



Pillar 2

Global minimum taxation does not stop at the legal department!

Presentation & structure

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Agenda

I. Pillar 2: Background and development

- Minimum Tax Adjustment Act
- Systematics of the legal regulation
- Effective tax rate calculation

II. Pillar 2: Significance for the legal department

- Legal advisory fields with Pillar 2 effects
- Effects on M&A transactions

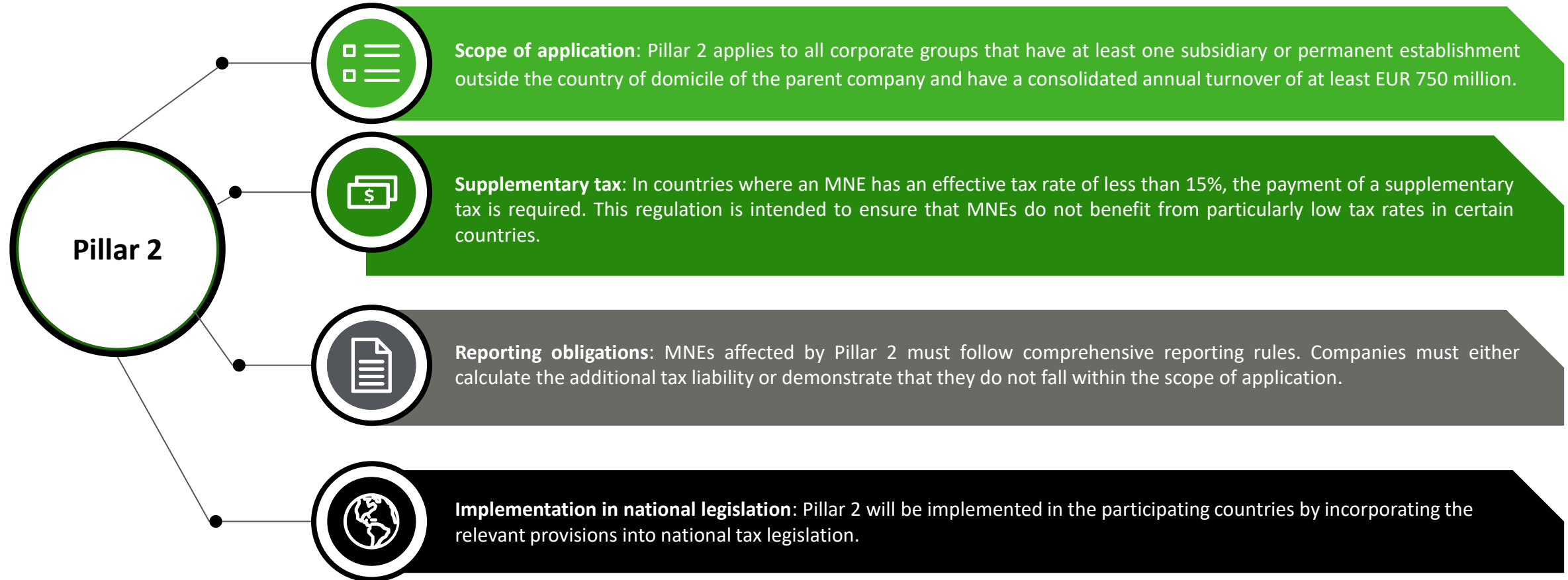
III. Q & A



Overview: Pillar 2 - Background and development

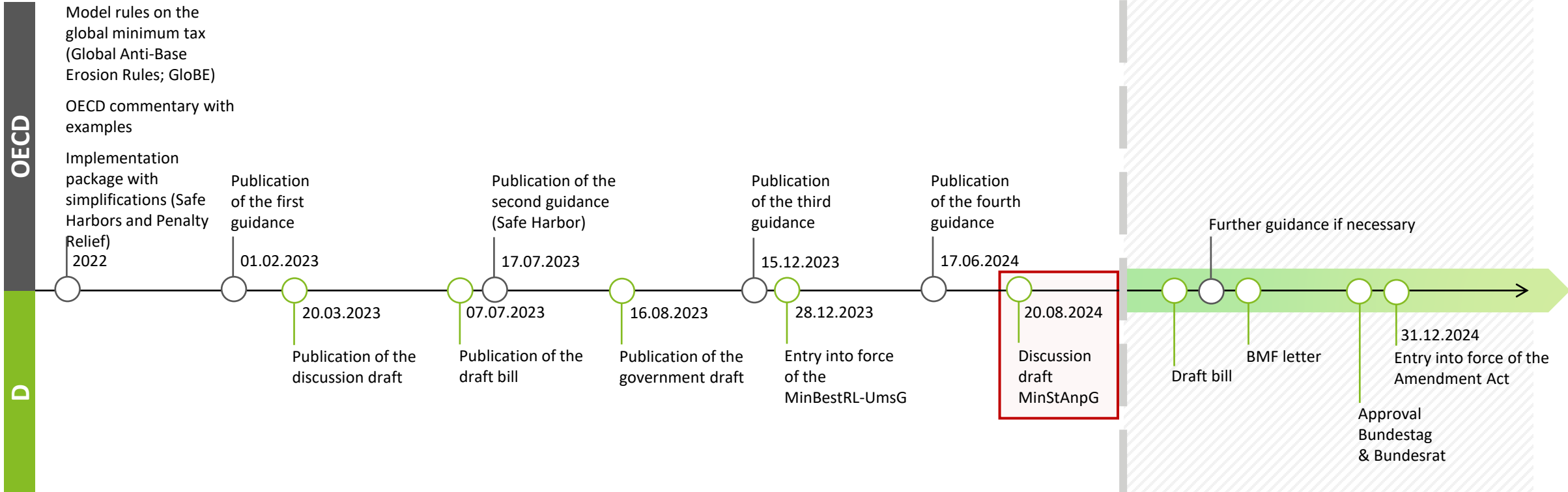
Overview: Pillar 2 - Background and development

Pillar 2 introduces a global minimum tax rate of 15% for multinational enterprises (MNEs)



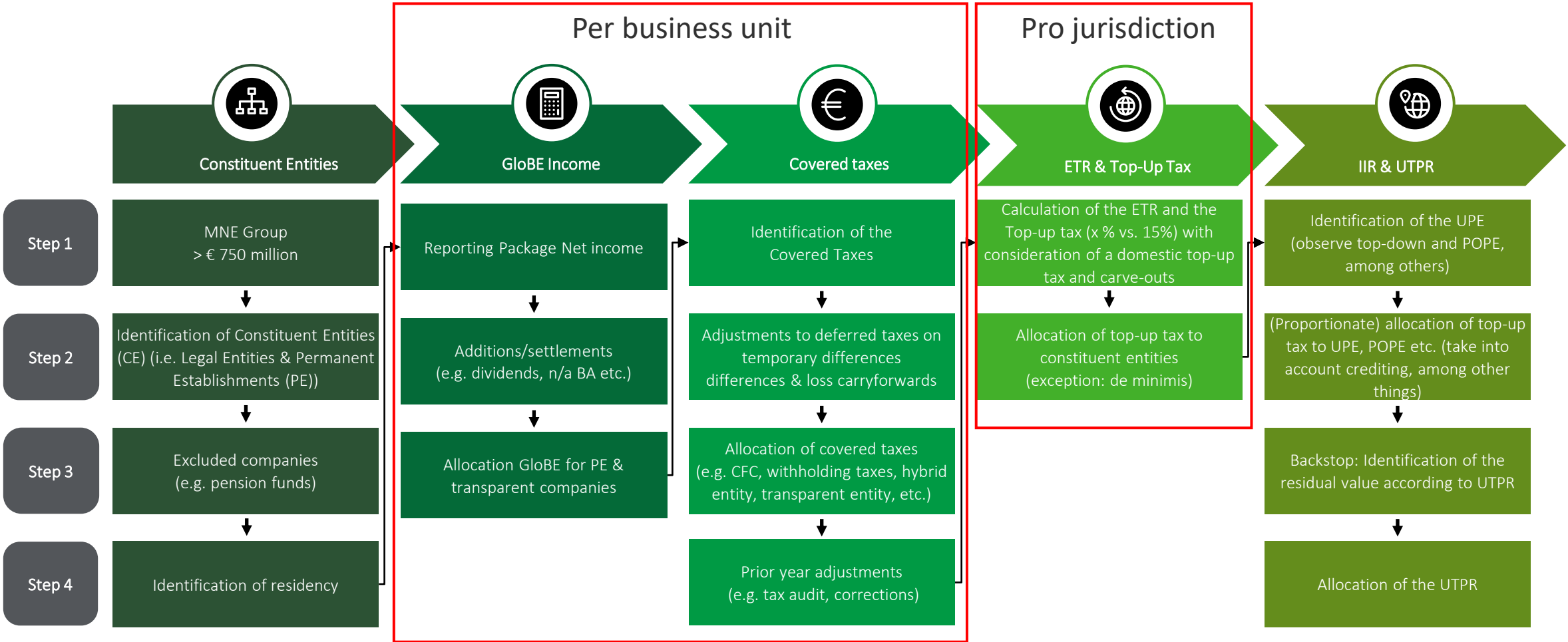
Minimum Tax Adjustment Act: developments and outlook

The MinBestRL-UmsG was passed by the German Bundestag on November 10, 2023 and came into force on December 28, 2023. The Federal Ministry of Finance has announced that it will implement further simplifications to the MinStG through an amendment act by the end of 2024. An initial discussion draft of the MinStAnpG was published on August 20, 2024.



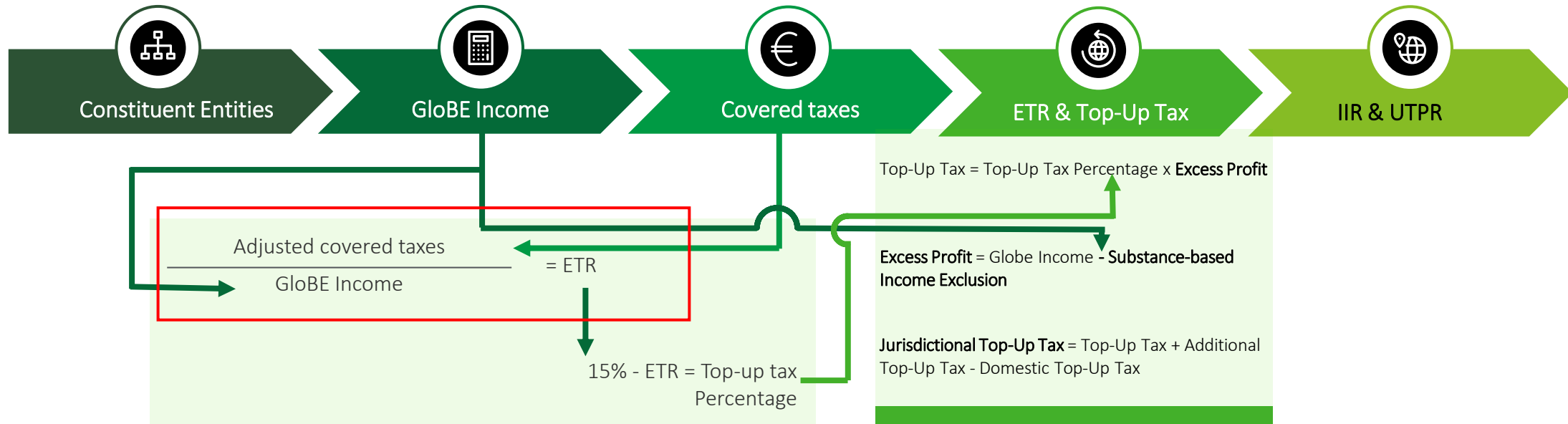
Pillar 2: System of legal regulation

The Model Rules, the EU Directive based on them and the German draft law set out the systematic procedure for the analysis and calculation system.



Pillar 2 | Effective Tax Rate Calculation

Pillar 2 follows a different approach to the calculation of other income taxes. Instead of applying a tax rate to an assessment basis, the adjusted taxes are divided by the amount of GloBE as an income figure in a fractional calculation in order to determine an effective tax rate.



Substance Carve-Out

- Does not start with the calculation of the ETR, but only with the top-up tax amount
- Substance-based carve-out: 5% payroll and 5% carrying value of tangible assets
- Calculation based on $(\text{start of year value} + \text{end of year value}) / 2$

Post-filing adjustments and additional top-up tax

- Subsequent adjustments to the covered taxes
- Standard case: Taken into account in the year in which the adjustment is carried out

- Substance is taken into account
- Total additional tax consists of consists of three elements
- Subsequent adjustments (e.g. tax audits, MAPs) lead to adjustments

Pillar 2: Significance for the legal department

Pillar 2 - Legal advisory fields with Pillar 2 effects



Financing structures within the Group

§ 26 MinStG

Group-internal financing agreements

(1) Expenses from intra-group financing agreements are not taken into account for the purposes of determining the minimum tax profit or minimum tax loss of a business unit. This only applies if, during the expected term of this agreement, it can be reasonably assumed that the income corresponding to the expenses will not lead to a corresponding increase in the taxable profit of the highly taxed creditor.



Design of stock option programs

§ 34 MinStG

Share-based payments

(1) At the request of the reportable business unit, the expenses reported by a business unit for a financial year in the minimum taxable profit or minimum taxable loss for the year that were paid for share-based payments may be replaced by the share-based payments permitted as operating expenses under the tax regulations of the state in which the business unit is located.



Joint venture formation/
Contract design

§ 67 MinStG

Joint venture

(1) The tax increment of the joint venture and its subsidiaries shall be calculated in accordance with Parts 3 to 7 and §§ 84 to 87 as if the subsidiaries were business units of an independent group of companies and the joint venture were their ultimate parent company

Pillar 2 - Legal advisory fields with Pillar 2 effects



Structuring an inbound investment

§§ 3, 4, 5, 7 MinStG

(20) A controlling interest is an interest in an entity that results in the holder of that interest being required, or would be required if consolidated financial statements were prepared, to consolidate the assets, liabilities, income, expenses and cash flows of the entity in accordance with a recognized accounting standard. In the case of a parent company, it is assumed that it holds the controlling interests in its operating facilities as a shareholder belonging to the group.



Change of legal form, in particular of the parent company into a partnership

§ 69 MinStG

Transparent ultimate parent company

(1) The minimum taxable profit determined for the financial year of a transparent entity that is the ultimate parent company of the corporate group shall be reduced by the proportion of the minimum taxable profit attributable to the shareholders of the equity investment,



(Intragroup) purchase/sale of assets

§ 66 MinStG

(1) A business entity that transfers assets or liabilities (transferring business entity) shall include the gains or losses on the transfer in the calculation of its minimum taxable profit or minimum tax loss. A business entity that acquires assets and liabilities (acquiring business entity) shall include the carrying amounts of the acquired assets and liabilities in the calculation of its minimum taxable profit or minimum tax loss based on the accounting standards applied by the ultimate parent company in the consolidated financial statements.

Pillar 2 - Legal advisory fields with Pillar 2 effects

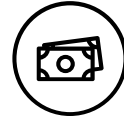


Restructuring within the Group

§ 66 (1) MinStG

(2) By way of derogation from para. (1), the following shall apply to the transfer or acquisition of assets and liabilities as part of a **minimum tax reorganization**

1. the result from the transfer of assets and liabilities is not taken into account when calculating the minimum tax profit or minimum tax loss of the transferring business unit, and
2. the calculation of the minimum tax profit or minimum tax loss of the acquiring business unit is based on the book values of the assets and liabilities of the transferring business unit at the time of the transfer (book value continuation).



Restructuring gains in the Group

§ 41 MinStG

Qualified restructuring income

(1) At the request of the reportable business entity, qualified reorganization income included in the minimum taxable income or minimum taxable loss of a business entity shall be excluded from the determination of minimum taxable income or minimum taxable loss.



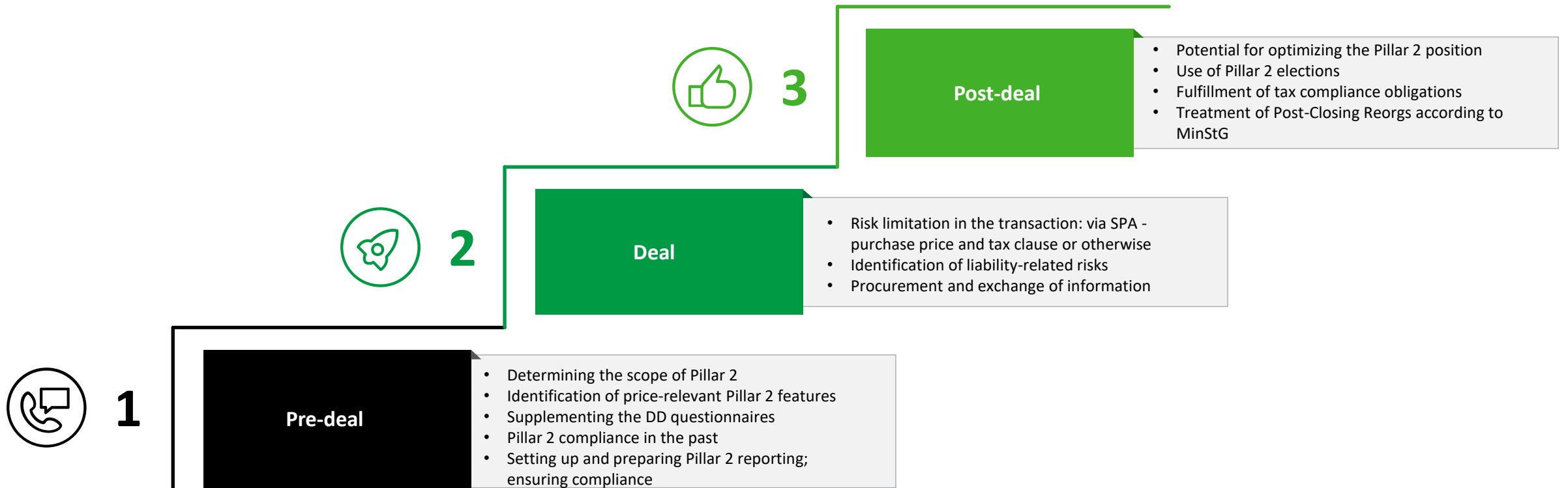
Data quality/regulations on fines

§ 98 MinStG

Paragraph 5 implements the internationally agreed temporary relief in the event of irregularities and criminal offenses. Appropriate measures within the meaning of this provision have been taken, for example, if corresponding compliance systems have been established within the Group. If the requirements of paragraph 5 are met, paragraph 1 does not apply from the outset. Furthermore, in this case, there is an indication that, with regard to the general taxation procedure and Part Eight of the German Fiscal Code, the due diligence required in dealings has been observed and therefore there can be no recklessness as a rule.

Pillar 2 - Impact on M&A transactions

Pillar 2 in the transaction phases



Q & A



**Thank you very
much**
for your attention

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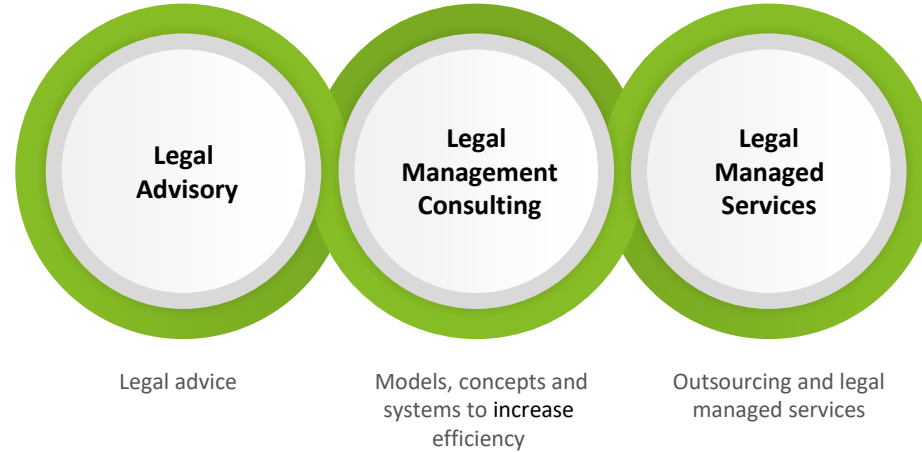
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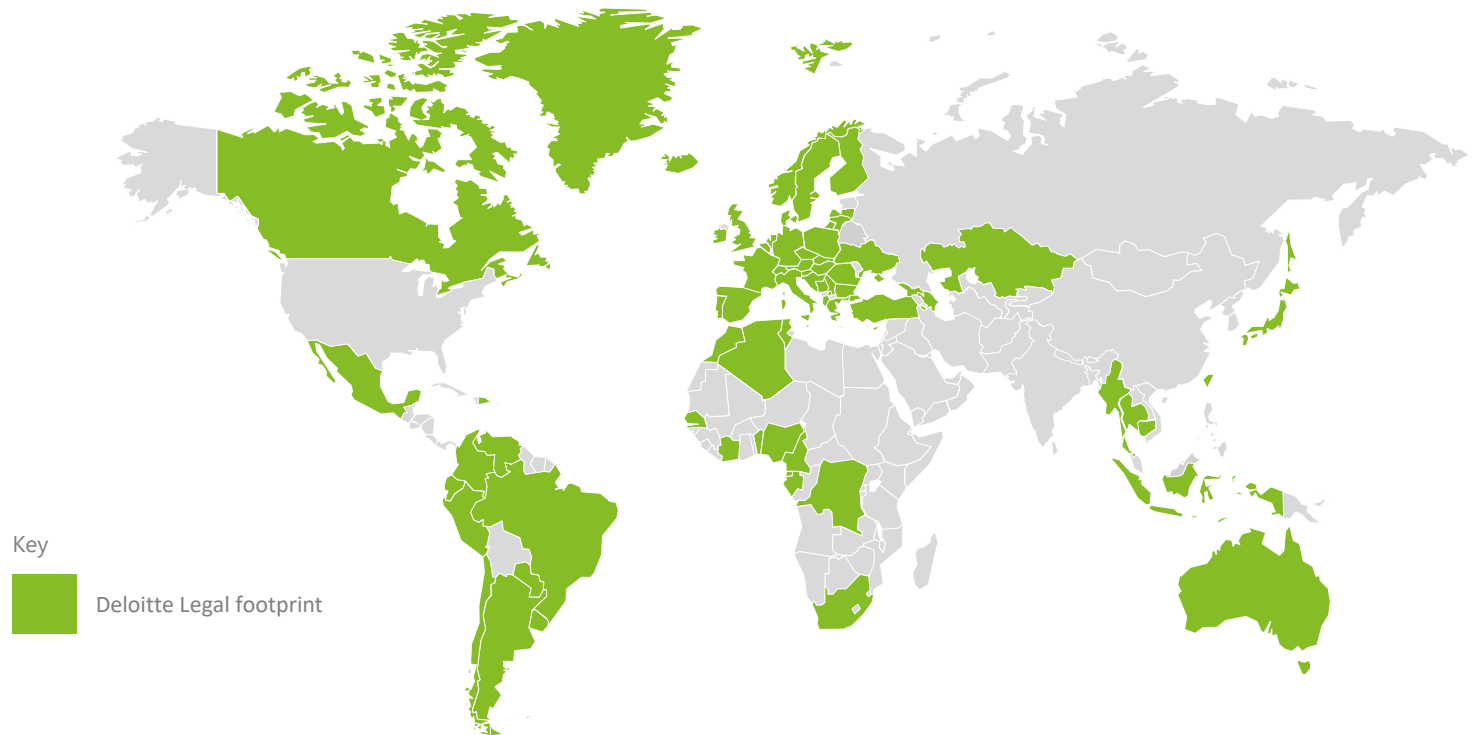
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