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# Navigating Global Minimum Tax in Asia

*Insights for Businesses*

November 2023







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CELEBRATING

## Today's Speaker



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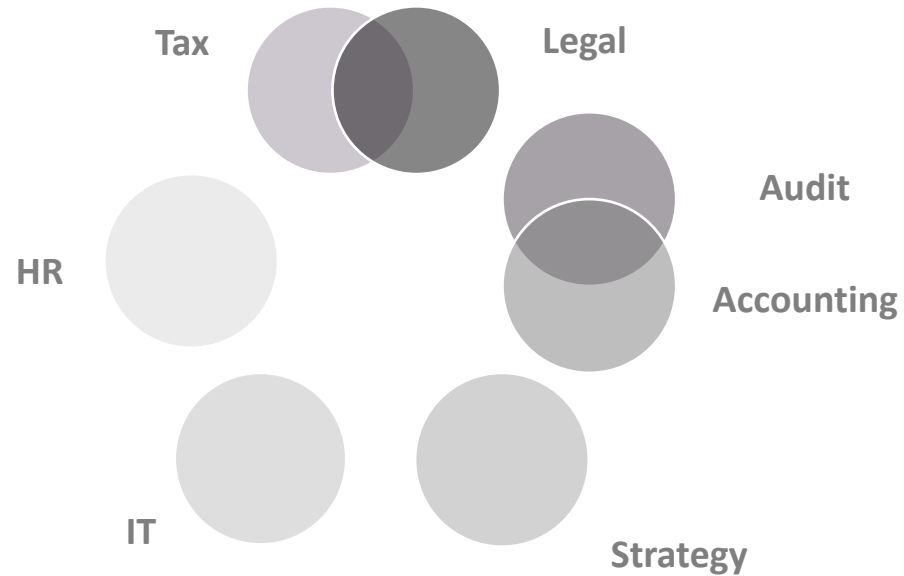
Germany	Italy	United States
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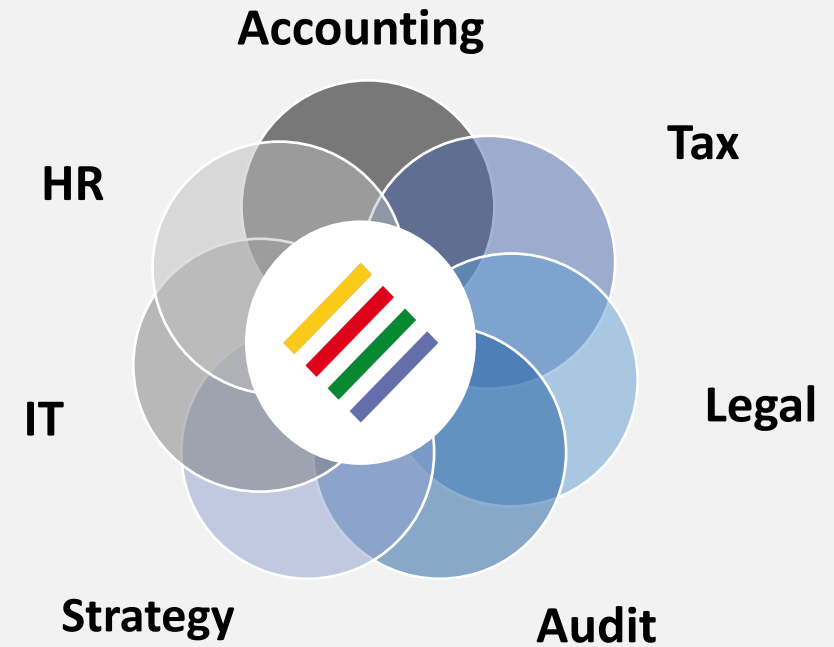


# Our Services *integrated solutions*

## Traditional Model



## Dezan Shira & Associates' Integrated Pan-Asia Model





# Investor Resources



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- 1. Introduction – Global Minimum Tax (GMT)**
- 2. Assessment – Qualified Domestic Minimum Top-Up Tax Rule (QDMTT) & Income Inclusion Rule (IIR)**
- 3. Implementation – GMT Regulations in Select Asian Countries**
- 4. Planning – Company Preparedness**





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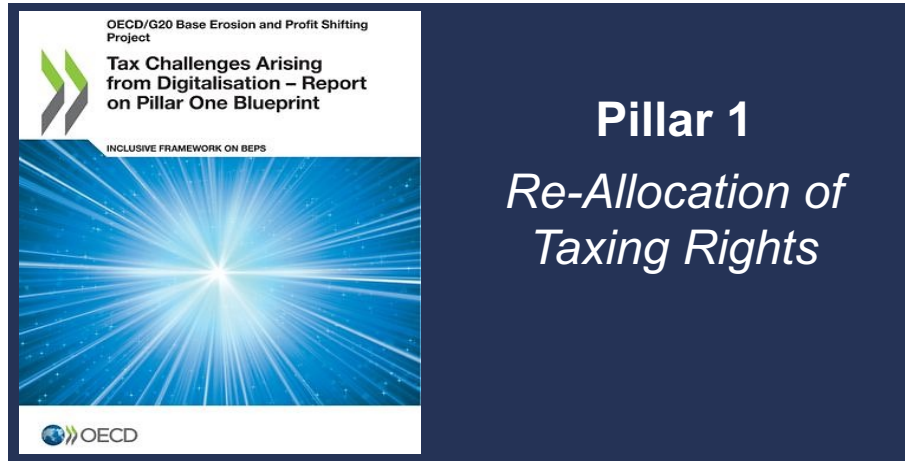
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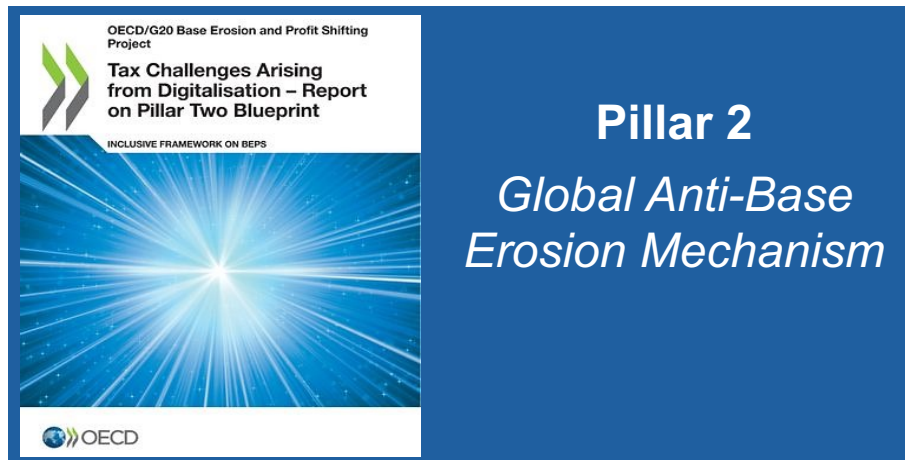
# Introduction

*Global Minimum Tax (GMT)*

# OECD Regulations *Pillar 1 & 2*



- Identify business presence issues and business activities that do not require physical presence in market
- Determine location of taxation rights and tax base
- Determine taxable profit in country where customer resides

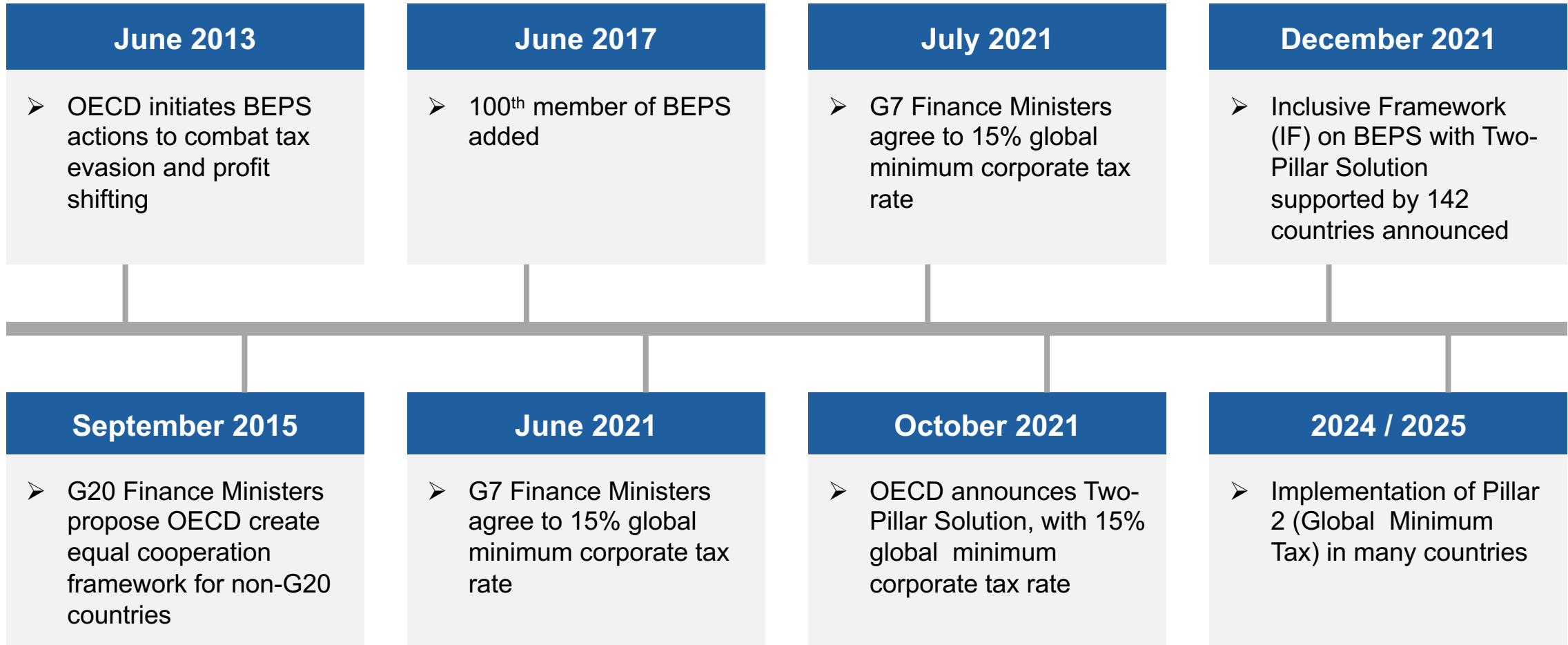


- “Level the playing field” between traditional and digital companies
- Help to stop using new technologies to move profits to jurisdictions there is no tax or low tax

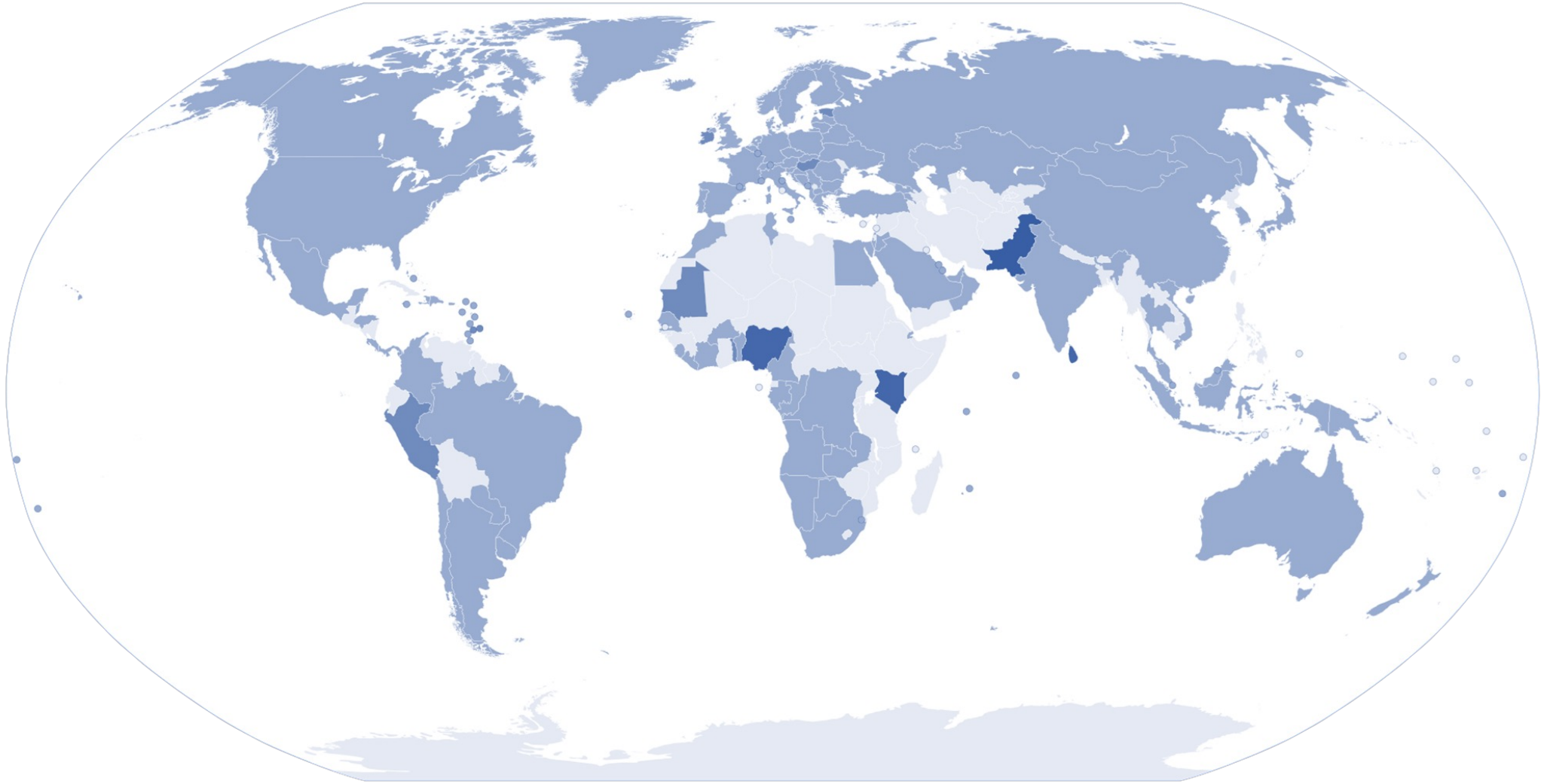
**Guarantee a minimum corporate tax to be paid by multinational corporations – Global Anti-Base Erosion (“GloBE”) Proposal**



# OECD Pillar Implementation *timeline & actions*



# Participating Countries





# Global Minimum Tax (GMT) *overview*

<b>Purpose</b>	Prevent profit shifting and ensure a fair distribution of tax revenues among countries				
<b>Scope</b>	142 countries agreed to implement GMT (15%) on profits of multinational companies (MNCs), some 8,000 MNCs are expected to be affected				
<b>Implementation</b>	Starting from 2024, many countries planning to apply rules to MNCs with annual revenue from EUR 750 million or more				
<b>Components</b>	Qualified Domestic Minimum Top-Up Tax Rule (QDMTT)	Income Inclusion Rule (IIR)	Undertaxed Payment Rule (UTPR)	Subject To Tax Rule (STTR)	Globe Switch-over Rule (SOR)

*Core Components*

# In-Scope Taxpayers



## In-Scope Taxpayers

- Multinational company (MNC) and its subsidiaries
- Having at least two years with consolidated revenue of EUR 750 million per year or more (with a look back period of 4 years)



## Exemptions

- International organization
- Government organization
- Non-profit organization
- Pension fund
- Investment fund is the ultimate parent company
- Real estate investment organization is the ultimate parent company
- Organization that has at least 85% of the asset value owned



# In Scope Taxpayers *QDMTT & IIR*

	QDMTT	IIR
In-Scope Taxpayers	<ul style="list-style-type: none"> <li>➤ In-scope MNCs subsidiaries will pay QDMTT to if:               <ul style="list-style-type: none"> <li>▪ Having excess profit</li> <li>▪ Having ETR lower than minimum rate (15%)</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>➤ In-scope MNCs companies in will pay top-up tax to tax authorities if:               <ul style="list-style-type: none"> <li>▪ They are Ultimate parent company (UPC), intermediate parent company, or partially-owned parent company</li> <li>▪ They directly or indirectly own subsidiaries in foreign countries</li> <li>▪ Their foreign subsidiaries have ETR lower than 15%</li> </ul> </li> </ul>
When QDMTT or IIR “Nil” Declaration	<p>Taxpayers must meet both criteria as follows:</p> <ul style="list-style-type: none"> <li>▪ GloBE revenue of all companies in relevant countries is less than EUR 10 million</li> <li>▪ GloBE income of all companies in relevant countries is less than EUR 1 million or in loss position</li> </ul>	



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# Assessment

*Qualified Domestic Minimum Top-Up Tax  
Rule (QDMTT) & Income Inclusion Rule (IIR)*



## QDMTT importance – stylized example (1)

<b>Income in Jurisdiction</b>	-	–	1,000,000
<b>Effective Tax Rate</b> <i>(domestic)</i>	-	-	10%
<b>Tax Amount</b> <i>(domestic)</i>	Income x Effective Tax Rate	1,000,000 x 10%	100,000
<b>Income Exclusion</b> <i>(substance based)</i>	-	-	200,000
<b>Excess Profits</b>	Income – Income Exclusion	1,000,000 – 200,000	800,000
<b>Top Up Tax Rate</b> <i>(domestic)</i>	Global Minimum Tax Rate – Effective Tax Rate	15% – 10%	5%
<b>Top Up Tax Amount</b> <i>(domestic)</i>	Excess Profits x Top Up Tax Rate	800,000 x 5%	40,000
<b>Total Tax</b>	Tax Amount + Top Up Tax Amount	100,00 + 40,000	140,000

## QDMTT importance – stylized example (2)

### If the Domestic Top-Up Tax is a QDMTT

In this case covered tax is 100,000. The top-up tax calculation is:

$$5\% * 800,000 = 40,000 - 40,000 \text{ (QDMTT)} = 0$$

Treating the domestic top-up tax as a QDMTT eliminates any top-up tax under the GloBE rules

### If the Domestic Top-Up Tax isn't a QDMTT

The position is different if the domestic top-up tax isn't a QDMTT, as the domestic top-up tax is simply added to covered taxes.

As such, covered taxes would 140,000 and income would be 1,000,000. The GloBE ETR would then be 14%.

The GloBE top-up tax calculation would be:

$$800,000 * 1\% \text{ (15\%-14\%)} = 8,000$$

## QDMTT *assessment process*

1	Identify in-scope MNCs and related subsidiaries	MNC Base
2	Consider whether QDMTT can be declared “nil”	Jurisdiction Base
3	Identify jurisdiction with subsidiaries <ul style="list-style-type: none"><li>➤ Having excess profit</li><li>➤ Having effective tax rate lower than minimum rate (15%)</li></ul>	Jurisdiction Base
4	Calculate top up tax	Jurisdiction Base
5	Assign one subsidiary to declare and pay tax	Jurisdiction Base



# QDMTT Calculation

$$\text{Top Up Tax Under IIR} = \text{Excess Profit} \times \text{Top Up Tax \%} + \text{Top Up Tax Adjustments (if any)}$$

$$\text{Excess Profit} = \text{Net Income Under GloBE Regulations} - \% \text{ value for tangible assets and/or wages}$$

$$\text{Net income under GloBE regulations} = \text{Income GloBE Regulations} - \text{Loss Under GloBE Regulations}$$

$$\text{Top Up Tax \%} = \text{Minimum tax rate (15\%)} - \text{Effective Tax Rate}$$

Year	% of Wages	% of Tangible Assets
2023	10%	8%
2024	9.8%	7.8%
2025	9.6%	7.6%
2026	9.4%	7.4%
2027	9.2%	7.2%
2028	9%	7%
2029	8.2%	6.6%
2030	7.4%	6.2%
2031	6.6%	5.8%
2032	5.8%	5.4%

## IIR assessment process

1	Identify US ultimate parent or intermediate parent enterprises being in-scope MNCs	MNC Base
2	Consider jurisdiction IIR can be declared “nil”	Jurisdiction Base
3	Identify jurisdiction with subsidiaries <ul style="list-style-type: none"><li>➤ Having excess profit</li><li>➤ Having effective tax rate lower than minimum rate (15%)</li></ul>	Jurisdiction Base
4	Calculate top up tax of subsidiaries in each jurisdiction	Jurisdiction Base
5	Allocate top up tax to each MNC if subsidiaries are owned by many MNCs	Company Base
6	Declare and pay tax by ultimate parent or intermediate parent enterprises	MNC Base

# IIR Calculation

$$\text{Top Up Tax Under IIR} = \text{Excess Profit} \times \text{Top Up Tax \%} + \text{Top Up Tax Adjustments (if any)} - \text{QDMTT (if any)}$$

$$\text{Excess Profit} = \text{Net Income Under GloBE Regulations} - \% \text{ value for tangible assets and/or wages}$$

$$\text{Net income under GloBE regulations} = \text{Income GloBE Regulations} - \text{Loss Under GloBE Regulations}$$

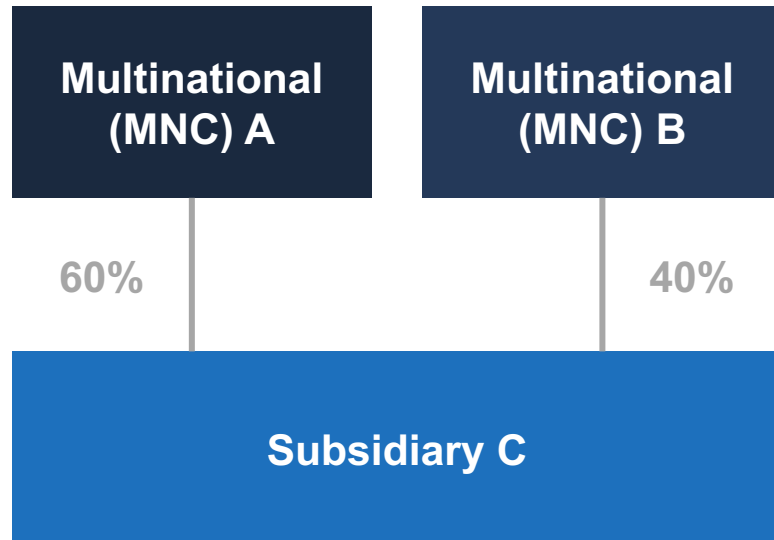
$$\text{Top Up Tax \%} = \text{Minimum tax rate (15\%)} - \text{Effective Tax Rate}$$

Year	% of Wages	% of Tangible Assets
2023	10%	8%
2024	9.8%	7.8%
2025	9.6%	7.6%
2026	9.4%	7.4%
2027	9.2%	7.2%
2028	9%	7%
2029	8.2%	6.6%
2030	7.4%	6.2%
2031	6.6%	5.8%
2032	5.8%	5.4%



## IIR *calculating top up tax for each entity*

A subsidiary may be owned by multiple MNCs, and it becomes necessary to allocate top-up tax to each MNC having its subsidiary operating in each jurisdiction



### Allocate to Each Entity

$$\text{Top up tax for Subsidiary C} = \text{Total top up tax in jurisdiction C} \times \frac{\text{Income under GloBE regulations of Subsidiary C}}{\text{Income under GloBE regulations in jurisdiction C}}$$

### Allocate to Each MNC

$$\begin{aligned} \text{Top Up Tax for Subsidiary C at MNC A} &= \text{Top up tax for Subsidiary C} \times 60\% \\ \text{Top Up Tax for Subsidiary C at MNC B} &= \text{Top up tax for Subsidiary C} \times 40\% \end{aligned}$$



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# Implementation

*GMT Regulations in Select Asian Countries*

# GMT Implementation Status *select Asian countries*



Country	Status	IIR	QDMTT
China	No Public Announcement	-	-
Hong Kong	Plans Announced <i>(Hong Kong Budget 2024)</i>	January 1, 2025	January 1, 2025
India	No Public Announcement	-	-
Indonesia	Plans Announced	-	-
Malaysia	Plans Announced <i>(Malaysian Budget 2024)</i>	January 1, 2025	January 1, 2025
Philippines	No Public Announcement	-	-
Thailand	Plans Announced <i>(BOI Announcement)</i>	January 1, 2025	January 1, 2025
Singapore	Public Consultation	January 1, 2025	January 1, 2025
Vietnam	Draft Law Published	-	-



# Changes in Legislation *options for low tax jurisdictions*



**Not implement globally agreed  
Pillar 2**  
*unlikely for countries included in the OECD  
agreement*







**Raise current CIT to meet GMT  
rate of 15%**



**Create divided tax policies  
where GMT policies would  
apply to only MNCs meeting  
the EUR 750m threshold**

## Affect on FDI Attraction Measure *from GMT*

	<b>Labor Costs &amp; Availability</b>	No impact
	<b>Location</b>	No impact
	<b>Suppliers &amp; Resources</b>	<b>TBD</b>
	<b>Free trade agreements (FTAs)</b>	No impact
	<b>Government Support</b>	
	• Administrative procedures	No impact
	• Lower tax rates & tax incentives	<b>Yes</b>
	• Being-improved infrastructure	No impact
	• Investment protection	<b>Yes (on tax)</b>
	• Innovation supports	No impact



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# Planning

*Company Preparedness*



# Actions For Companies To Take *qualifying MNCs*



## Preparation

- Group assessment in GMT application
- MNC notification on which entity to declare and pay tax
- Group data collection and analysis



## Implementation

- QDMTT/ IIR calculation
- Tax ruling on QDMTT/ IIR
- QDMTT/ IIR declaration and payment
- QDMTT/ IIR audit preparation
- QDMTT/ IIR controversy



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