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Implementation of BEPS 2.0: IRAS Consults on Draft Subsidiary Legislation to MNE Bill

Introduction

In February 2024, Singapore announced that it would implement the Multinational Enterprise Top-up Tax ("**MTT**") and the Domestic Top-up Tax ("**DTT**") under Pillar Two of the Base Erosion and Profit Shifting ("**BEPS**") 2.0 initiative. The MTT and DTT will impose a minimum effective tax rate ("**ETR**") of 15% on the profits of large multinational enterprise ("**MNE**") groups from financial years ("**FYs**") starting on or after 1 January 2025, in line with the Pillar Two Global Anti-Base Erosion ("**GloBE**") rules.

Since then, the Multinational Enterprise (Minimum Tax) Bill ("**MNE Bill**") was introduced in Parliament for First Reading on 9 September 2024 to implement:

1. **The MTT**, which will impose a top-up tax on constituent entities ("**CEs**") of MNE groups to which the MNE Bill applies ("**in-scope MNE groups**") located in Singapore if the CE (i) is a responsible member as defined in clause 13 of the Bill; and (ii) has ownership interests in CEs located in jurisdictions with an ETR of less than 15%.
2. **The DTT**, which will impose a top-up tax on CEs located in Singapore to raise their ETR to at least 15%.

On 4 October 2024, the Inland Revenue Authority of Singapore ("**IRAS**") announced a public consultation titled "[Consultation on the Proposed Multinational Enterprise \(Minimum Tax\) Regulations – GloBE Safe Harbours and Transition Rules](#)" ("**Consultation**"). It covers the proposed subsidiary legislation that will provide further details on the calculation of the top-up tax, specifically regarding:

1. GloBE Safe Harbours to simplify the compliance process, namely:
 - Transitional Country-by-Country Reporting ("**CbCR**") Safe Harbour;
 - Qualified Domestic Minimum Top-Up Tax ("**QDMTT**") Safe Harbour;
 - Simplified Calculations Safe Harbour.
2. Adjustments in computing adjusted covered taxes under the transition rules that will apply when an MNE group first comes within the scope of the GloBE rules (including MTT or DTT in Singapore).

The Consultation will run from 4 October 2024 to **18 October 2024**, and we elaborate on its details below.

GloBE Safe Harbours

GloBE Safe Harbours were introduced by the Inclusive Framework on BEPS ("IF") to address concerns that the GloBE Rules might impose a disproportionate compliance burden on certain MNEs in respect of their operations in high-tax and low-tax jurisdictions. These safe harbours will relieve MNEs from performing full GloBE calculations in respect of particular jurisdictions if the relevant conditions are met.

The draft Multinational Enterprise (Minimum Tax) (GloBE Safe Harbours) Regulations 2024 ("**Safe Harbour Regulations**") will cover the following safe harbours for the purposes of MTT and DTT (where applicable):

Safe Harbour	Effect	Applicability
Transitional CbCR Safe Harbour	Allows an MNE Group to avoid undertaking detailed GloBE calculations in respect of a jurisdiction through the use of information contained in the MNE Group's Country by-Country Report, where conditions are met	Applies during the transitional period for FYs commencing on or before 31 December 2026 and ending on or before 30 June 2028
QDMTT Safe Harbour	Eliminates the need for an MNE group to perform a MTT calculation in Singapore, in addition to the calculation already required under a QDMTT regime in a foreign jurisdiction	Applies only to MTT
Simplified Calculations Safe Harbour	Reduces the extent of computation an MNE group has to make under the GloBE rules through the use of alternative calculations	Available to MNE Groups with non-material CEs in a foreign jurisdiction (for MTT) or Singapore (for DTT)

Among other matters, the Safe Harbour Regulations set out which CEs are eligible for each Safe Harbour, and the applicable conditions and/or disqualifying conditions.

Transition Rules

The draft Multinational Enterprise (Minimum Tax) (Transition Rules) Regulations 2024 ("**Transition Rules Regulations**") will allow existing deferred tax accounting attributes at the beginning of the transition year of an entity to be used for purpose of computing adjusted covered taxes.

It will also provide for the transition year to be refreshed for the purposes of computing DTT when (i) a foreign jurisdiction introduces the GloBE Rules; (ii) such GloBE Rules apply to the Singapore entities of an MNE Group; and (iii) this takes place after Singapore implements the DTT.

When a transition year is refreshed, certain tax attributes under the DTT will be eliminated or re-stated, so as to ensure that the DTT in Singapore aligns with the tax attributes applied by the foreign jurisdiction during and after the refreshed transition year.

Definition of transition year

In relation to determining the adjusted covered taxes of a CE (X) of an MNE group, a transition year is defined in the Transition Rules Regulations as follows:

Applicability	Definition of Transition Year
Under Part 2 of the MNE Bill	<ol style="list-style-type: none"> 1. The first FY, whichever is earlier, that: <ul style="list-style-type: none"> • X, or any other CE located in the same jurisdiction, comes within the scope of the law of any jurisdiction imposing a qualified Income Inclusion Rule ("IRR") or a qualified Undertaxed Profits Rules ("UTPR"); or • a chargeable entity of that MNE group is liable for MTT in relation to X; or 2. Where X is eligible for the Transitional CbCR Safe Harbour – the first FY that X loses its eligibility for it or did not elect to apply it.
Under Part 3 of the MNE Bill	<ol style="list-style-type: none"> 1. The first FY, whichever is earlier, that: <ul style="list-style-type: none"> • any CE of the MNE group located in Singapore comes within the scope of the law of any jurisdiction imposing a qualified IIR or a qualified UTPR; or • for which the MNE group is liable to be registered under Part 4; or 2. Where X is eligible for the Transitional CbCR Safe Harbour – the first FY that X loses its eligibility for it or did not elect to apply it. <p>For a section 29(b) entity (Y) of an MNE group, a transition year is defined as the first FY, whichever is earlier, that:</p> <ol style="list-style-type: none"> 1. Y comes within the scope of the law of any jurisdiction imposing a qualified IIR or a qualified UTPR; or 2. for which the MNE group is liable to be registered under Part 4.

Further Information

The draft Safe Harbour Regulations and Transition Rules Regulations should be read together with the published GloBE Model Rules, Commentary and applicable Administrative Guidance issued by the IF, which are available [here](#) on the OECD website.

For more information on the steps Singapore has taken to implement BEPS 2.0 Pillar Two, please see:

- Rajah & Tann Singapore September 2024 Legal Update titled "[Bills Introduced in Parliament to Implement BEPS 2.0 Pillar Two, Amend Income Tax Act](#)"; and
- Rajah & Tann Singapore June 2024 Legal Update titled "[MOF Launches Two Consultations on Implementation of BEPS 2.0 Pillar Two, Amendments to Income Tax Act](#)".

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