permanent establishments, CFCs and hybrid entities from qualified financial statements which may be required under the full Australian Minimum Tax Rules. However, there may be adjustments between GloBE permanent establishments and their main entities to prevent double counting.

QC 105664

Pillar Two interactions with consolidation

How the Pillar Two rules apply to consolidated groups.

Last updated 17 December 2025

Australian tax consolidated groups

The Pillar Two rules apply to multinational enterprise groups (MNE groups). They contain certain interactions with existing corporate income tax grouping rules.

The **OECD guidance materials** adopt broad definitions for tax consolidated groups designed to capture a range of local tax consolidation regimes, including Australia's tax consolidation regime.

For the purposes of this guidance, a tax consolidated group refers to both a:

- consolidated group (TCG) as defined in **section 703-5** of the *Income Tax Assessment Act 1997,* consisting of a single Australian

resident head company and wholly-owned Australian resident subsidiaries

- multiple entry consolidated (MEC) group as defined in **section 719-5** of the *Income Tax Assessment Act 1997*, consisting of Australian-resident subsidiaries that are wholly-owned by the same foreign resident top company with multiple Australian entry points.

Some aspects of the Pillar Two rules only apply to TCGs and not to MEC groups, for example, the OECD aggregated reporting election. We will indicate where this is the case.

Pillar Two and consolidated groups

The Pillar Two rules apply to MNE groups. The composition of an MNE group is, in most cases, determined in accordance with accounting consolidation principles.

Accounting consolidation is undertaken on a global basis. It broadly involves combining the financial results of the ultimate parent entity (UPE) and its controlled subsidiaries into a single set of consolidated financial statements.

Within an accounting consolidated group, there may be sub-groups of entities that form one or more tax groupings recognised under local tax legislation by reference to various concepts of ownership or common control. This guidance focuses on Australian tax consolidated groups.

The Pillar Two framework contains specific rules which can affect how the Pillar Two rules apply to tax consolidated groups. For example:

- **Allocation of top-up tax** – where constituent entities are part of a tax consolidated group in Australia, their **top-up tax liability** may be allocated to the head company.
- **Lodgment obligations** – subsidiary members of tax consolidated groups may be exempt from **certain lodgment obligations**. Tax consolidated groups can also streamline compliance by nominating a single entity to lodge on behalf of each entity in the MNE group that has a lodgment obligation. In Australia, you can appoint an Australian group entity, including the head company of a tax consolidated group, to undertake the central filing function.
- **Special calculation and reporting elections** – the Pillar Two rules contain elections that simplify compliance for certain prescribed groups. These include the:
  - election to apply **consolidated accounting treatment** (**section 3-200** of the Australian Minimum Tax Rules) – this allows certain intra-group transactions that occur between entities in the same jurisdiction to be excluded from the calculation of top-up tax.

This aligns the treatment, to some extent, with how MNEs undertake reporting for tax purposes.

  - **aggregated reporting election** (ARE) – this allows MNE groups to report top-up tax information for entities within a TCG as if they were a single constituent entity in the GloBE Information Return (GIR). This election works in conjunction with the reallocation of domestic minimum tax and undertaxed profits rule top-up tax liability within tax consolidated groups so that reporting and payment are centralised at the head company level.
  - **transitional simplified reporting election** (TSRE) – this provides temporary relief during a transition period by allowing MNE groups to report top-up tax information through jurisdictional-level data rather than detailed entity-by-entity disclosures in the GIR.

- **Special, transitional and integrity rules** – consolidated groups may be subject to special provisions, particularly in the context of mergers, acquisitions or restructures. Integrity rules may also apply to prevent the manipulation of group structures to avoid top-up tax, including rules governing intra-group transfers of assets during a specified transition period.

Tax consolidated group lodgments for Pillar Two

How Pillar Two lodgment obligations apply to tax consolidated groups.

Top-up tax for tax consolidated groups

How to calculate and allocate top-up tax for tax consolidated groups.

Tax consolidated group reporting for Pillar Two

Pillar Two reporting simplifications for tax consolidated groups.

Tax consolidated group lodgments for Pillar Two

How Pillar Two lodgment obligations apply to tax consolidated groups.

Last updated 4 February 2026

Lodgments for tax consolidated groups

The Australian global and domestic minimum tax introduces 4 new **lodgment obligations**:

1. GloBE Information Return (GIR)
2. Foreign lodgment notification
3. Australian IIR/UTPR Tax Return (AIUTR)
4. Australian DMT Tax Return (DMTR).

Each group entity located in Australia has an obligation to lodge either a GIR or foreign lodgment notification (where the GIR is lodged overseas). This includes subsidiary members of a tax consolidated group.

Each group entity must also lodge an AIUTR or DMTR, unless their circumstances qualify for a lodgment exemption. Under the Legislative Instrument **LI 2025/28** *Taxation Administration (Exemptions from Requirement to Lodge Australian IIR/UTPR Tax Return and Australian DMT Tax Return) Determination 2025*, subsidiary members of a tax consolidated group may be exempt from lodging the AIUTR or the DMTR, or both the AIUTR and DMTR, depending on their circumstances.

Nominated entity

Multinational enterprise groups (MNE groups) can **appoint a nominated entity** to lodge on behalf of each entity that has a lodgment obligation:

- A designated local entity (DLE) can be appointed to lodge the GIR (if lodged in Australia) or foreign lodgment notification (where the GIR is lodged overseas), the AIUTR and DMTR.
- A designated filing entity (DFE) or ultimate parent entity (UPE) in a foreign jurisdiction can lodge the GIR in that jurisdiction.

The head company of a tax consolidated group can be appointed as the DLE, but it does not have to be.

If an MNE group has Australian group entities outside of the tax consolidated group but within the same MNE group, they must also be included in the DLE nomination.

Lodgment for entities leaving and joining applicable MNE groups

If an entity leaves an applicable MNE group and joins another applicable MNE group part way through the fiscal year, the entity has separate lodgment obligations as a group entity of both MNE groups at different times during the fiscal year.

However, where the entity joins or leaves a tax consolidated group in either applicable MNE group it may be exempt from one or both of its DMTR and AIUTR lodgment obligations under the legislative instrument as follows.

Top-up tax of tax consolidated group members

If a subsidiary member of a tax consolidated group has a DMT or UTPR top-up tax amount, that amount is allocated to the constituent entity head company of the group, subject to certain exceptions.

This is provided under:

- **section 2-40** of the Australian Minimum Tax Rules for a **DMT** top-up tax amount
- **section 2-50** of the Australian Minimum Tax Rules for a **UTPR** top-up tax amount.

As a result, the top-up tax amounts for the subsidiary member are taken to be zero. Under the legislative instrument, the subsidiary member will also be exempt from lodging the DMTR. It may also be exempt from lodging an AIUTR.

However, where the subsidiary member could have an IIR top-up tax amount greater than zero, it will still need to lodge an AIUTR, as IIR top-up tax amounts are not re-allocated to the head company. This situation can occur where the head company of the tax consolidated group is an excluded entity or in certain MEC group structures where one or more eligible tier-1 companies other than the provisional head company could be allocated an IIR top-up tax amount greater than zero under the rule order.

For more information, see **Pillar Two top-up tax for tax consolidated groups**.

Legislative instrument

The **legislative instrument** sets out circumstances in which a group entity need not lodge a DMTR or AIUTR for a fiscal year. It contains specific exemptions for subsidiary members of a tax consolidated group from the requirement to lodge:

- an Australian DMTR, if the subsidiary member of the tax consolidated group is an entity to which subsection 2-40(2) of the Australian Minimum Tax Rules applies
- the AIUTR, if broadly, both the following circumstances apply:
  - the subsidiary member cannot have an IIR top-up tax amount greater than zero, in the circumstances set out in paragraph 11(1)(a) of the legislative instrument
  - the subsidiary member is an entity to which subsection 2-50(2) of the Australian Minimum Tax Rules applies, or another circumstance under paragraph 11(1)(b) of the legislative instrument applies.

The relevant entities that can have IIR top-up tax amounts greater than zero are, broadly, parent entities:

- that are GloBE located in Australia
- that hold ownership interests in entities located outside Australia, including stateless entities
- for which no other higher-tier parent entity in Australia or overseas is required to apply a qualified IIR under the rule order.

As a result, generally only the head companies of consolidated groups (TCGs) and multiple entry consolidated (MEC) groups, and other eligible tier-1 companies of MEC groups, may have IIR top-up tax amounts greater than zero. A corresponding AIUTR lodgment obligation applies to those entities.

These lodgment exemptions may also apply to subsidiary members of a tax consolidated group that leave or join the tax consolidated group part way through a fiscal year.

GloBE Information Return and foreign lodgment notification

The legislative instrument does not exempt group entities from lodgment of the GloBE Information Return (GIR) or foreign lodgment notification (where the GIR is lodged overseas). As such, the obligation to lodge the GIR or foreign lodgment notification, as applicable, remains with all Australian members of the MNE group.

This means the head company and subsidiary members of a tax consolidated group have separate obligations to lodge the GIR or foreign lodgment notification. However, an MNE group can choose to

lodge the GIR or the foreign lodgment notification centrally by nominating a single entity (the designated local entity) to lodge on behalf of Australian group entities.

Example scenarios

The following examples illustrate how Pillar Two lodgment obligations apply to tax consolidated groups, in certain scenarios.

Example 1: joining a TCG

Alpha Co joins an applicable Australian headquartered MNE group, Omega Group, on 1 August 2025. At the same time, it also becomes a subsidiary member of a TCG, with Omega Co as head company. It was not a member of another applicable MNE group before joining Omega Group.

Omega Group's fiscal year ends on 31 December 2025. Sections 2-40 and 2-50 of the Australian Minimum Tax Rules apply respectively to reduce Alpha Co's DMT top-up tax amount and UTPR top-up tax amount for the fiscal year ended 31 December 2025 to nil. They reallocate this top-up tax to the head company of the TCG, Omega Co.

Under the legislative instrument, Alpha Co will be exempt from lodging the DMTR for the fiscal year ended 31 December 2025. As Alpha Co meets all the relevant criteria in the instrument, it is also exempt from having to lodge the AIUTR. The obligation to lodge these tax returns will continue to exist for the head company of the TCG. Alpha Co still has to lodge a GIR but, this obligation will be met if a DLE lodges the GIR with the ATO on its behalf.

Example 2: leaving a TCG and joining another TCG

Beta Co is a wholly owned Australian group entity of the applicable Australian headquartered MNE group, Gamma Group. Beta Co is also a subsidiary member of a TCG, with Gamma Co as the head company. Halfway through the fiscal year, Beta Co is acquired by another applicable Australian headquartered MNE group, Zeta Group. On completion of this transaction, Beta Co immediately joins a TCG in Zeta Group. Gamma Group and Zeta Group both have fiscal years ending 31 December.

Sections 2-40 and 2-50 of the Australian Minimum Tax Rules apply respectively to reduce Beta Co's DMT and UTPR top-up tax amounts to nil. These DMT and UTPR top-up tax amounts are re-allocated to the head companies of the respective TCGs. Each head company is effectively reallocated the DMT and UTPR top-up tax amounts of Beta Co that arise for the period of the fiscal year that Beta Co was a member of their applicable MNE group.

Each head company will be required to lodge a DMTR for their respective fiscal year ended 31 December. Those head companies will also need to lodge an AIUTR, unless they qualify for a lodgment exemption. Their returns can be lodged through a DLE of the respective MNE group.

Beta Co is prima facie required to lodge a DMTR, AIUTR and GIR in its capacity as group member of Gamma Group and another DMTR, AIUTR and GIR in its capacity as group member of Zeta Group.

However, under the legislative instrument, Beta Co will be exempt from lodging a DMTR in respect of both groups, due to it having been a subsidiary member of a TCG in those groups during the fiscal year. Further, as Beta Co meets all the relevant criteria in the instrument, it will also be exempt from having to lodge an AIUTR in each of these capacities.

Beta Co still has to lodge the GIR in its capacity as a group entity of Gamma Group and in its capacity as a group entity of Zeta Group. However, this obligation will be met with respect to both MNE groups if a DLE of each group lodges the GIR with the ATO on its behalf. Practically, this means the DLE may lodge the combined return as well as the GIR on behalf of the Australian group entities.

Example 3: different fiscal years – leaving a TCG group

Sigma Co is a wholly owned Australian subsidiary of the applicable Australian headquartered MNE group, Theta Group. Sigma Co is also a subsidiary member of a TCG, with Theta Co as head company. Theta Group has a fiscal year ended 31 December.

On 30 June 2025, 100% of the ownership interests in Sigma Co are acquired by another applicable MNE group, Iota Group (fiscal

year ended 31 March). However, Sigma Co does not join a TCG in Iota Group.

Sigma Co's DMT and UTPR top-up tax amounts that arise in respect of Theta Group are reduced to nil under sections 2-40 and 2-50 of the Australian Minimum Tax Rules. This top-up tax is reallocated to the head company of the TCG in Theta Group. Under the legislative instrument, Sigma Co will be exempt from lodging a DMTR and AIUTR, in respect of its capacity as group entity of Theta Group, for the fiscal year ended 31 December 2025. The obligation to lodge a DMTR and AIUTR continues to exist for the head company of the TCG in Theta Group. This may be met if an appointed DLE has centrally lodged the AIUTR and DMTR for all Australian group entities of Theta Group on their behalf.

Sigma Co is not exempt from lodgment of the DMTR in its capacity as group member of Iota Group for the fiscal year ended 31 March 2026. In this capacity, Sigma Co is also not exempt from lodgment of the AIUTR as it is not a subsidiary member of a TCG and none of the other exemption criteria in the instrument apply. Sigma Co's obligations to lodge the AIUTR and DMTR as a group entity of Iota Group will be met if an appointed DLE has centrally lodged the AIUTR and DMTR for all Australian group entities of Iota Group.

Sigma Co still has to lodge the GIR in respect of each MNE group for the fiscal years ended 31 December 2025 and 31 March 2026 respectively. However, this obligation will be met if, for each MNE group, a DLE lodges the GIR with the ATO on its behalf. Practically, this means the DLE may lodge the combined return as well as the GIR on behalf of the Australian group entities.

Example 4: partial sale of a subsidiary

Delta Co is a wholly owned group entity of the applicable MNE group, Kappa Group. The UPE of Kappa Group, Kappa Co, is located in Australia and has a fiscal year ending 31 December. Delta Co is a subsidiary member of a TCG. On 30 June 2025, 20% of Delta Co is purchased by Rho Co, who are not a group entity of Kappa Group. As a result, Delta Co leaves the TCG, but 80% of its ownership remains held within the Kappa Group and it remains a group entity.

Delta Co's DMT top-up tax amount and UTPR top-up tax amount for the fiscal year ending 31 December 2025 are reduced to nil in

accordance with sections 2-40 and 2-50 of the Australian Minimum Tax Rules. These top-up tax amounts are allocated to B Co, the head company of the TCG.

Under the legislative instrument, Delta Co would be exempt from lodging the DMTR and the AIUTR in respect of the fiscal year ended 31 December 2025. The obligation to lodge a DMTR and AIUTR continues to exist for B Co, as the head company of the TCG.

Delta Co still has to lodge the GIR for the fiscal year, but this obligation will be met if a DLE lodges the GIR with the ATO on its behalf. Practically, this means the DLE may lodge the combined return as well as the GIR on behalf of the Australian group entities.

Example 5: partially owned to wholly owned subsidiary

An applicable MNE group, Zeta Group, owns 80% of group entity Epsilon Co. The remainder of the ownership interests in Epsilon Co are held by an entity that is not a group entity of Zeta Group. The UPE of Zeta Group, Zeta Co, is located in Australia and has a fiscal year ending 31 December. On 1 April 2025, Zeta Group acquires the remaining 20% of Epsilon Co from Eta Co and Epsilon Co joins a TCG.

Epsilon Co's DMT and UTPR top-up tax for the fiscal year ended 31 December 2025 is reduced to nil in accordance with sections 2-40 and 2-50 of the Australian Minimum Tax Rules. This top-up tax is entirely allocated to the head company of the TCG. Under the legislative instrument, Epsilon Co will be exempt from lodging the DMTR in respect of the fiscal year. As it meets all the relevant criteria in the instrument, it will also be exempt from lodging of the AIUTR.

QC 105978

Top-up tax for tax consolidated groups

How to calculate and allocate top-up tax for tax consolidated groups.

Published 17 December 2025

Calculation and allocation of top-up tax

The Australian global and domestic minimum tax contains provisions that may affect the way in which members of a tax consolidated group calculate and allocate top-up tax liability. These include:

- **Calculation** – a filing constituent entity of the multinational enterprise (MNE) group can elect to follow the consolidated accounting treatment. This allows elimination of intragroup transactions between members of the tax consolidated group when determining their GloBE income or loss. This broadly aligns with the disregarding of those transactions for income tax purposes.
- **Allocation** – special rules allocate any DMT and UTPR top-up tax of a subsidiary member of a tax consolidated group to the head company. This means the head company will be liable for that top-up tax.

We also outline below an ATO administrative approach to allocation of DMT and UTPR top-up tax where one or more entities to which top-up tax is allocated are subsidiary members of a tax consolidated group. This recognises that some MNE groups report DMT and UTPR top-up tax on a net basis for a tax consolidated group as opposed to an entity-by-entity basis. We generally will not devote compliance resources to assess the allocation approach taken by MNE groups provided certain conditions are met.

Consolidated accounting treatment

Under section 3-200 of the Australian Minimum Tax Rules, MNE groups can elect to apply consolidated accounting treatment to certain constituent entities within a tax consolidated group. This election can be made in section 3.2.3 of the GloBE Information Return (GIR).

If the election is made, amounts arising from intra-group transactions are eliminated when calculating top-up tax. This is to the extent the transactions are not recognised under the consolidated accounting treatment applied by the ultimate parent entity (UPE).

Eligibility criteria

An election to apply consolidated accounting treatment applies to constituent entities of an applicable MNE group that:

- are located in the same jurisdiction
- are included in a tax consolidation group (as defined in subsection 3-200(4))
- share the same effective tax rate (ETR) computation.

The reference to a tax consolidation group in subsection 3-200(4) includes Australian tax consolidated groups (that is, tax consolidated groups (TCGs) and multiple entry consolidated (MEC) groups).

The election can also apply to transactions between members of a subgroup, including between:

- minority owned constituent entities (MOCEs)
- investment entities and insurance investment entities
- joint venture group entities.

Effect of election

This election adjusts the way in which top-up tax is calculated by eliminating from the calculation of GloBE income or loss, the income, expenses, gains and losses of same-jurisdiction intra-group transactions. The elimination is made only where these transactions are eliminated in the UPE's consolidated financial statements.

The election cannot be revoked for the election year or the 4 succeeding fiscal years. In the fiscal years in which the election is made or revoked, special rules apply to ensure that the GloBE income or loss of consolidated entities are calculated appropriately.

This election only permits the elimination of certain intra-group transactions between separate constituent entities. It does not consolidate or aggregate those entities into a single entity, for either top-up tax calculation or reporting purposes.

Entities that undertake this election should have regard to the specific reporting simplifications in the GIR. For more information, see **Tax consolidated group reporting for Pillar Two**.

Example 1: consolidated accounting treatment for a TCG

Alpha Co is the head company of a TCG in Australia, of which Bravo Co is a subsidiary member. These companies are constituent entities of the Omega MNE Group. Gamma Co is another company located in Australia that is also a constituent entity of Omega MNE Group, but it is not part of the TCG. These companies all share the same ETR calculation as constituent entities of Omega MNE Group.

Alpha Co (as the filing constituent entity for the Omega MNE Group) makes an election under section 3-200 of the Australian Minimum Tax Rules. As a result, in calculating their GloBE income or loss, the Financial Accounting Net Income or Loss (FANIL) of Alpha Co and Bravo Co are adjusted so as to eliminate items of income, expense, gains and losses from transactions between Alpha Co and Bravo Co (the consolidated local entities). This also ensure there are no duplications or omissions of such items in the first fiscal year for which the election applies.

Adjustments are not made to transactions between the consolidated local entities and Gamma Co. However, if Gamma Co was part of another TCG, the filing constituent entity for the Omega MNE Group may be able to make another election that could apply to transactions within that other TCG.

Where the election is not made, each constituent entity must separately determine its GloBE income or loss before any consolidation adjustments.

Allocating top-up tax

The Australian Minimum Tax Rules include specific provisions about the allocation of DMT and UTPR top-up tax amounts within tax consolidated groups.

The provisions are contained in:

- **section 2-40** of the Australian Minimum Tax Rules for DMT top-up tax amounts
- **section 2-50** of the Australian Minimum Tax Rules for UTPR top-up tax amounts.

Where these provisions apply, subsidiary members of tax consolidated groups must:

- reduce their DMT and UTPR top-up tax amounts to zero
- allocate those amounts and the resulting liability to the head company subject to certain exceptions.

This effectively results in a 'bottom up' approach to allocation of DMT and UTPR top-up tax for tax consolidated groups.

The reallocation of top-up tax amounts does not affect the computation of top-up tax but simply shifts the liability and payment obligations for such amounts to the head company.

These provisions do not apply to IIR top-up tax amounts. To the extent a subsidiary member has an IIR top-up tax amount (for example,

because the head company of the tax consolidated group is an excluded entity), that subsidiary member will be liable to pay that amount.

Top-up tax for members leaving or joining a tax consolidated group

In some cases, an entity may be a constituent entity of an applicable MNE group for an entire fiscal year but be a subsidiary member of a TCG or MEC group within that applicable MNE group for only part of the fiscal year. In these circumstances, top-up tax calculated for the entity for the fiscal year will still be entirely reallocated to the head company of the tax consolidated group.

In some other cases, an entity may be a constituent entity of more than one applicable MNE group in a given fiscal year, including where the fiscal years of the applicable MNE groups are not the same. In these circumstances, where the entity was a subsidiary member of a TCG or MEC group while it was a constituent entity of each applicable MNE group, the special allocation rules still apply to allocate the subsidiary member's DMT and UTPR top-up tax amounts to the head companies of the respective tax consolidated groups. The top-up tax amount allocated to each head company will be the amount of top-up tax calculated for the subsidiary member for the fiscal year for the particular MNE group.

Allocating DMT top-up tax

Under the Australian Minimum Tax Rules, DMT top-up tax is first allocated to Australian constituent entities, including head companies and subsidiaries of tax consolidated groups, in proportion to their GloBE income. However, under subsections 2-40(2) and (4), subsidiaries of tax consolidated groups must reduce their DMT top-up tax amount to zero and the head company must increase its amount by the same total. This results in a 'bottom up' approach to allocation of the jurisdictional DMT top-up tax for tax consolidated groups.

We acknowledge that some MNE groups have systems that may not allocate DMT top-up tax within a tax consolidated group on an entity-by-entity basis. Instead, these systems may only determine relevant items on a ‘net' basis for the tax consolidated group, resulting in a single amount of DMT top-up tax for the entire tax consolidated group. This approach is referred to as the ‘top-down’ approach to allocation of jurisdictional DMT top-up tax.

We generally don't intend to devote compliance resources to reviewing allocations of jurisdictional DMT top-up tax where one or more entities to which top-up tax is allocated are subsidiary members of a tax consolidated group, irrespective of whether the MNE group uses a

‘top-down’ or ‘bottom up’ approach. This is provided the total DMT top-up tax amount for Australian constituent entities is correct and consistent with the result under the ‘bottom-up’ approach, which is the approach required by law.

Our practical approach also complements the OECD’s guidance on the GIR, where certain elections are available to reduce compliance burden on MNE groups. These elections include the:

- Aggregated reporting election
- Transitional simplified reporting election.

Allocation of DMT top-up tax examples

Example 2: DMT top-up tax – all constituent entities in the tax consolidated group have GloBE income

For the fiscal year ended 31 December 2024, Bop MNE Group, an applicable MNE group with a foreign headquartered ultimate parent entity (UPE), Bop Co, has 3 constituent entities in Australia. Cop Co and Hop Co are members of a TCG, with Cop Co as the head company. Mop Co is not part of the TCG. It is a wholly owned subsidiary of Bop Co. All constituent entities in Australia have GloBE income.

Bop MNE Group is required to determine if it has a DMT top-up tax liability in Australia for the 2024 fiscal year. If the group has a DMT top-up tax liability, it will need to allocate the jurisdictional DMT top-up tax amongst the Australian constituent entities.

For the 2024 fiscal year, the group's Australian operations have GloBE income of $17 million and adjusted covered taxes of $1.74 million, resulting in an ETR of 10.2% in Australia. As a result, the Bop MNE Group has a top-up tax percentage of 4.8% and jurisdictional DMT top-up tax of $816,000 (assume there is no substance based income exclusion amount), to be allocated amongst all its Australian constituent entities as follows:

- Cop Co’s top-up tax (and DMT top-up tax amount) = $816,000 × $5 million ÷ $17 million = $240,000.
- Hop Co’s top-up tax (and DMT top-up tax amount) = $816,000 × $2 million ÷ $17 million = $96,000.
- Mop Co’s top-up tax (and DMT top-up tax amount) = $816,000 × $10 million ÷ $17 million = $480,000.

MNE groups with systems that can calculate items such as GloBE income and adjusted covered taxes within a tax consolidated group on an entity-by-entity basis employ a ‘bottom-up’

approach. Using this approach, the allocation of jurisdictional top-up tax is also able to be undertaken on an entity-by-entity basis.

If Bop MNE Group were to employ a 'bottom up' approach, in accordance with subsections 2-40(2) and (4) of the Australian Minimum Tax Rules, Hop Co's DMT top-up tax amount would be reduced by $96,000 to zero and Cop Co's DMT top-up tax amount would be increased by $96,000. Therefore, Cop Co's DMT top-up tax amount would be $336,000. The allocation provisions in the Australian Minimum Tax Rules seek to produce a single point of liability in respect of all members of a tax consolidated group.

If Bop MNE Group's systems are unable to calculate items such as GloBE income and adjusted covered taxes within the TCG on an entity-by-entity basis, those systems may only determine such items on a 'net' basis for members of the TCG.

Under such a 'top-down' approach, Bop MNE Group's systems combine the GloBE income of Cop Co and Hop Co. The resultant allocation of the jurisdictional DMT top-up tax under its systems would be as follows:

- Cop Co's DMT top-up tax amount = $816,000 × ($5 million + $2 million) ÷ $17 million = $336,000.
- Mop Co's DMT top-up tax amount = $816,000 × $10 million ÷ $17 million = $480,000.

Table 1: Summary of Bop MNE group's DMT top-up tax calculation and allocation for 2024 fiscal year

DMT top-up tax calculation	Cop Co	Hop Co	Mop Co	Tota
Adjusted covered taxes	$1.5 million	$0	$240,000	$1.74 million (a
GloBE income or (loss)	$5 million	$2 million	$10 million	$17 million (b
ETR (a)÷(b)	n/a	n/a	n/a	10.2%
top-up tax %	n/a	n/a	n/a	4.8% (c

Jurisdictional DMT top-up tax (b)×(c)	n/a	n/a	n/a	$816,00
Allocation of jurisdictional DMT top-up tax – bottom up (before applying allocation rules for tax consolidated groups)	$240,000	$96,000	$480,000	$816,00
Allocation of jurisdictional DMT top-up tax – bottom up (after applying allocation rules for tax consolidated groups)	$336,000	n/a	$480,000	$816,00
Allocation of jurisdictional DMT top-up tax – top down	$336,000	n/a	$480,000	$816,00

Table 1 summarises Bop MNE group's DMT top-up tax calculation and allocation for the 2024 fiscal year. It shows that the 'bottom-up' and 'top-down' approaches achieve the same outcome for Bop MNE group, being that the DMT top-up tax amount allocated to Cop Co (as head company of the TCG) is $336,000 and the DMT top-up tax amount allocated to Mop Co is $480,000. As such, we will not be devoting compliance resources in this case to reviewing the method of allocating Jurisdictional DMT top-up tax to constituent entities, where one or more constituent entities are part of a tax consolidated group.

The same outcome arises under both approaches when all constituent entities in the TCG have GloBE income. This can be contrasted to the following example, where a subsidiary member of the tax consolidated group has a GloBE loss.

Example 3: DMT top-up tax – a constituent entity in the tax consolidated group has a GloBE loss

For the fiscal year ended 31 December 2025 Bop MNE Group has the same 3 constituent entities in Australia. Cop Co has GloBE income of $5 million, Hop Co has a GloBE loss of $500,000, and Mop Co has GloBE income of $10 million for the fiscal year.

For the 2025 fiscal year, the group's Australian operations have GloBE income of $14.5 million and adjusted covered taxes of $1.74 million, resulting in an ETR of 12% in Australia. As a result, the Bop MNE group has a top-up tax percentage of 3% and jurisdictional DMT top-up tax of $435,000 (assume there is no substance based income exclusion amount). This is to be allocated amongst all its Australian constituent entities as follows:

- Cop Co's top-up tax (and DMT top-up tax amount) = $435,000 × $5 million ÷ $15 million = $145,000.
- Hop Co's top-up tax (and DMT top-up tax amount) = $0.
- Mop Co's top-up tax (and DMT top-up tax amount) = $435,000 × $10 million ÷ $15 million = $290,000.

Under the 'bottom-up' approach, Cop Co and Mop Co would be allocated $145,000 and $290,000 in DMT top-up tax respectively. Hop Co has a GloBE loss and therefore no top-up tax is allocated to it.

Under the 'top-down' approach, whereby Bop MNE group's systems determine GloBE income or loss and other attributes on a 'net' basis for the TCG, the DMT top-up tax would be allocated as follows:

- Cop Co's DMT top-up tax amount = $435,000 × ($5 million − $500,000) ÷ $14.5 million = $135,000.
- Mop Co's DMT top-up tax amount = $435,000 × $10 million ÷ $14.5 million = $300,000.

Table 2 summarises Bop MNE Group's jurisdictional DMT top-up tax calculation and allocation for the 2025 fiscal year. In this case, the 'bottom-up' and 'top-down' approaches result in different allocations of the jurisdictional DMT top-up tax amounts to constituent entities including those constituent entities that subsidiary members of tax consolidated group because a constituent entity (Hop Co) that is a member of the TCG has a GloBE loss.

Regardless of whether Bop MNE Group's systems take a 'bottom-up' or 'top-down' approach, the sum of DMT top-up tax amounts for all Australian constituent entities is $435,000, which is equal to the jurisdictional DMT top-up tax for Australia. Therefore, we do not intend to devote compliance resources to test whether the MNE group has followed a 'bottom up' approach to allocate jurisdictional top-up tax to Australian CEs where one or more constituent entities are subsidiary members of a tax consolidated group.

Table 2: Summary of Bop MNE Group's DMT top-up tax calculation allocation for 2025 fiscal year

DMT top-up tax calculation	Cop Co	Hop Co	Mop Co	To
Adjusted covered taxes	$1.5 million	$0	$240,000	$1.74 million
GloBE income or (loss)	$5 million	($500,000)	$10 million	$14.5 million
ETR (a)÷(b)	n/a	n/a	n/a	1
top-up tax %	n/a	n/a	n/a	3%
Jurisdictional DMT top-up tax amount (b)*(c)	n/a	n/a	n/a	$435,(
Allocation of jurisdictional DMT top-up tax – bottom up	$145,000	$0	$290,000	$435,(

Allocation of jurisdictional DMT top-up tax – top down	$135,000	n/a	$300,000	$435,(

Allocating UTPR top-up tax

Under the Australian Minimum Tax Rules, the amount of an MNE group's total UTPR top-up tax amount that is allocated to Australia (the Australian allocated amount) is then further allocated to constituent entities of the MNE group located in Australia. This allocation is in proportion to each constituent entity's number of employees and the value of its tangible assets. Certain entities, such as investment entities and securitisation entities, may be excluded from the distribution of the jurisdictional UTPR top-up tax amount.

Under subsections 2-50(2) and (4) of the Australian Minimum Tax Rules, subsidiaries of tax consolidated groups that are distributed an amount of jurisdictional UTPR top-up tax must reduce their UTPR top-up tax amount to zero. The head company must increase its UTPR top-up tax by the amount of each subsidiary's reduction. This results in a 'bottom up' approach to allocation of the jurisdictional UTPR top-up tax for tax consolidated groups.

In contrast, where an MNE group's systems are unable to determine GloBE attributes on an entity-by-entity basis, those systems might calculate the number of employees and value of tangible assets on a ‘net' basis for the tax consolidated group. This results in a single figure for these attributes for the entire tax consolidated group, leading to a ‘top-down’ distribution of jurisdictional UTPR top-up tax.

We do not intend to devote compliance resources to review how Australian UTPR top-up tax is allocated to constituent entities located in Australia where one or more constituent entities are subsidiary members of tax consolidated groups. This applies regardless of whether the MNE group allocates top-up tax using the 'bottom-up' or 'top-down' approach. As this allocation is based on employee numbers and tangible assets, the amount of UTPR top-up tax allocation for tax consolidated groups results in the same amount of top-up tax that is consistent with the rules, regardless of which approach is adopted by an MNE group.

Tax consolidated group reporting for Pillar Two

Pillar Two reporting simplifications for tax consolidated groups.

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GIR reporting simplifications

The aggregated reporting election (ARE) and transitional simplified reporting election (TSRE) are reporting simplifications that apply specifically to disclosures required under section 3.2.4 of the GloBE Information Return (GIR).

Broadly, section 3.2.4 of the GIR requires the multinational enterprise (MNE) group to report entity-level information supporting the effective tax rate (ETR) and top-up tax calculations. The ARE and TSRE allow this information to be provided on an aggregated basis where eligibility conditions are met:

- The ARE allows MNE groups to report information at the tax consolidated group level, effectively treating the group as a single constituent entity for reporting purposes.
- The TSRE allows MNE groups to report information at the jurisdictional level during a transitional period.

If neither election is made, the MNE group must provide top-up tax calculation information for each separate constituent entity in the MNE group.

Both elections are reporting simplifications and do not impact the actual calculations of top-up tax.

Both elections are available to the filing constituent entity. They are not mutually exclusive and can apply irrespective of the other.

OECD aggregated reporting election

The ARE allows MNE groups to elect to report GloBE computations for entities within a tax consolidated group as if they were a single constituent entity, rather than reporting information for each entity separately. This is outlined in note 3.2.4.b of the GIR explanatory guidance.

The election is made by completing relevant labels of the tax identification number (TIN) of the consolidated group and

consolidating entities in section 3.2.4.b of the GIR, and the manner in which GloBE computations are disclosed in GIR.

For the Australian tax consolidation regime, the ARE is only available to TCGs and not MEC groups.

ARE eligibility criteria

The MNE group must meet all of the following conditions before the election can be made:

- the taxable profits and losses of the consolidated entities are aggregated for the purpose of computing a single tax liability
- all consolidated entities are wholly owned by the consolidating entity (the head company)
- all constituent entities or members of a deemed **GloBE JV group** within the tax consolidated group are GloBE located in the same jurisdiction
- an election to apply **consolidated accounting treatment** under **section 3-200** of the Australian Minimum Tax Rules has been made.

ARE exclusions

There are a number of circumstances in which the election will not apply. The ARE is not available to:

1. **MEC groups**

The ARE is not available to MEC groups (as defined in **section 719-5** of the *Income Tax Assessment Act 1997*) because they are not able to meet the condition that all consolidated entities must be wholly owned by the consolidating entity. The consolidating entity in a MEC group is the nominated provisional head company which does not wholly own other eligible tier-1 companies and their subsidiaries in the MEC group. MNE groups with MEC groups may still rely on the TSRE provided the eligibility conditions are met.

2. **Entities entering or leaving the MNE group**

The ARE is not available to entities that join or leave the MNE group during the reporting fiscal year, regardless of whether they were, or are, part of a TCG.

Any entity that joined or left the MNE group must have its information reported individually in the GIR in the fiscal year it joined or left. The ARE can still apply with respect to the other members of the TCG.

Example 1: entity entering the MNE group

Alpha MNE Group is a foreign headquartered applicable MNE group. The foreign UPE, Alpha Enterprises, wholly owns an Australian subsidiary Alpha Co, which is the head company of a TCG in Australia. Bravo Co is a wholly owned Australian subsidiary of Alpha Co and member of the TCG. Alpha MNE Group has a 30 June fiscal year end.

Charlie Co joins Alpha MNE Group and the TCG (with Alpha Co as head company) as a wholly owned subsidiary of Bravo Co on 1 January 2025. Alpha MNE Group apply the ARE to Alpha Co and Bravo Co as members of the TCG for the entire reporting fiscal year. They cannot apply the ARE to Charlie Co as it enters the MNE group during the fiscal year. The information of Charlie Co must be included in section 3.2.4 of the GIR on an individual constituent entity basis for the 1 July 2024 to 30 June 2025 fiscal year.

3. **TCGs comprising of a mix of ordinary constituent entities and entities with separate ETR computations**

The application of the ARE is limited with respect to TCGs comprising of a mix of ordinary constituent entities and entities that calculate their ETR separately to other constituent entities in the TCG. Such TCGs could include the following types of entities, which compute their ETR separately from other constituent entities:

- investment entities and insurance investment entities
- minority owned constituent entities.

Information about these entities must be disclosed on an entity-by-entity basis in the GIR, even if the entity is part of the TCG. The ARE can still apply to the other entities in the TCG that are subject to the ordinary ETR calculations. Where a TCG consists of only one type of entity that calculates their ETR separately (for example, where the TCG consists only of entities in a GloBE JV group), the ARE applies to all entities in the TCG as they share the same ETR calculation.

Example 2: ordinary constituent entity as head entity of a TCG

Assume the same facts as Example 1 except that Charlie Co is already a member of Alpha MNE Group and the TCG at the beginning of the fiscal year ending 30 June 2025. Also assume that Alpha Co and Bravo Co are ordinary constituent entities while Charlie Co is an insurance investment entity.

Alpha MNE Group can apply the ARE to Alpha Co and Bravo Co as they share the same ETR computation. The ARE does not

apply to Charlie Co because, as an insurance investment entity, it does not share the same ETR computation with ordinary constituent entities located in the same jurisdiction. The information of Charlie Co for the fiscal year ending 30 June 2025 must be included in section 3.2.4 of the GIR on an individual constituent entity basis.

OECD transitional simplified reporting election

The transitional simplified jurisdictional reporting framework election (TSRE) allows MNE groups to report GloBE computations information for entities located in the same jurisdiction on an aggregated jurisdictional basis, rather than reporting information for each constituent entity separately. This is outlined in paragraph 8 of the Introduction and note 3.2.4.a.1 of the GIR explanatory guidance.

Where the election is made under section 3.2.4.a in the GIR, disclosures of certain adjustments to financial accounting net income or loss (FANIL), current tax expense or deferred tax expense can be reported at the jurisdictional level rather than reporting information for each entity separately.

Exceptions apply to certain disclosures discussed below, irrespective of whether the MNE group has elected to apply the TSRE.

This is a transitional election that only applies to fiscal years beginning on or before 31 December 2028 but not including any fiscal year that ends after 30 June 2030. Unlike the ARE, this election is not limited to TCGs and can be made for MEC groups.

The TSRE applies to all constituent entities located in the jurisdiction, including entities that calculate their ETR separately to ordinary constituent entities located in the same jurisdiction. The TRSE is not limited to tax consolidated groups.

Applying the TSRE does not mean that your obligations to calculate ETR on an entity-by-entity basis under the Australian Minimum Tax Rules is changed. It is a reporting simplification only.

Election eligibility criteria

Under the TSRE, the disclosures of all entities located in the same jurisdiction can be aggregated in the GIR if there is no need, for reporting purposes, for the jurisdictional top-up tax to be allocated across constituent entities in the jurisdiction. For this purpose, there is no need to report how jurisdictional top-up tax is allocated across entities located in the jurisdiction if the allocation does not impact the amount of any entity's liability under a qualified income inclusion rule

(IIR) or qualified domestic minimum top-up tax (QDMTT), as applicable, for the relevant jurisdiction.

First, the MNE group will need to consider whether the QDMTT liability for entities in the jurisdiction depends on entity-by-entity allocation of jurisdictional top-up tax. Entity-by-entity allocation of jurisdictional top-up tax is not needed where a single entity is liable for any top-up tax under a QDMTT imposed in that jurisdiction.

For QDMTT purposes constituent entity-level reporting is still required if there is a need, for reporting purposes, for the jurisdictional top-up tax to be allocated to individual constituent entities.

If a QDMTT does not apply in that jurisdiction, then MNE groups will need to consider whether qualified IIR liabilities depend on entity-by-entity allocation of jurisdictional top-up tax. Entity by-entity allocation of jurisdictional top-up tax is not needed, for reporting purposes, in the following circumstances:

- A single parent entity applies a qualified IIR in respect of the jurisdiction and the parent entity's allocable share of the top-up tax of each constituent entity in the jurisdiction is 100%. (In this case, the parent entity's allocable share of the top-up tax of all entities will equal the jurisdictional top-up tax.)
- The inclusion ratio of all parent entities required to apply an IIR in respect of that jurisdiction is the same with respect to each relevant entity in the jurisdiction. (In this case, the jurisdictional top-up tax can be allocated equally to those parent entities.)

For IIR purposes, the MNE group must still provide reporting for each constituent entity if the above circumstances do not apply.

Another circumstance in which the TSRE is available is where no top-up tax arises for the jurisdiction under a qualified IIR or DMT.

For Australian tax consolidated groups, the TSRE may commonly (but not exhaustively) apply where there is:

- a DMT top-up tax liability in Australia and the only constituent entities of the MNE group located in Australia are members of an Australian tax consolidated group:
  - section 2-40 of the Australian Minimum Tax Rules allocates DMT top-up tax amounts of subsidiaries of Australian tax consolidated groups to the head company, so there is a single liable entity
  - for reporting purposes, there is no need to show the allocation of jurisdictional top-up tax to individual constituent entities located in Australia because the liability for that top-up tax could only ever be placed on the head company

- an Australian IIR top-up tax liability arising in respect of foreign low-taxed constituent entities, where the head company of an Australian tax consolidated group is the only parent entity that applies the IIR in respect of the foreign constituent entities, and the head company's allocable share of the top-up tax for each such entity is 100%. There is no QDMTT applicable in the jurisdiction of the foreign constituent entities:
  - since the head company's allocable share of the top-up tax for all low-taxed constituent entities located in the foreign jurisdiction is equal to the jurisdictional top-up tax, there is no need, for reporting purposes, to allocate the jurisdictional top-up tax among those constituent entities
  - the TSRE applies for the foreign jurisdiction's ETR computation disclosures in section 3.2.4.

Example 3: DMT top-up tax and TSRE applies

Assume the same facts as Example 2. Alpha MNE Group has no constituent entities located in Australia other than the members of the TCG. There is an amount of Australian DMT top-up tax for Alpha MNE Group for the fiscal year ending 30 June 2025.

Under section 2-40 of the Australian Minimum Tax Rules, the DMT top-up tax amounts of Bravo Co and Charlie Co are reduced to zero and allocated to the head company of the TCG, Alpha Co. As Alpha Co is the only constituent entity in Australia with a top-up tax liability, there is no need, for reporting purposes, for the jurisdictional DMT top-up tax to be allocated to individual constituent entities.

Alpha MNE Group makes a TSRE, which allows it to undertake jurisdictional reporting for Australia in section 3.2.4 of the GIR.

Disclosures in section 3 of the GIR only contain information relating to the application of the Australian QDMTT and not in relation to the application of an IIR or UTPR of a foreign jurisdiction. No liabilities can arise under a foreign IIR (or UTPR) in respect of Australia because the QDMTT applies. Therefore, for the purposes of a foreign IIR, whether or not top-up tax is allocated on an entity-by-entity basis is irrelevant.

The ARE, as explained in Example 2, can also apply.

For more information, see **Pillar Two top-up tax for consolidated groups**.

Disclosures in section 3.2.4 not covered by the TSRE

The explanatory guidance in the GIR lists a number of disclosures in section 3.2.4 that must be reported for each constituent entity irrespective of whether the MNE group has elected to apply the TSRE.

These disclosures relate to various items relevant to determining GloBE income or loss and adjusted covered taxes. They include adjustments made in applying the arm's length principle and when entities join or leave an MNE group. Included in the list are also disclosures about entity-specific elections.

For more information, refer to note 3.2.4.a.1 of the GIR explanatory guidance.

Application of the elections

The ARE and TSRE are not mutually exclusive, and each can apply in addition to the other, provided the eligibility conditions are met. This means that where you are not eligible for the ARE, or only eligible in part, you may still be able to apply the TSRE and report data in the GIR on a jurisdictional basis. Similarly, where you are not eligible for the TSRE, you may still be able to apply the ARE and report the information relating to a TCG on an aggregated basis.

The following table outlines some common scenarios that illustrate the availability of the ARE and TSRE for constituent entities located in Australia. All scenarios assume that:

- there is an MNE group with DMT top-up tax in Australia
- where the ARE is available, all eligibility requirements (for example, the requirement to elect into **consolidated accounting treatment**) are satisfied.

Application of the ARE and TSRE

Scenario	ARE available? Yes or No	TSRE available? Yes or No
1. Joining entity: The only constituent entities of the MNE group located in Australia are the entities in a TCG. An entity joins the MNE group and TCG part way through the fiscal year.	No, for the joining entity. Yes, for the other members of the TCG.	Yes, as the head company of the TCG is the single liable entity for the DMT top-up tax. For reporting purposes, there is no need to allocate the jurisdictional top-up tax to

		constituent entities.
2. Leaving entity: The only constituent entities of the MNE group located in Australia are the entities in a TCG. A subsidiary member of the TCG leaves the TCG and MNE group part way through the fiscal year.	No, for the leaving entity. Yes, for the other members of the TCG.	Yes, as the head company of the TCG is the single liable entity for the DMT top-up tax. For reporting purposes, there is no need to allocate the jurisdictional top-up tax to constituent entities.
3. Investment entity head company: The only constituent entities of the MNE group located in Australia are the entities in a TCG. The TCG consists of an investment entity as head company and two ordinary constituent entities as subsidiary members. The investment entity is not an excluded entity under section 20 of the *Taxation (Multinational - Global and Domestic Minimum Tax) Act 2024*.	No, for the investment entity. Yes, for the ordinary constituent entities.	Yes, as the head company of the TCG is the single liable entity for the DMT top-up tax. For reporting purposes, there is no need to allocate the jurisdictional top-up tax to constituent entities.
4. Ordinary constituent entity head company: The only constituent entities of the MNE group located in Australia are the entities in a TCG. The TCG consists of an ordinary constituent entity as head company and 2 subsidiaries, one of which is an	No, for the insurance investment entity. Yes, for the head company and the subsidiary that is an ordinary constituent entity.	Yes, as the head company of the TCG is the single liable entity for the DMT top-up tax. For reporting purposes, there is no need to allocate the jurisdictional top-up tax to constituent entities.

ordinary constituent entity and the other which is an insurance investment entity.		
5. GloBE JV entities **as head company and subsidiaries:** The only entities of the MNE group located in Australia are the entities in a TCG. The head company and subsidiaries are all GloBE JV entities.	Yes, for all members of the TCG as all members share the same ETR computation.	Yes, as the head company of the TCG is the single liable entity for the DMT top-up tax. For reporting purposes, there is no need to allocate the jurisdictional top-up tax to GloBE JV entities.
6. TCG and standalone constituent entity: The MNE group has a TCG in Australia consisting of ordinary constituent entities. The MNE group also has a constituent entity located in Australia that is not a member of the TCG.	Yes, for the constituent entities that are members of the TCG as all members share the same ETR computation.	No, as the DMT top-up tax of the constituent entity outside the TCG is not allocated to the head company of the TCG. There is more than one constituent entity that could be liable for DMT top-up tax.
7. MEC group only: The MNE group has a MEC group in Australia consisting of ordinary constituent entities. It has no other constituent entities in Australia.	No, as the ARE does not apply to MEC groups.	Yes, as the provisional head company of the MEC group is the single liable entity for the DMT top-up tax. For reporting purposes, there is no need to allocate the jurisdictional top-up tax to constituent entities.
8. MEC group and standalone constituent entity: The MNE group has a MEC group in	No, as the ARE does not apply to MEC groups.	No, as the DMT top-up tax of the constituent entity outside the MEC group is not

Australia consisting of ordinary constituent entities. The MNE group also has a constituent entity located in Australia that is not a member of the MEC group.		allocated to the provisional head company of the MEC group. There is more than one constituent entity that could be liable for DMT top-up tax.
9. After TSRE transition period ends: The only constituent entities of the MNE group located in Australia are the entities in a TCG. The MNE group is lodging for the fiscal year ending 30 June 2032.	Yes.	No, as the transition period during which the TSRE applies has ended.

Where no top-up tax arises in Australia, the eligibility criteria for the TSRE would be met and the TSRE would be available in all of the above scenarios except for the final scenario.

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Specific issues for Pillar Two

Specific issues identified by stakeholders via consultation and other channels not covered in other Pillar Two content.

Last updated 17 December 2025

Misaligned fiscal years

Fiscal year

For global and domestic minimum tax purposes, the term 'fiscal year' generally refers to the accounting period for which the ultimate parent entity (UPE) of a multinational enterprise group (MNE group) prepares its consolidated financial statements.

If the UPE does not prepare consolidated financial statements, the fiscal year of the UPE and the group entities will be the calendar year

instead.

As such, a constituent entity's own accounting period does not determine its fiscal year for Pillar Two purposes, only the UPEs. Lodgment due dates for Australian group entities are also determined using the fiscal year of the UPE.

Example: fiscal year of subsidiary constituent entity

- Foreign UPE: Year-end 31 December 2025 (prepares consolidated financial statements for January–December).
- Australian constituent entity: Local statutory year-end 30 June.

For Pillar Two purposes, the Australian constituent entities fiscal year must align with the UPE's fiscal year, not its local year, and so its fiscal year is 1 January to 31 December 2025.

The Australian constituent entity's GIR, foreign lodgment notification, AIUTR and DMTR lodgment obligations for the fiscal year 1 January to 31 December 2024 are due by 30 June 2026.

Fiscal year misalignment and performing calculations

Some MNE groups may have constituent entities that maintain financial accounts based on a different accounting period to that of the UPE.

There are 2 different accounting conventions MNE groups use to reconcile such differences, depending on the accounting standard adopted in the preparation of the consolidated financial statements.

- **Inclusion of full fiscal year results:** some MNE groups will include the constituent entity's financial accounting results for the accounting period that ends within the UPE's fiscal year. This may result in some income or expenses being attributed to a period before the UPE's fiscal year begins.
  - For example, the UPE's consolidated financial statement for the fiscal year ended 31 December 2025 may include an Australian constituent entity's accounting results for the full accounting period ended 30 June 2025.
- **Segregation and combination of results:** other MNE groups will split the constituent entity's results to match the UPE's fiscal year, combining the parts of the constituent entity's 2 accounting periods that align with the UPE's reporting period.
  - Under this method, using a similar example, the UPE's consolidated financial statements for the fiscal year ended

31 December 2025 may include the Australian constituent entity's accounting results from 2 different accounting periods:

- 1 January to 30 June 2025
- 1 July to 31 December 2025.

The **top-up tax calculations** for a constituent entity with a different accounting period to its UPE will be based on whichever method has been employed to include the constituent entity's results in the UPE's consolidated financial statement. The revenue of the constituent entity will also be included on this basis in determining whether the MNE group has met the revenue threshold for the purposes of the global and domestic minimum tax.

There may be instances where a constituent entity with a different accounting period to its UPE is not included in the UPE's consolidated financial statements, such as on materiality grounds. In such cases, top-up tax calculations must be based on the financial accounting period that ends during the UPE's fiscal year to ensure the necessary data to perform the top-up tax calculations is available when the GloBE Information Return (GIR) for that fiscal year is due.

In line with ordinary record keeping requirements, taxpayers are required to keep records supporting the accounting method used.

Prior period adjustments

Certain adjustments are required to a constituent entity's top-up tax calculations when there are changes to its covered tax liability in a previous fiscal year. Adjustments depend on whether the total adjustments to covered tax liabilities for that prior year for all constituent entities located in the same jurisdiction are:

- an increase or decrease
- a material or immaterial decrease
- a decrease that relates to a pre or post-GloBE fiscal year.

Increase or immaterial decrease to prior year covered taxes

When there is an increase in total adjustments to prior fiscal year covered tax liabilities of all constituent entities located in the same jurisdiction as the relevant constituent entity, that increase is treated as an adjustment to the relevant constituent entity's adjusted covered taxes in the current year.

When the total adjustments is an immaterial decrease, the filing constituent entity may make an annual election to treat those adjustments as an adjustment to the relevant constituent entity's

adjusted covered taxes in the current year. If an election is not made, then the treatment for decreases, other than an immaterial decrease, applies.

A decrease in covered tax liabilities for a prior fiscal year is considered immaterial where the sum of the adjustments to those liabilities is less than 1 million Euro.

Decrease to prior year covered taxes

The treatment of adjustments which lead to a decrease, other than an immaterial decrease, in covered tax liabilities for a prior fiscal year depends on whether the prior fiscal year in question is a pre or post-GloBE fiscal year.

Prior fiscal year is a GloBE fiscal year

Where the sum of the adjustments to the liability for covered taxes for the prior year is a decrease, other than an immaterial decrease covered by an election, the relevant constituent entities are required to:

- reduce their adjusted covered taxes for the prior year by the amount of the decrease
- adjust their GloBE income or loss for all relevant fiscal years as necessary.

The effective tax rate and jurisdictional top-up tax for the prior year is recalculated. Any resulting increase in jurisdictional top-up tax for the prior year is treated as an addition to top-up tax in the current year rather than in the prior fiscal year.

Where, for accounting purposes, the decrease in covered tax liability has been treated as a decrease to the income tax expense of the current fiscal year, there should also be a corresponding increasing adjustment for the purposes of calculating the current year's adjusted covered tax.

The MNE group is not required to amend its GIR, or any tax returns filed in association with the GloBE Rules for the prior year in which the adjustment relates. However, the adjustment will be reflected in the current year GIR and tax return.

Example: top-up tax following prior year adjustment

Seabird Co is an Australian constituent entity of an MNE group. They first become in-scope of the global and domestic minimum tax for the fiscal year ended 30 June 2025.

In the 2026 fiscal year, Seabird Co receive a $9 million refund of income tax from an amended assessment. This is due to the

initial inclusion of $30 million of income for the 2025 fiscal year which is later considered to be non-assessable. There are no adjustments to any other constituent entity's income tax liability for the 2025 fiscal year.

For Australian global and domestic minimum tax purposes, the $9 million refund represents a material decrease in covered taxes relating to a prior fiscal year. Seabird Co recalculates its adjusted covered taxes and GloBE income and loss for the 2025 fiscal year. This results in the effective tax rate for the MNE group in Australia falling below the minimum rate of 15%.

As a result, the company is liable for additional current top-up tax of $450,000. Seabird Co adds the additional current top-up tax of $450,000 in its jurisdictional top-up tax calculation for the 2026 fiscal year and records it in the GIR, and Australian DMT tax returns, for the 2026 fiscal year.

If the $9 million refund is in respect of income for the 2024 fiscal year, recalculations would not be required because Seabird Co was not in scope of the global and domestic minimum tax in the 2024 fiscal year.

Prior fiscal year is a pre-GloBE fiscal year

Where a decrease in covered taxes relates to a fiscal year prior to the application of the global and domestic minimum tax, no adjustments in the prior year are required. This means that there should not be any additional current top-up tax arising from recalculations of effective tax rates of pre-GloBE fiscal years.

However, relevant adjustments must still be made to the current year adjusted covered taxes. For instance, where the sum of the adjustments to the liability for covered taxes for the prior year is a decrease, other than an immaterial decrease covered by an election, the relevant constituent entities are not required to recalculate the prior year adjusted covered taxes. They should still include a corresponding increasing adjustment in calculating the current year's adjusted covered taxes where there has been a decrease to the income tax expense of the current fiscal year.

Deferred taxes and pre-GloBE fiscal years

Where the prior year adjustment relates to deferred tax expense, resulting in a decrease in income tax expense relating to a pre-GloBE fiscal year, an increasing adjustment should be included in calculating the current fiscal year's adjusted covered taxes. However, this prior period adjustment and its impact on the reversal of a deferred tax liability or deferred tax asset should be taken into account when

determining the amount of the deferred tax liability or asset to be recognised in the transition year and any subsequent fiscal year.

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