

Global Minimum Tax: A Challenge for Large Groups

From financial year 2024 onwards, large groups must examine the extent to which an additional tax (so-called top-up tax) is payable due to the requirements of the global minimum tax. Even if all group entities are based in countries with a nominal corporate tax rate well above the minimum tax rate of 15 %, the global minimum tax may nevertheless lead to an additional tax or at least administrative burden. However, temporary safe harbour rules may reduce the administrative burden in many cases.

What it is about – in Brief

The regulations adopted at the OECD level for introducing a global minimum tax, which must be transposed into national law in the EU due to the Minimum Taxation Directive, were implemented in Germany with the Minimum Tax Act. Groups with a total annual turnover of at least EUR 750 million in at least two of the four preceding financial years are obliged to check whether the profit of all group members based in a jurisdiction is subject to an effective taxation of at least 15 %. The new rules are applicable for financial years beginning after 30 December 2023 – hence for fiscal years coinciding with the calendar year from 2024 onwards.

If the effective tax burden is lower than 15 %, a top-up tax must be paid, usually at the level of the group's ultimate parent entity. Both multinational and purely national groups of companies are affected.

Groups covered by the global minimum tax rules must carry out extensive data analyses. The calculation of the effective tax burden requires detailed data from reporting packages prepared for the group's consolidated financial statements, which must be supplemented by numerous other data points at the level of the individual group companies.

The introduction of the global minimum tax is also accompanied by extensive additional declaration obligations domestically and abroad. A global minimum tax report must be submitted to the competent authorities in every tax jurisdiction in which group entities are based, provided that the respective country has implemented the global minimum tax regulations. The global minimum tax report comprises extensive financial data and detailed information about the group structure, the effective tax rate

calculation in each jurisdiction, the applicability of exemptions and deductions etc.

Group entities based in Germany must file such a report electronically with the Federal Central Tax Office (for the first time no later than 30 June 2026). Furthermore, countries like Germany require an additional global minimum tax return based on which the top-up tax would be levied. The top-up tax payable is to be calculated by the company itself (so-called self-assessment).

Reliefs through temporary Safe-Harbour Rules

Temporary safe harbour rules based on data from well-known Country-by-Country Reporting (tax CbCR) may help to reduce the administrative burden in the first up to three years of application of the global minimum tax. (generally, in the financial years 2024 to 2026). If for a tax jurisdiction one of the following three tests are passed, the top-up tax for the respective jurisdiction would be nil:

1. According to CbCR data, revenue is less than EUR 10 million, and profit before tax is less than EUR 1 million (de minimis test).
2. The simplified effective tax rate calculated based on the CbCR data (along with certain modifications, particularly regarding deferred taxes) is at least 15 % (in 2024), 16 % (in 2025), and 17 % (in 2026; simplified ETR test).
3. Profit before tax according to CbCR does not exceed the so-called substance-based exemption, determined based on wage costs and tangible assets (substance test).

These exemptions can be based on data already collected or required for the purposes of tax CbCR, subject to some modifications. However, the data must fulfil the requirements of a so-called qualifying CbCR, i. e., the data is drawn from reporting packages prepared for the group's consolidated financial statement or from the individual entity accounts, provided they are prepared using an acceptable financial standard, as defined in the global minimum tax rules.

If the group does not pass any of the three tests for a certain jurisdiction in one fiscal year the CbCR based safe harbour rules are not applicable for this jurisdiction in subsequent years ("once out, always out" principle). Assume, for example, a multinational

group in scope of the global minimum tax has a subsidiary in country A. For country A the simplified ETR is 16 % in 2024, 15 % in 2025, and 18 % in 2026. The requirements of the de minimis test and the substance test are not fulfilled in these fiscal years. The CbCR Safe Harbour applies for country A in 2024, but not in 2025 ("once out") and not in 2026 ("always out").

For fiscal years beginning after 21 June 2024 (i. e., generally as of fiscal year 2025) groups with a turnover of at least EUR 750 million in two subsequent years must also consider new "public CbCR" rules if the ultimate parent or any other constituent entity is resident in the EU. In general, public CbCR data must be published in the company register. The required data can be drawn from tax CbCR subject to some modifications.

The structured and consistent determination of CbCR data is therefore becoming increasingly important for groups with an annual turnover of at least EUR 750 million.

Groups with a turnover below this threshold should also prepare themselves in due time for the challenges of the global minimum tax, qualifying tax CbCR and public CbCR, if it is foreseeable that the annual turnover will exceed EUR 750 million in the next years.

Our support

Groups that are subject to the global minimum tax should focus very promptly on determining the effective tax burden on group profits in each country the group has subsidiaries or permanent establishments. We support you in analysing which data is required and how it can be compiled as efficiently as possible.

To take advantage of the CbCR-based safe harbour regulations, we use a tool-based initial analysis with our [Transitional CbCR Safe Harbour Quick Check](#). Based on already available tax CbCR data – supplemented with certain additional information – this allows to check in which tax jurisdictions your company could benefit from temporary reliefs. The Transitional CbCR Safe Harbour Quick Check also provides indications in which jurisdictions or group companies special effects or potentially implausible data records exist that could prevent the application of safe harbour rules.

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