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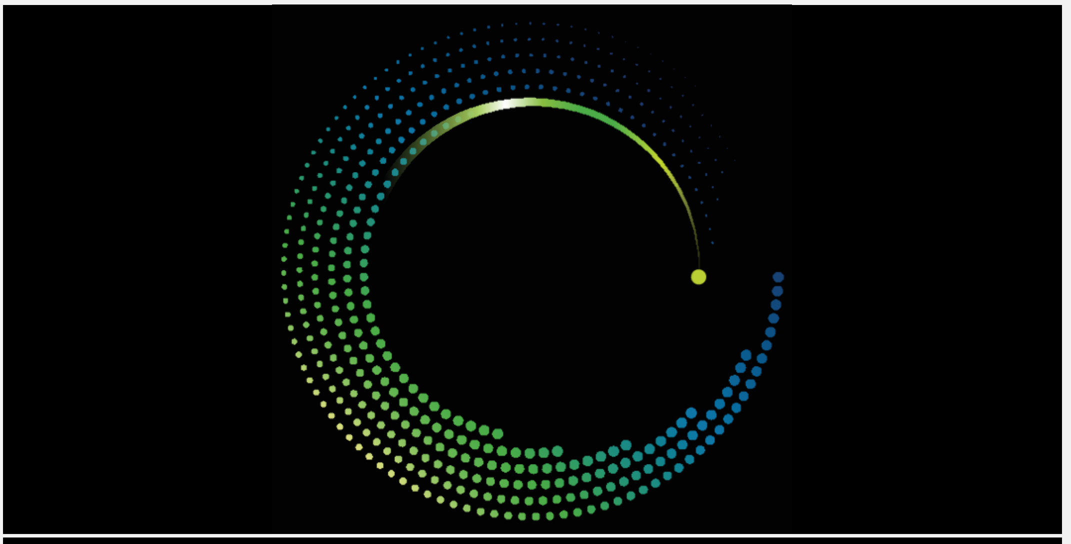

Tax Bytes

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Greetings from your Tax & Legal team at Deloitte Singapore.

We are pleased to update you on the following:

Public Consultation on Proposed Multinational Enterprise (Minimum Tax) Bill 2024

On 10 June 2024, the Ministry of Finance (MOF) released the draft Multinational Enterprise (Minimum Tax) Bill and subsidiary legislation on the determination of GloBE income or loss and adjusted covered taxes[1] for public consultation. This draft legislation aims to implement a Domestic Top-up Tax (DTT) and the Income Inclusion Rule (IIR) under Pillar Two of the Base Erosion and Profit Shifting (BEPS) 2.0 initiative, in accordance with the Budget 2024 Statement announced on 16 February 2024.

In addition, the MOF has issued the draft Income Tax (Amendment) Bill 2024 for public consultation. For more details, please refer to our tax alert on the draft Income Tax (Amendment) Bill 2024 at the link here.

[1] Multinational Enterprise (Minimum Tax) Regulations 2025.

New Multinational Enterprise (Minimum Tax) Bill 2024

The proposed Multinational Enterprise (Minimum Tax) Bill 2024 and subsidiary legislation introduce new tax provisions for in-scope multinational enterprise (MNE) groups, defined as those with annual group revenue of EUR 750 million or more in at least two out of four preceding the tested years. These provisions would apply to in-scope entities' financial years commencing on or after 1 January 2025. The key provisions include the introduction of:

- a DTT which ensures an effective tax rate of at least 15% is imposed on low-taxed profits of in-scope MNE groups' constituent entities (CEs) operating in Singapore; and
- the IIR, referred to as the Multinational Enterprise Top-up Tax (MTT), which ensures that an effective tax rate of at least 15% is imposed on low-taxed profits of in-scope Singapore parented MNE groups' CEs operating outside Singapore.

We summarised the key provisions for DTT and MTT as follows:

No.	Section	Details of Section
Part 1: Preliminary		
1.	15—"GloBE income or loss" and "FANIL"	• This Section specifies how the GloBE income or loss is determined. This figure determines the tax base used to assess the effective tax rate (ETR) for each jurisdiction in which the MNE operates. • The financial account net income or loss (FANIL) of a constituent entity (CE) represents the starting point for calculating GloBE income. Broadly, the FANIL of a CE should be based on the accounting standards that are used in the preparation of the ultimate parent entity (UPE)'s consolidated financial statements, although exceptions apply. Generally, in calculating the DTT, the FANIL of a Singapore CE will be its net income or loss based on its financial statements prepared in accordance with Singapore Financial Reporting Standards, provided that: a. All CEs of the MNE group located in Singapore must have the same financial year as the UPE. b. Financial statements for these entities must be prepared in accordance with the Accounting Standards made or formulated under Part 3 of the Accounting Standards Act 2007. This applies if the entities are required to do so under any written law in Singapore or if their financial statements are audited by an external auditor. Otherwise, the FANIL is arrived at based on the accounts used by the CE in preparing the consolidated financial statements of the UPE of the MNE group for that financial year.
2.	17—Minimum rate	The minimum tax rate is set at 15%.

3.	18—MNE group to which this Act applies	Applicability to MNE groups defined as those with annual consolidated group revenue of EUR 750 million or more in at least two out of the four fiscal years preceding financial years beginning on or after 1 January 2025.

Part 2: MTT

4.	22—Entity chargeable with MTT	This Section defines the entities that are subject to MTT obligations.
5.	29—De Minimis	The de minimis rule excludes MNE groups from top-up taxes if their average revenue is less than EUR 10 million (or its equivalent in other currency) and the average GloBE income or loss is under EUR 1 million (or its equivalent in other currency) for the current and preceding two financial years.
6.	30—GloBE Safe Harbours	Details of the GloBE safe harbours would be contained in subsidiary legislation. However, the current draft subsidiary legislation does not include the GloBE safe harbours.
7.	31—Additional current top-up amount for constituent entities other than special entities	• This section details the conditions under which an additional current top-up tax amount arises, particularly when the aggregate GloBE income or loss is nil or negative and the aggregate adjusted covered taxes are less than 15% of that amount. • It also provides mechanisms for addressing excess negative taxes, including options for carrying negative tax amounts.

Part 4: Registration of MNE Group and designation of designated local GloBE information return (GIR) filing entity and designated local DTT filing entity

8.	41—Registration of in-scope MNE group.	• The UPE of an in-scope MNE group must notify the Comptroller of its liability to be registered within 6 months after the end of the financial year or within an extended period. • The notification must include details such as the liability to register, the identities of CEs and joint ventures located in Singapore and whether the GIR has been or will be filed with a competent authority outside Singapore.

Part 5: Returns, payment of MTT and DTT and information gathering powers

Division 1—Returns and Payment of MTT

9.	50—GloBE information return	• The CEs of an in-scope MNE group must designate a CE located in Singapore as the designated local GIR filing entity as the designated local GIR Filing Entity (GFE) for MTT purposes. • The GFE must file a GIR[2] in Singapore within 15 months after the end of each financial year (or 18 months after the end of the transition year) if a similar return has not been filed by a filing entity of the MNE group in another jurisdiction. If a similar return has been filed in another jurisdiction, the GFE

[2] A tax return filed by parent entities that are liable to MTT. It contains the MNE group's assessment of the MTT liability in Singapore.

		must notify the Comptroller of the particulars of the filing entity and the jurisdiction where it is located. In addition, UPEs located in Singapore liable to MTT must file the MTT return[3] within 15 months after the end of each financial year (or 18 months after the end of the transition year). • If a similar return has been filed in another jurisdiction the GFE must notify the Comptroller of the particulars of the filing entity and the jurisdiction where it is located.
10.	51—Returns of MTT	CEs of in-scope MNE groups in Singapore that falls within the scope of the MNE (Minimum Tax) Bill are required to file MTT returns within 15 months after the end of each financial year (or 18 months after the end of the transition year).
11.	52—Payment of MTT	Any MTT payable must be paid in Singapore dollars no later than one month after the due date for the return unless the Comptroller grants an extension of time.

Division 2—Returns and Payment of DTT

12.	53—Returns of DTT	The designated local DTT filing entity of a registered MNE group must file a DTT return within 15 months after the end of each financial year (or 18 months after the end of the transition year).
13.	54—Payment of DTT	Any DTT payable must be paid no later than one month after the due date for the return. If the designated local DTT filing entity of a registered MNE group fails to pay DTT, the DTT may be collected from the other CEs located in Singapore on a joint and several basis.
14.	55—Election to pay amount attributable to CE separately	Subject to conditions, in-scope MNE groups may also opt for certain CEs to be assessed separately on its allocated DTT.

Based on the above, we have summarised with an example below, the key deadlines of an in-scope MNE group with CEs in Singapore with a financial year end of 31 December 2025:

Event	Deadline	Relevant section
Registration of in-scope MNE group	30 June 2026 (generally 6 months from the end of the financial year)	41 (Registration of in-scope MNE group), read with 18 (MNE group to which this Act applies)
Filing of GIR, Returns of MTT and DTT, where applicable	• 31 March 2027 (generally 15 months from the end of the financial year); or • 30 June 2027 (generally 18 months from the	50 (GloBE information return) 51 (Returns of MTT) 53 (Returns of DTT)

[3] A filing return that responsible members of a registered MNE must furnish to the Comptroller, stating they are chargeable with MTT for the financial year and if so, the amount of top-up tax for each relevant entity.

	end of the financial year if it is a transition year*)	
Payment of MTT and DTT, where applicable	• 30 April 2027; or • 31 July 2027 if it is a transition year*. (generally 1 month from the due date of the MTT or DTT return)	52 (Payment of MTT) 54 (Payment of DTT)

*It is important to note that the transition year for an in-scope MNE group is defined as, among others, the first financial year that any CE of that MNE group is subject to the MTT, the DTT, a qualified IIR or a qualified UTPR. If an in-scope MNE group has a CE in a jurisdiction that has begun imposing an IIR for financial years beginning on or after 1 January 2024, the transition year for that MNE group would be 2024, rather than 2025 when the Multinational Enterprise (Minimum Tax) Act is expected to take effect.

Upon becoming law, the Multinational Enterprise (Minimum Tax) Act will be construed as part of the Income Tax Act 1947 (ITA). Provisions related to administration, enforcement, and appeals under the ITA will also apply to DTT and MTT, with specific modifications outlined in the Act.

Proposed amendments to the ITA

The proposed Multinational Enterprise (Minimum Tax) Bill 2024 includes amendments to the ITA to clarify the tax treatment of taxes imposed by Singapore and foreign jurisdictions under Pillar Two of the BEPS 2.0 initiative. These amendments address whether such taxes qualify for tax deductions and foreign tax credits and whether they meet the conditions for the foreign-sourced income exemption (FSIE) regime:

No.	Proposed legislative change	Details of proposed legislative changes and our comments	Amendment to ITA [Clause in proposed Multinational Enterprise (Minimum Tax) Bill
1.	Tax treatment for IIR/ Undertaxed Profits Rule (UTPR)[4] imposed by foreign jurisdictions	All qualified IIR, qualified UTPR and all substantially similar tax imposed by a foreign jurisdiction will **<u>not</u>**: a. Be allowed tax deduction; b. Be eligible for foreign tax credit; c. Meet the "subject to tax" condition under the FSIE regime and the foreign tax credit pooling system; and d. Be considered in the determination of the foreign headline tax rate condition under the FSIE regime and the foreign tax credit pooling system.	Clause 94 of the Proposed Multinational NE (Minimum Tax) Bill amending Sections: • 2(1), • 2A(6)(b), • 13(9)(a), • 13(9)(b), • 15(1)(ga), • 49(1), • 50(1A)(b), • 50A(1A)(b),

[4] The implementation of UTPR in Singapore will be considered at a later stage (Source: Global Anti-Base Erosion (GloBE) Rules and Domestic Top-up Tax (DTT) (iras.gov.sg))

			• 50C(2)(a), and • 50C(2)(b)
2.	Tax treatment for Domestic Minimum Top-up Tax (DMTT) imposed by foreign jurisdictions	All qualified DMTT, or any substantially similar tax imposed by a foreign jurisdiction will **not**: a. Be allowed tax deduction; b. Be eligible for foreign tax credit, subject to conditions; c. Meet the "subject to tax" condition under the FSIE regime and the foreign tax credit pooling system; and d. Be considered in the determination of the foreign headline tax rate condition under the FSIE regime and the foreign tax credit pooling system.	Clause 94 of the Proposed Multinational Enterprise (Minimum Tax) Bill amending Sections: • 2(1), • 2A(6)(b), • 13(9)(a), • 13(9)(b), • 15(1)(ga), • 49(1), • 50(1A)(b), • 50A(1A)(b), • 50C(2)(a), and • 50C(2)(b)
3.	Tax treatment for MTT and DTT imposed by Singapore	No tax deduction allowable on the MTT or DTT imposed.	Clause 94 of the Proposed MNE (Minimum Tax) Bill amending Sections 2(1), 2A(1) to 2A(5), 2A(6)(a) and 15 (1)(g) in the ITA.

Subsidiary legislation [Multinational Enterprise (Minimum Tax) Regulations 2025]

The Multinational Enterprise (Minimum Tax) Regulations 2025 broadly aligns with the OECD's Pillar Two rules and provide details on several key aspects. These include:

- the adjustments to FANIL and the qualifying current and deferred tax expenses;
- exclusion of international shipping income and ancillary international shipping income;
- optional elections; and
- post-filing adjustments.

The Regulations also outline specific definitions for tax credits to stipulate their treatment for the purposes of MTT and/or DTT. Defined terms include:

- Qualifying Refundable Tax Credit (QRTC): These are tax credits that meet the refundability requirement. Broadly, the tax credit must be paid in cash or cash equivalents to an entity within four years of the entity meeting the conditions for such payment under the law of the jurisdiction granting the tax credit.

- Transferable Tax Credit: These are tax credits (other than tax credits that meet the refundability criteria, i.e., QRTCs) that meet the legal transferability requirement.

- Marketable Transferable Tax Credit (MTTC): These are tax credits that meet the legal transferability requirement (and are hence transferable tax credits) **and** meet the marketability requirement.

Briefly, QRTCs and MTTCs are treated as adjustments to FANIL. Specifically, QRTCs are treated as income, while MTTCs are treated as income or loss for the originator or purchaser, depending on the facts and circumstances.

Other tax credits are generally accounted for as a reduction to tax expenses. Where a purchaser of a non-MTTC incurs a net loss, which may be due to a subsequent transfer of the credit at a lower price or the expiry of unutilised credits, the net loss is treated as a loss for the financial year in which the transfer or expiry of the tax credit occurs.

Deloitte Singapore's views

The MOF invites public feedback on the proposed Multinational Enterprise (Minimum Tax) Bill and subsidiary legislation, which is open until 5 July 2024.

In summary, the proposed Income Tax (Amendment) Bill 2024, focusing on the Multinational Enterprise (Minimum Tax) Bill, represents a significant step in aligning Singapore's tax framework with the global standards set by the OECD's BEPS 2.0 initiative. These legislative changes aim to enhance the transparency, fairness, and efficiency of our tax system making Singapore a competitive destination for MNEs.

We encourage all stakeholders to review the proposed changes and participate in the public consultation process. Your feedback is invaluable in shaping a tax environment that supports economic growth and competitiveness while adhering to international tax norms.

As always, the Deloitte team remains available to assist you with any questions or clarifications regarding the proposed legislative changes. We aim to support you in understanding these changes and adapting your tax strategies in response to the evolving regulatory landscape.

Read more

Contacts

Should you have any comments or questions arising from this newsletter, please contact either the listed contacts below, or any member of the Singapore Tax & Legal team.

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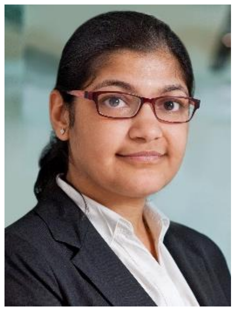

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