

Global Minimum Tax

Application of BEPS 2.0 Pillar Two: compliance obligations, challenges, and actions

More than 140 jurisdictions participating in the Organisation for Economic Co-operation and Development (OECD) Base Erosion and Profit Shifting (BEPS) 2.0 Inclusive Framework have agreed to a two-pillar solution to address the challenges of digitization and globalization in income taxation. Pillar Two of this solution mandates a global minimum tax (GMT) of 15% for multinational corporations with group revenues exceeding €750 million in at least two of the past four years.

On 29 November 2023, the Vietnam National Assembly passed Resolution No. 107/2023/QH15 regarding the implementation of Pillar Two (Resolution 107). This resolution has been in effect since 1 January 2024, and will be applicable from the fiscal year 2024 onwards. This marks Vietnam as one of the frontrunners in implementing the GMT.

Scope

Resolution 107 covers both the Qualified Domestic Minimum Top-Up Tax (QDMTT) and the Income Inclusion Rule (IIR).

The rules apply to multinational enterprises (MNEs) with consolidated financial revenue of €750 million or more, for at least 2 years out of 4 years preceding the fiscal year, except for specific exclusions. Broadly, the QDMTT will be relevant to the Vietnamese constituent entities of large MNEs headquartered overseas. The IIR will apply to large MNEs headquartered in Vietnam, with overseas constituent entities.

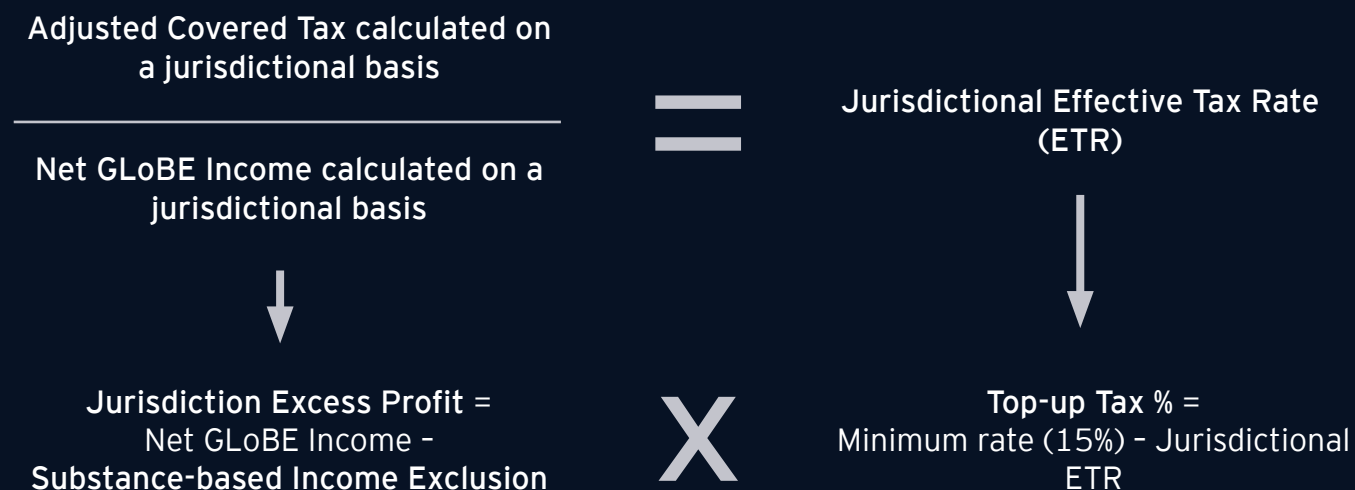
Compliance requirements

Under Resolution 107, a number of compliance obligations arise:

- ▶ Required filings include:
 - ▶ An Information Reporting Return
 - ▶ A Top-up tax declaration accompanied by an explanation of discrepancies arising from differences in financial accounting standards
- ▶ The deadline for tax declarations and payments are:
 - ▶ For QDMTT, no later than 12 months after the end of the fiscal year
 - ▶ For IIR, no later than 18 months after the end of the fiscal year for the first year in which the MNE is subject to tax, or 15 months after the end of the fiscal year for subsequent years

Top-up Tax Computation

A simple illustration of the computation of the Pillar Two tax per Resolution 107 is set out below. This is subject to a number of “safe harbour” exclusions.



For QDMTT: Jurisdictional Top-up Tax = (Top-up Tax % x Excess Profit) + Any additional Top-up Tax adjusted for current year
For IIR: Jurisdictional Top-up Tax = (Top-up tax % x Excess Profit) + Any additional Top-up Tax adjusted for current year - Qualified Domestic Minimum Top-up tax amount

New challenges facing in-scope MNEs

New reporting requirements

- ▶ All in-scope MNEs will be required to comply with new and extensive financial and tax reporting obligations, unless they satisfy one of the safe harbour exclusions. Calculations may need to be performed multiple times annually for provision purposes.

New data requirements

- ▶ Many new data points are required to be collected and tracked for each constituent entity to perform the necessary calculations.
- ▶ The data requirements vary in volume, precision and complexity, depending on the particular circumstances.

Technology, systems, processes

- ▶ In-scope MNEs will need to define and communicate their data strategy (headquarters-driven, bottom-up or a combination), and develop new processes and technologies to comply with these rules.

Actions in-scope MNEs need to take

At a minimum MNEs affected by Pillar Two need to undertake the following four key steps to comply with the new regulations.

1 Safe harbour assessment

In the transition period applying for fiscal years beginning on or before 31 December 2026 but not including a fiscal year that ends after 30 June 2028, top-up tax for a fiscal year shall be deemed to be Nil when one of the following criteria is met:

- ▶ De minimis test: The jurisdiction has revenue reported in the country-by-country report (CbCR) of less than €10 million and a CbCR profit before income tax of less than €1 million.
- ▶ Effective tax rate test: The Simplified ETR for a jurisdiction, as calculated using profit (loss) before income tax from CbCR, is at least 15% for 2024 (16% for 2025, 17% for 2026).
- ▶ Routine profits test: the profit before income tax from the CbCR is smaller than, or equal to, something known as the Substance-based Income Exclusion. This is an exclusion based on an enterprises' payroll and fixed assets. This test should be met for a jurisdiction where it has a loss per the CbCR.

If a jurisdiction does not satisfy the requirements for a transitional safe harbour, it may still satisfy the permanent safe harbour test. In such cases, the top-up tax for a fiscal year will be Nil if one of the following criteria is met:

- ▶ De minimis test: The average revenue and the average income of the jurisdiction, as determined under the simplified income calculations in accordance with the regulations, are less than €10 million and €1 million, respectively.
- ▶ Effective tax rate test: The ETR for a jurisdiction, as determined under the simplified income and tax calculation in accordance with the regulations, is at least 15%.
- ▶ Routine profits test: The jurisdiction's GLoBE Income, as determined under the simplified income calculation, is smaller than, or equal to the Substance-based Income Exclusion calculated in accordance with the regulations.

2 Data collection and setup in preparation for tax provisioning

After conducting the safe harbour assessment, if these do not apply, the MNE will need to collect data and perform the necessary setup in preparation for computing the top-up tax and making tax provisions. This will involve mapping Pillar 2 data requirements against existing and new data sources (e.g. tax reporting system, ERP, non-financial data) and identifying where specific new data requirements are needed.

It has been observed that this step can be challenging due to the volume of new data points, as well as the precision and complexity of the required data.

3

Computing top-up tax and making tax provisions

In-scope MNEs will need to perform numerous adjustments to the information in the financial statements to compute the GLoBE Income or Loss and the Adjusted Covered Taxes, which are necessary inputs in determining any tax liability.

4

Submission of the required returns and payment of taxes

Finally, an in-scope MNE will need to submit the returns and pay the necessary taxes.

What EY teams can do for you

EY integrated global team of local and international tax, tax compliance, and tax technology professionals is ready to provide you with detailed support with respect to these steps and help you navigate the challenges arising from the complex rules.



Contacts

Ho Chi Minh City Office

Robert King

Indochina Tax Leader
EY Consulting Vietnam Joint Stock Company
robert.m.king@vn.ey.com
+84 28 3629 7744

Takahisa Onose

Partner, Japanese Business Services (JBS)
Ernst & Young Vietnam Limited
takahisa.onose@vn.ey.com
+84 28 3629 7772

Duyen T Nguyen

Director
EY Consulting Vietnam Joint Stock Company
duyen.t.nguyen@vn.ey.com
+84 28 3629 7266

Owen Tsao

Director, Chinese Business Services (CBS)
Ernst & Young Vietnam Limited
owen.tsao@vn.ey.com
+84 28 3629 7229

Hanoi Office

Huong Vu

General Director
EY Consulting Vietnam Joint Stock Company
huong.vu@vn.ey.com
+84 24 3211 6662

Trang Pham

Senior Partner
Ernst & Young Vietnam Limited
trang.pham@vn.ey.com
+84 24 3831 5100

Nga Thi Thuy Vuong

Director
EY Consulting Vietnam Joint Stock Company
nga.thuy.vuong@vn.ey.com
+84 24 3211 6288

Takaaki Nishikawa

Director, Japanese Business Services (JBS)
Ernst & Young Vietnam Limited
takaaki.Nishikawa@vn.ey.com
+84 24 3211 6774

Kyung Hoon Han

Director, Korean Business Services (KBS)
Ernst & Young Vietnam Limited
kyung.hoon.han@vn.ey.com
+84 24 3211 6103

EY | Building a better working world

EY exists to build a better working world, helping to create long-term value for clients, people and society and build trust in the capital markets.

Enabled by data and technology, diverse EY teams in over 150 countries provide trust through assurance and help clients grow, transform and operate.

Working across assurance, consulting, law, strategy, tax and transactions, EY teams ask better questions to find new answers for the complex issues facing our world today.

EY refers to the global organization, and may refer to one or more, of the member firms of Ernst & Young Global Limited, each of which is a separate legal entity. Ernst & Young Global Limited, a UK company limited by guarantee, does not provide services to clients. Information about how EY collects and uses personal data and a description of the rights individuals have under data protection legislation are available via ey.com/privacy. EY member firms do not practice law where prohibited by local laws. For more information about our organization, please visit ey.com.

© 2024 Ernst & Young Vietnam Limited
All Rights Reserved.

APAC No. 16060801
ED None

This material has been prepared for general informational purposes only and is not intended to be relied upon as accounting, tax, legal or other professional advice. Please refer to your advisors for specific advice.

ey.com/en_vn