UNDERSTANDING THE GLOBAL MINIMUM EFFECTIVE TAX ON MULTINATIONALS

Pillar 2: General Principles, Overview and Scope

GLOBAL TAX TEAM

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A New International Tax Regime 2.0

BEFORE	NOW
INTERNATIONAL TAX REGIME 1.0	**INTERNATIONAL TAX REGIME 2.0**
• Physical presence requirement • Arm´s length standard (for TP) • Benefit principle • Source taxation of active income • Residence taxation of passive income	• Lack physical presence (Amount A) • Formulary approach (Amount B) • Single tax principle (Pillar 2) • Taxation by residual country to prevent double non-taxation: ✓ Residence taxation of active income (IIR) ✓ Source taxation of passive income (UTPR & STTR)

Pillar 2: General Principles

POLICY OBJECTIVES

1. Ensure MNEs pay a minimum rate of tax in every jurisdiction they operate in
2. Reduce the incentive to shift profits to low or no tax jurisdictions (BEPS)
3. Place a floor on tax competition between jurisdictions

COMMON APPROACH

- Inclusive Framework members are NOT required to adopt GloBE rules
- GloBE rules must be implemented consistently with Pillar 2 outcomes
- Accept application of GloBE rules by other Inclusive Framework members

IMPLEMENTATION

- Pillar 2 builds on the BEPS project
- Effectiveness of GloBE rules relies on consistent implementation across different jurisdictions
- National consultations to translate GloBE rules into domestic law

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PILLAR 2: CHARGING MECHANISMS

GLOBE RULES

INCOME INCLUSION RULE (IIR)

- Top-up tax on UPE in respect of the low taxed income of its subsidiaries
- Operates as a minimum tax (GILTI)
- Protects tax base of UPE

UNDERTAXED PAYMENT RULE (UTPR)

- Functions as a back-up rule to IIR
- Denies deductions or equivalent adjustment for undertaxed payments
- Allocation based on where tangible assets and employees are located

NON-GLOBE RULES

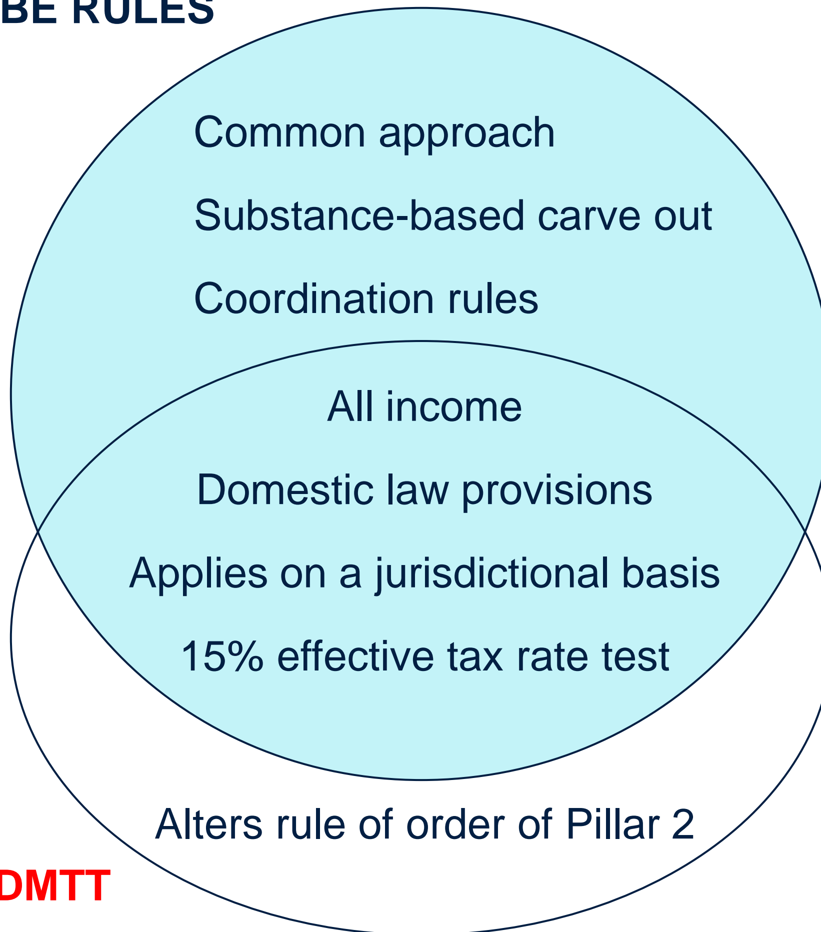
SUBJECT TO TAX RULE (STTR)

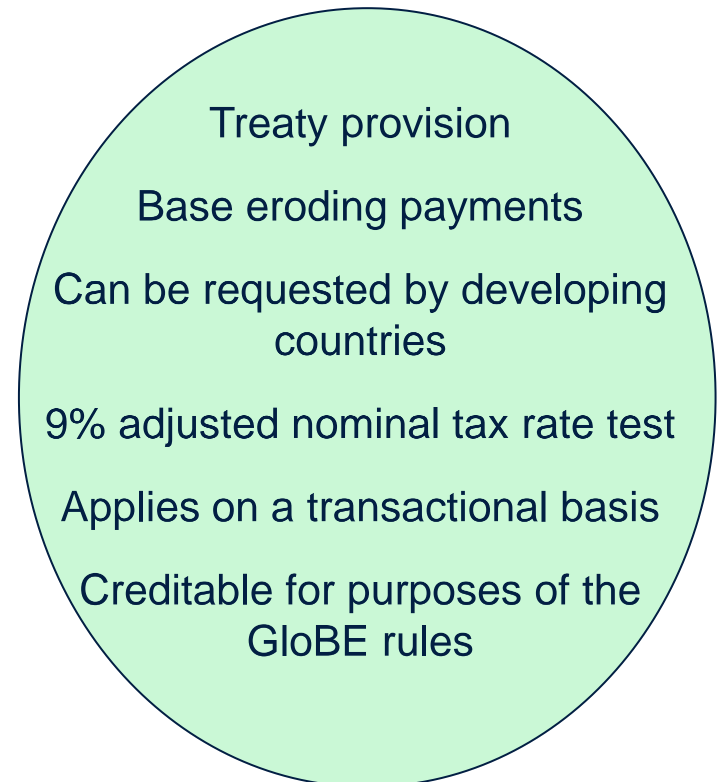
- Denies treaty benefits in the absence of sufficient taxation below minimum rate
- Applies to certain related party payments
- Creditable as covered tax under GloBE
- Requires changes to domestic laws and tax treaties

QUALIFIED DOMESTIC MINIMUM TOP-UP TAX

- Prevents application of IIR and UTPR
- Collects domestic top-up tax from Pillar 2
- Creditable against any top-up tax due

Pillar 2: Overall Design





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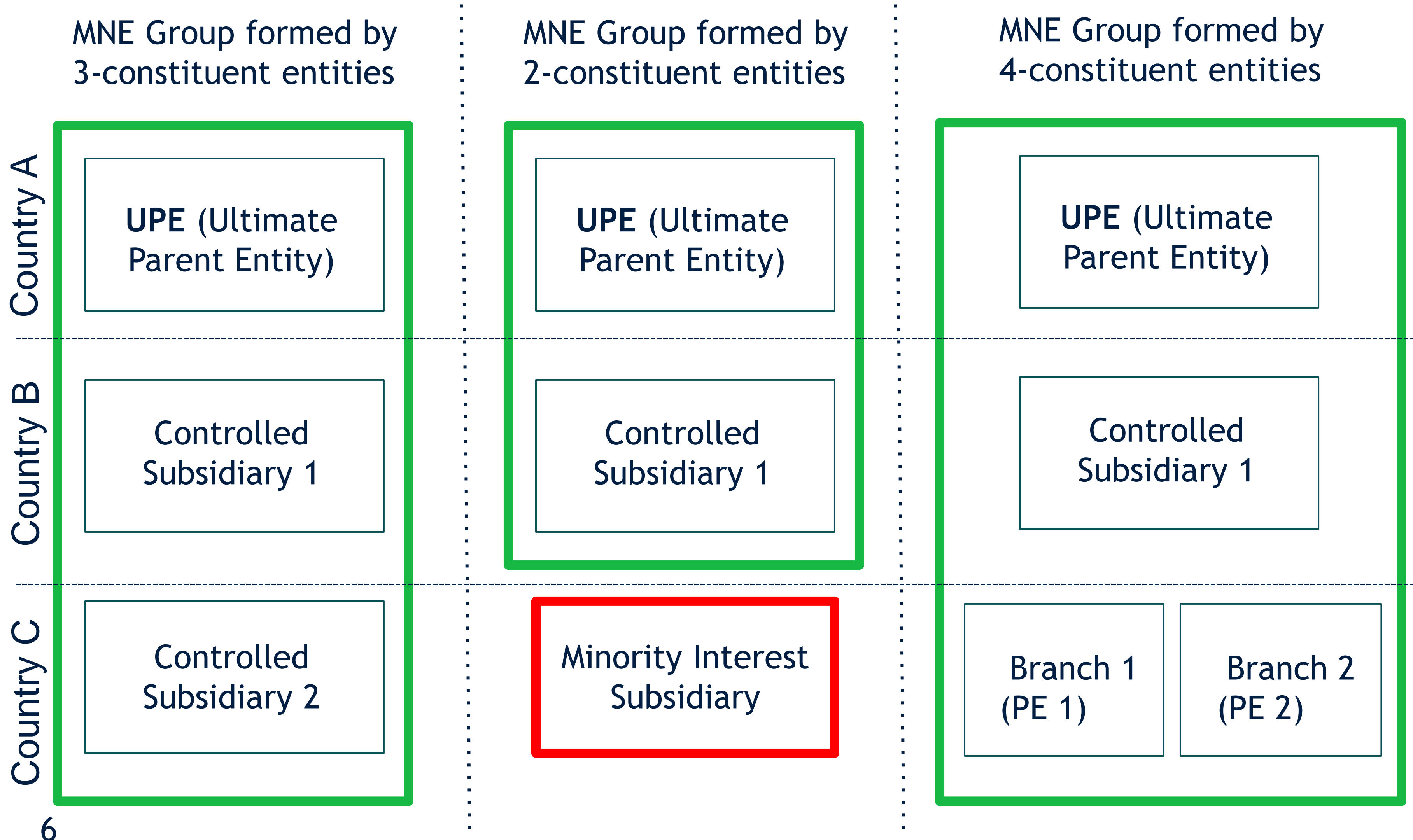
GLOBE RULES: SCOPE

Scenarios	**MNE Group** *Does business operate in more than one jurisdiction?*	**Revenue >750 M €** *Consolidated revenue in at least 2 out of 4 previous fiscal years*	**In Scope of GloBE Rules?**
#1	✓	✓	✓
#2	✓	✗	✗
#3	✗	✓	✗
#4	✗	✗	✗

- These rules are similar to the rules in Country-by-Country Reporting (CbCR) and in practice will mean MNEs are only within scope of GloBE when also in CbCR scope.
- Special threshold rules apply to mergers, demergers and multi-parented groups.

GLOBE Rules: MNE Group



GLOBE Rules: Special Rules & Excluded Entities

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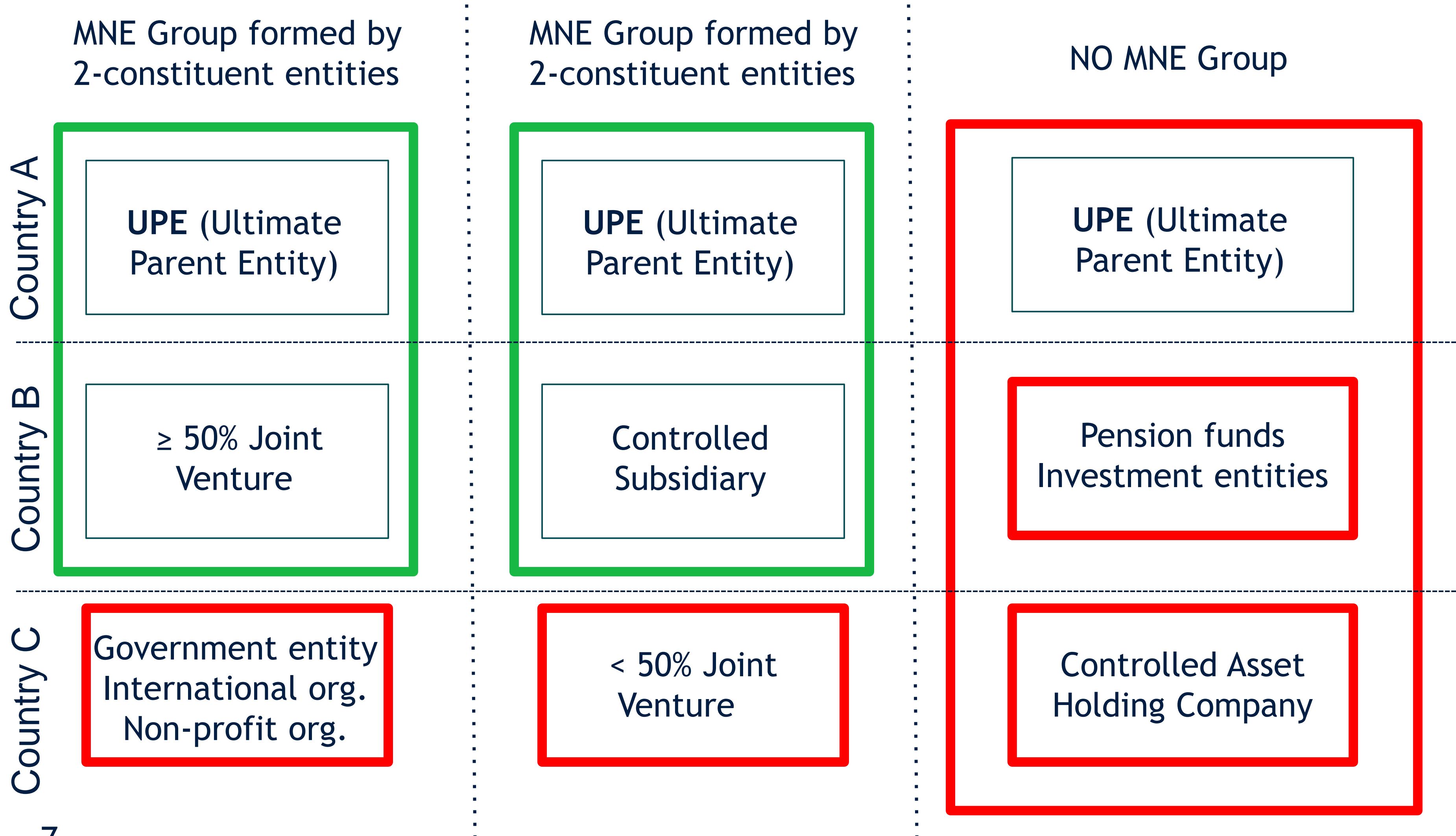
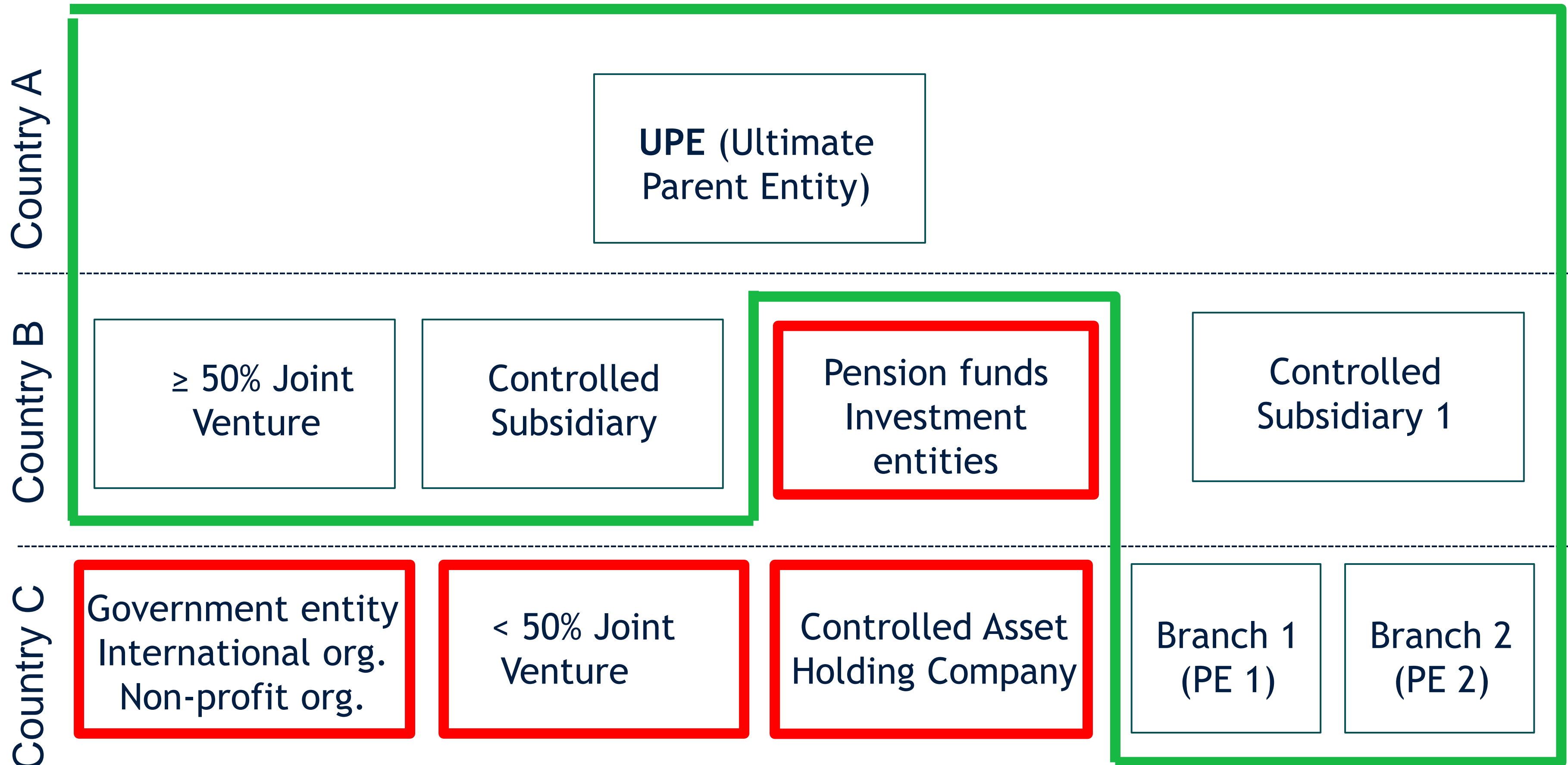


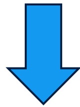
GLOBE RULES: CONSTITUENT ENTITIES

MNE Group formed by
6-constituent entities



GLOBE Rules:
Effective Tax Rate (ETR) & Top-Up Tax

$$\frac{\text{Covered taxes calculated on a jurisdictional basis}}{\text{GloBE income calculated on a jurisdictional basis}} = \text{Jurisdictional Effective Tax Rate (ETR)}$$



Jurisdictional Excess Profit
=
GloBE Income – Substance Based Carve-Out

Top-Up Tax %
=
Minimum Rate – ETR

Jurisdictional Top-Up Tax = (Excess Profit x Top-Up Tax %) - QDMTT

GLOBE Rules: Steps to Calculate the ETR

Step 1: Identify which constituent entities are in the jurisdiction

Step 2: Calculate a constituent entity´s GloBE income to be included in denominator

Step 3: Make certain adjustments to the financial accounting income

Step 4: Determine the taxes paid by the constituent entity to be included in numerator

ETR - Step 1: Identify the Constituent Entities

- Most constituent entities will be located in the jurisdiction where they are tax resident. In the absence of tax residency, the entity will be located in the country where it was created
- Transparent entities (like partnerships) are treated as “stateless” constituent entities, and their ETR is calculated separately from the income and tax of other entities.
- Model Rules distinguish between transparent entities and their owners.
- Permanent establishments are located in the jurisdiction where they are treated as a PE.
- Model Rules also include a tie-breaker provision in the event a constituent entity would otherwise be located in more than one jurisdiction.

ETR - Step 2: Calculate the GloBE Income (Denominator)

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- It is based on the entity´s financial accounting profit, which is then subject to adjustments.
- Adjustments are intended to bring the GloBE base (denominator in the ETR calculation) more into line with a measure of taxable profit in that jurisdiction.
- Income should be calculated according to the accounting standard of its Ultimate Parent Entity (UPE) and therefore reflect its consolidated financial statements* (see next slide).
- The UPE must either prepare its accounts under an acceptable accounting standard or correct any material permanent differences that could give unfair competitive advantage.
- In certain cases, the MNE is permitted to calculate the entity´s income based on the accounting standard it uses to prepare its own financial statements, as long as the information is reliable and differences in excess of €1 million are adjusted.

ETR - Step 3: Make Adjustments to Accounting Profit

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- Adjustments reflect significant differences between accounting and tax measures of profit which do not reverse out over time.
- These adjustments include: (1) removing qualified dividend income from shareholding above 10% or held for more than 12 months; (2) removing gains or losses from the sale of shareholdings above 10%; (3) removing gains and losses from reorganizations; (4) adjustments to deal with foreign exchange gains and losses; and (5) adjustments to address differences between tax and accounting treatment of benefit pension schemes.
- Additionally, MNE groups may elect to: (1) remove profits and losses from intragroup transactions within the same jurisdiction; (2) substitute the accounting expenses in relation to share-based payments; and (3) tax gains and losses on a realization basis.
- There is an anti-avoidance rule to target intra-group financing arrangement that attempt to inflate the ETR in a low-tax jurisdiction through exploiting accounting mismatches.

ETR - Step 4: Determine the Covered Taxes

- Covered taxes are the taxes on income paid by the constituent entity in the jurisdiction.
- Covered taxes include: (1) corporate income taxes; (2) withholding taxes; and (3) other taxes imposed in lieu of a corporate income tax.
- Taxes on payroll or sales will not be counted.
- The amount of covered taxes paid is determined by looking to the current tax expense recorded in the financial statements.
- This is then subject to certain adjustments, for example:
  1) To exclude any tax which is paid in respect of income excluded from GloBE income.
  2) To add any covered taxes that have been treated as an expense in the accounts (i.e. deferred tax adjustment for depreciation – *see slide on timing differences*)

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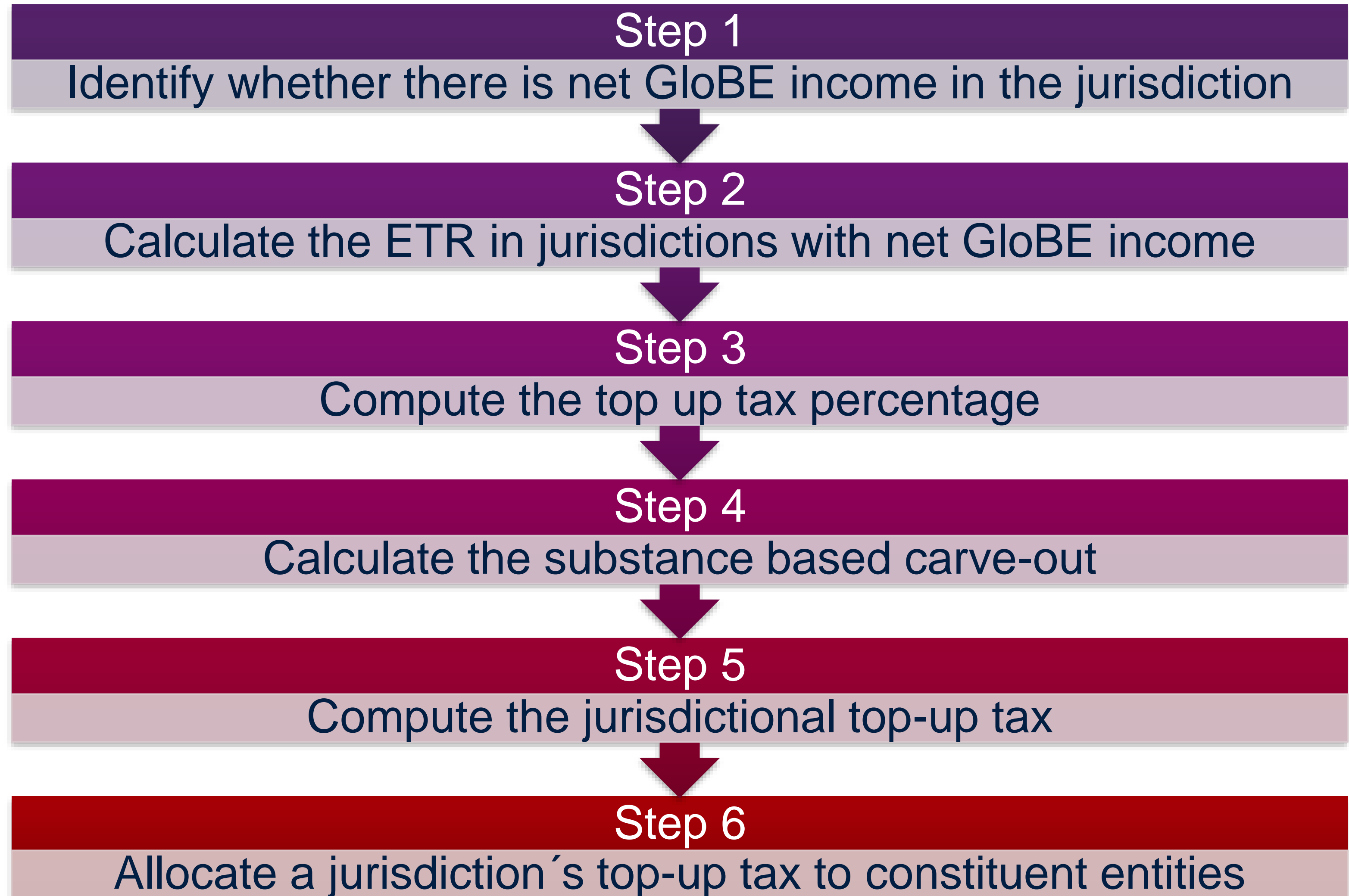
ETR - Step 4: Assigning Cross-Border Taxes

- Model Rules contain rules to assign certain covered taxes between jurisdictions, which seek to assign the tax to the jurisdiction where the income is recognized.
  - For example, taxes paid by a (head office) entity on the profits of its permanent establishments are assigned to the jurisdiction where the branch is located.
  - Also, CFC charges are "pushed down" to the CFC so that the tax and income are aligned. Similar rules exist for transparent entities, hybrid entities and reverse hybrids
- However, CFC charges and taxes on hybrid entities can only be pushed down to achieve the minimum rate on passive income.
- Withholding taxes are generally assigned to the constituent entity that recognizes the income in their financial accounts (i.e., the entity that suffers the burden of the tax) rather than the entity that deducts the tax on payment. Exception: withholding taxes on dividends

ETR - Step 4: Refundable Tax Credits

- The treatment of tax credits in the Model Rules depends on their refundability.
- Tax credits that are refundable within 4 years of the year in which the taxpayer became entitled to the credit are treated as Qualified Refundable Tax Credits, and therefore are treated as GloBE income and included in the GloBE income of the constituent entity.
- Non-refundable tax credits (or credit where a refund only becomes due after 4 years) are conversely treated as a repayment of tax. Hence, the credit is subtracted from the covered taxes (and is excluded from the GloBE income).
- These rules closely follow the relevant accounting treatment and reflect that the value of the credit depends on the entity´s tax position when it is non-refundable, whereas a refundable tax credit paid regardless of the entity´s profitability is equivalent to a grant.

GLOBE Rules: Steps to Calculate the Top-Up Tax



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Top-Up Tax - Step 1: Identify the Net GloBE Income

- Profit is determined in each jurisdiction by simply aggregating the GloBE income and GloBE losses of all the constituent entities in the jurisdiction.
- If the result of this computation is positive, the ETR will need to be calculated for that jurisdiction.
- The only exceptions to this are:
  1. when the jurisdiction qualifies for the *de minimis* rule, which applies when:
     a. the GloBE revenue in the jurisdiction is below €10 million, AND
     b. the GloBE income in the jurisdiction is below €1 million.
  2. when the jurisdiction qualifies for a GloBE safe harbour.

Top-Up Tax - Step 2: ETR in Jurisdictions with Net GloBE Income

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- This step calculates the ETR for the jurisdictions with net GloBE income to identify low tax jurisdictions.
- To calculate the ETR, the adjusted covered taxes of the constituent entities in the jurisdiction are also aggregated.
- The ETR is computed by dividing the aggregate adjusted covered taxes by the net GloBE income (if any) in the jurisdiction.
- The ETR is calculated for each individual stateless entity without any blending with other entities.
- Investment entities are required to calculate their ETR on a standalone basis without blending or aggregating their results with other constituent entities in the jurisdiction. The ETR calculation excludes any income or taxes which belong to minority shareholders.

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Top-Up Tax - Step 2: ETR in Jurisdictions with Net GloBE Income

- The MNE can elect to treat the investment entity as a transparent entity for the purposes of the GloBE where the owner of the investment entity is subject to tax on a mark to market basis on the fair value of its interest in the entity.
- Where the election is made, the income and any taxes associated with that income will be included in the owner jurisdiction´s ETR calculation.
- Pillar 2 also applies to Joint Ventures that are at least 50% owned by the MNE group, unless the Joint Venture is an excluded entity or is itself an MNE group in scope of the GloBE rules.
- The profits and taxes of the Joint Venture are not blended with other constituent entities in the MNE group. This means the ETR of the JV group is calculated separately from the rest of the MNE group.

Top-Up Tax - Step 2: ETR in Jurisdictions with Net GloBE Income

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- Special rules apply to minority owned constituent entities.
- In some situations, financial standards can require entities to be consolidated even though the parent has less than 50% of the rights to profits.
- This is expected to be relatively uncommon but there are some structures where a parent is regarded as having control from an accounting perspective despite minority investors holding (in aggregate) the majority of the economic rights to the profits.
- The Model Rules include special provisions for these entities where the ultimate parent entity (UPE) holds less than 30% of the ownership rights in an entity it consolidates.
- These rules require the ETR of these entities and their subsidiaries to be calculated separately from any other constituent entities in the MNE group.

Top-Up Tax - Step 3: Compute the Top Up Tax Percentage

- The top up tax percentage is calculated when the ETR is below the 15% minimum rate.
- This is computed by subtracting the ETR from the minimum rate and represents the additional tax rate that needs to be charged on the low taxes profits to bring the tax up to the minimum.
- This top up tax percentage is applied to the profits that are in scope of the GloBE, which is the next GloBE income in the jurisdiction left in the jurisdiction after the Substance Carve-Out has been applied.
- This approach ensures that the substance based carve-out does not inappropriately increase the ETR in the jurisdiction.

Top-Up Tax - Step 4: Calculate the Substance Based Carve-Out

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- The GloBE rules include a formulaic carve-out which is designed to approximate the level of substance in the jurisdiction.
- This is based on a fixed percentage of the MNE group´s payroll costs and tangible assets in the jurisdiction.
- This amount is then deducted from the net GloBE income in the jurisdiction.
- The carve-out will be based on 5% of the carrying value of the payroll costs and tangible assets in the jurisdiction.
- There is an increased amount in the transition period which begins from 1 January 2023 and lasts for 10 years.
- In this period, the carve-out for payroll costs is 10% in the first year and then is reduced.
- Similarly, the carve-out for tangible assets is 8% in the first year and then later is reduced.

Top-Up Tax - Step 4: Calculate the Substance Based Carve-Out

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- The payroll costs that qualify for the carve-out include:
  1. Wages and salary costs.
  2. Employee benefits that provide a direct personal benefit to the employee (like health insurance and pension contributions).
  3. Payroll taxes and social security contributions borne by the employer.
- As refers to the tangible asset carve out:
  1. It is based on the average carrying value (net of accumulated depreciation) in the financial statements, and the asset must be located in the jurisdiction.
  2. The tangible assets which qualify include property, plant and equipment, natural resources as well as licenses for the use of immovable property or exploitation of natural resources.

Top-Up Tax - Step 5: Compute the Top Up in the Jurisdiction

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- The top up for the jurisdiction is calculated by deducting the substance based carve out from the Net GloBE income in the jurisdiction.
- The result is then multiplied by the top up tax percentage.
- Some countries may decide to introduce a domestic minimum tax in response to Pillar 2, in order to ensure any top up tax imposed on the profits of a group´s entities within their jurisdiction stays within their own jurisdiction.
- The top up collected under a qualifying domestic minimum tax is subtracted from the top up tax charged under the GloBE rules. This ensures that there is no over-taxation.
- A domestic minimum tax will be treated as qualifying if it imposes an additional top up tax to domestic entities and the top up is calculated on the same basis as the GloBE rules.

Top-Up Tax - Step 6: Allocate Top Up Tax to Constituent Entities

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- The final step is to allocate the jurisdiction´s top up tax to the individual constituent entities located in the jurisdiction.
- Allocating the top up tax to individual constituent entities ensures:
  1. the different charging rules (income inclusion rule and undertaxed payment rule) are coordinated, and that
  2. only the appropriate top up tax for the jurisdiction is collected without over or under taxation.
- The GloBE rules generally allocate the top up tax between the constituent entities based on their proportion of the GloBE income in the jurisdiction.
- There are special rules to deal with situations when top up taxes are payable when there is no GloBE income in the jurisdiction, like when ETR from previous year is recalculated.

Analysis of Charging Mechanisms

GLOBE RULES

INCOME INCLUSION RULE (IIR)

- Top-up tax on UPE in respect of the low taxed income of its subsidiaries
- Operates as a minimum tax (GILTI)
- Protects tax base of UPE

UNDERTAXED PAYMENT RULE (UTPR)

- Functions as a back-up rule to IIR
- Denies deductions or equivalent adjustment for undertaxed payments
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SUBJECT TO TAX RULE (STTR)

- Denies treaty benefits in the absence of sufficient taxation below minimum rate
- Applies to certain related party payments
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- Requires changes to domestic laws and tax treaties

QUALIFIED DOMESTIC MINIMUM TOP-UP TAX

- Prevents application of IIR and UTPR
- Collects domestic top-up tax from Pillar 2
- Creditable against any top-up tax due

INCOME INCLUSION RULE (IIR)

- The Income Inclusion Rule (IIR) takes the top up tax calculated for a low-taxed constituent entity and then charges this tax on the entity´s parent.
- The IIR is conceptually similar to a Controlled Foreign Company rule in that it charges a parent company tax which is calculated in relation to the low-taxed profits of its subsidiaries.
- Model Rules include a priority order which establishes the order in which the IIR applies.
- This priority order is designed to prevent the over-taxation that would result if multiple countries simultaneously sought to charge the same top up tax.

IIR: The Top-Down Approach

- The basic structure is to follow a top-down approach. This means the Ultimate Parent Entity (UPE) jurisdiction will usually have the first priority to collect the top up tax.
- Consequently, other jurisdictions cannot generally apply their IIR to other parent entities in the group when the UPE is subject to a qualified IIR.
  - The only exception to this is when minority shareholders hold at least 20% of a parent entity, lower down the group structure.
- If the UPE is not subject to a qualified IIR, an intermediate parent entity will be charged the IIR.
  - For these purposes, intermediate parent entities are entities that are controlled by the UPE and have an ownership interest in the low-taxed constituent entity.
  - However, investment entities are excluded.

IIR: Multiple Intermediate Parents

- There will also be structures where there are multiple intermediate parents that have an interest in the low-taxed constituent entity.
- In line with the top-down approach, an Intermediate Parent will not be charged the IIR if it is controlled by another Intermediate Parent which is subject to a qualified IIR.
- However, the IIR will not be switched off when the higher Intermediate Parent does not control the lower Intermediate Parent.
  - In this circumstance, the lower Intermediate Parent will charge its IIR, and the higher Intermediate Parent will reduce its share of the top up tax by the tax charged by the lower Intermediate Parent.
- This mechanism maximizes the amount of top up tax collected under the IIR, which in turn reduces the residual top up that is collected through the UTPR.

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IIR: Partially Owned Parent Entities (POPEs)

- There is a limited exception to the top-down approach when an Intermediate Parent Entity is more than 20% owned by minority investors outside the MNE group.
- There entities are referred to as Partially Owned Parent Entities (POPEs) in Model Rules.
- The POPE has the priority rights to apply the IIR notwithstanding the top-down approach.
- The definition of a POPE is satisfied when minority investors directly or indirectly own at least 20% of the ownership interests in the parent entity.
    - Therefore, the POPE definition doesn´t just cover the parent entity in which the minority investors directly hold their ownership,
    - but could also include subsidiaries of that parent entity too.
    - This means some structures may include chains of POPEs.

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IIR: Ordering Rules for POPEs

- There are ordering rules for POPEs, which will typically give priority to the highest POPE in the structure.
    - However, a lower POPE is only required to switch off its IIR when it is wholly owned by a higher POPE which is subject to the IIR.
- If the lower POPE is itself owned by multiple shareholders, whether they´re part of the MNE group or not, the lower POPE will apply its IIR.
- The OECD Model Rules require any parent entity (whether a UPE, Intermediate Parent or a POPE) to reduce its own liability under the IIR by the IIR tax charged by a POPE further down the group structure.
- This reduction is limited to the portion of the top up tax charged by the parent that reflects its interest in the POPE (i.e., that arises from its indirect ownership in the low taxed entity).

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IIR: Allocable Share of Parent´s Top Up Tax

- When a parent entity is subject to an IIR, it will be charged an amount based on the top up tax calculated for the relevant low-taxed constituent entity multiplied by its "allocable share" of that entity.
- The allocable share is a measure of the Parent´s rights to the profit of the low-taxed entity and is calculated based on accounting principles.
- It is calculated by hypothesizing how much of the low-taxed constituent entity´s GloBE income, the Parent entity would consolidate if it prepared consolidated financial statements.
- The OECD Model Rules require the MNE to make certain assumptions when performing this calculation, which are designed to ensure it achieves the right outcomes.

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UNDERTAXED PAYMENT RULE (UTPR)

- The UTPR is the second charging mechanism in the OECD Model Rules.
- Like the IIR, it starts from the calculation of top up tax for each jurisdiction.
  - However, it allocates the top up between jurisdictions in which the group has constituent entities based on where the group´s tangible assets and employees are located instead of by ownership.
  - This top up will then be charged on the constituent entities in the jurisdiction.
- The UTPR primarily functions as a back-up rule to the IIR since it aims at ensuring that top up tax is paid in respect of a low-taxed constituent entity when its parent entities are located in a jurisdiction that do not imposed an IIR.
  - However, the UTPR is also intended to ensure that low-taxed entities in the ultimate parent´s jurisdiction are also subject to top up taxation, to prevent any distortions.

UTPR: Interaction with the IIR

- The OECD Model Rules provide rules which are designed to give the IIR priority over the UTPR in charging low-taxed profits outside of the UPE jurisdiction.
- The UTPR does not apply:
  1. when the UPE is subject to a qualified IIR, or
  2. when all of the interests in the low-taxed constituent entity are held by parent entities which are subject to a qualified IIR.
- However, the UTPR will apply when all of the interests of a low-taxed constituent entity are not held by Parent Entities which are subject to a qualified IIR.
  - Yet, the top up tax collected under the UTPR is reduced by the amount which is charged under an IIR. This ensures the IIR still takes priority.
  - Example: if the total top up tax for the low-taxed constituent entity is 100, but 60 of that is charged under an IIR, the top up tax which is allocated under UTPR will be 40.

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UTPR: Allocation of the Top Up Tax

- The UTPR uses an allocation key to allocate the top up tax due to be collected under the UTPR between the jurisdictions in which the group has constituent entities and which have implemented a qualified UTPR.
- The allocation is calculated at a jurisdictional level and allocates the top up based on the proportion of the tangible assets and number of employees in each UTPR jurisdiction.
  - For example, if 5 jurisdictions implement the UTPR and 4 of those jurisdictions have 25% of the group´s tangible assets and employees and the 5th jurisdiction has 0%, the first 4 jurisdictions would each be allocated 25% of the top up.
- There are equal weights for the asset and employee factors.
- The data for this calculation can be taken from the MNE´s Country-by-Country report, which will minimize the additional compliance burdens of MNE and improve coordination by basing the calculation on existing, readily available, and objective data.

UTPR: How to Bring the Top Up Tax into Charge

- The Model Rules do not prescribe how a jurisdiction should bring the UTPR top up tax allocated to it into charge. This is left to jurisdictions to decide domestically.
  - However, the outcome must be to produce an additional cash tax expense in that jurisdiction equal to the top up allocated to it.
- There are 2 broad approaches that can be taken:
  1. To deny a Corporation Tax deduction on payments made by constituents entities (this is the approach set out in the OECD Model Rules).
  2. To introduce a new charge on the constituent entity based on the top up allocated to the jurisdiction where is resident.
- Both approaches are analyzed in the following slides.

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UTPR: 1. Deny a Corporation Tax Deduction

- The top up would be converted into payments by dividing the top up tax allocated to the jurisdiction by the domestic statutory Corporation Tax rate.
  - This would cap the charge to the lower of the top up tax allocated to the jurisdiction and the amount of payments made by the domestic constituent entities.
- As the intention would be to bring the maximum top up into charge, the type of payment which could be subject to the adjustment would not be restricted.
- The denial could apply to any payment made from an entity, not just in respect of related party payments to the relevant low-taxed jurisdiction.
- Similarly, there does not need to be any link between the type of expense which is denied and the nature of the low-taxed income.

UTPR: 1. Deny a Corporation Tax Deduction *(Continued)*

- As the top up is allocated for the jurisdiction as a whole, there would need to be rules to specify how the MNE should apply the adjustment when there are multiple constituent entities in the jurisdiction.
  - The guiding principle here would be to ensure the maximum top up tax is collected.
- This could be achieved by specifying that the deduction should be made first in the most profitable company in the group and then continue onto the next company if that is still insufficient to collect the full top up.
- Where the Corporation Tax (CT) accounting period and the Pillar 2 Fiscal year are different, the adjustment would be made in the CT accounting period in which the fiscal year ends.

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UTPR: 2. New Charge on the Constituent Entity

- The new charge would be capped by reference to the payments made by constituent entities in the jurisdiction in order to meet the "equivalent adjustment" requirements in the Model Rules.
- This alternative approach may be simpler to operate and may avoid some of the challenges that could arise with integrating a denial of deduction approach with the existing Corporation Tax rules.
- On the other hand, some challenges may arise:
  - Identifying entities with the most profit capacity to absorb the top up.
  - Creating ordering rules where:
    1. There are different tax rates on certain types of income,
    2. Deductions are already subject to some limitation under other tax rules, or
    3. The group has losses.

UTPR: How to Carry Forward the Remaining Top Up

- Depending on the approach taken, there may be circumstances when the adjustment is not sufficient to collect the full top up that is allocated to the jurisdiction, like when:
    1. there are insufficient payments in the jurisdictions, or
    2. the group is loss-making in the jurisdiction.
- In these cases, the OECD Model Rules require the uncollected portion of the top up to be carried forward in order to be collected in the next year.
- When there are insufficient deductions to collect the top up, there will be a further adjustment in the 2nd year to collect the remaining top up.
- The OECD Model Rules contain a provision which prevents future top ups being allocated to a jurisdiction which has carried forward some of its top up from an en earlier year.
    - In this case, this jurisdiction would be removed from the allocation key.

SUBJECT TO TAX RULE (STTR)

- There is also a treaty-based rule: the Subject to Tax Rule (STTR).
- The STTR prevents companies from avoiding tax on their profit earned in developing countries by making deductible payments that:
  1. benefit from reduced withholding tax rates under tax treaties and
  2. which are not taxed (or taxed at a low rate) under the tax laws in the treaty partner.
- The STTR is designed to allow jurisdictions to impose a top-up withholding tax on:
  1. interest, royalties and a defined set of other payments made between related parties
  2. that are taxed at a nominal rate lower than 9%.
- The STTR will be creditable as a covered tax under the GloBE rules.
- The STTR will be implemented by jurisdictions into their bilateral treaties with all developing countries when requested to, so that their tax treaties cannot be abused.

TRANSITION RULES

- The OECD Model Rules provide special rules that will apply for a period of time when groups first enter the regime.
- These rules:
    1. Govern the treatment of losses and other timing differences between accounting and taxable profits that span the commencement date, and
    2. Provide for higher levels of profits subject to the substance carve out and a lower ownership threshold for portfolio dividends during the transition period.
- Groups will have a longer filing deadline in the 1st year of entering the regime.
- Groups in the initial phase of their international activity will not be subject to the Undertaxed Payment Rule (UTPR).

TIMING DIFFERENCES

- Model Rules also include rules designed to address circumstances where profits are taxed in a different period to when they are recognized in GloBE income.
- These differences typically arise from differences in when income and expenses are recognized for accounting and tax purposes.
  - For example, capital assets are often depreciated at different rates.
- Without rules to address these differences, a MNE could suffer a top up because it seems to be low-taxed, when in reality the income has simply been taxed in a different period.
- Model Rules use deferred tax accounting, which shifts the tax expense from the year the tax is paid (or tax deduction received) to the years in which income is recognized.
  - For example, covered taxes in numerator are adjusted by the constituent entity´s deferred tax income or expense in the period.

LOSSES

- The timing difference rules also address situations where an MNE has made a loss in a jurisdiction. These rules are also based on deferred tax accounting. Hence:
  - The numerator is reduced in the year the local tax loss arises and a deferred tax asset is recognized.
  - The numerator is then increased in the year that the loss is utilized, and the deferred tax asset unwinds.
  - This is done by taking account of the deferred tax expense accrued in the financial accounts, which could be a positive or negative figure.
- As the deferred tax asset is based on the tax loss available under the tax rules of the local jurisdiction, there are further rules to ensure the appropriate relief is given.

Filing Obligations & Substance based Carve Out

- The filing deadline will be increased to 18 months from the end of the accounting period for the group´s consolidated accounts, in the 1st year in which a group comes within scope of the rules.
  - This is intended to allow groups some additional time to set up the necessary compliance processes and systems when they first enter the regime.
- The carve out percentages will be higher during the transition period, tapering down to the normal rates over a 10-year period.

INTERNATIONAL EXPANSION

- The Undertaxed Payment Rule (UTPR) will not apply to groups which are in the initial phase of expanding internationally.
- This is a temporary relief which applies when:
  1. the group operates in no more than 6 jurisdictions, and
  2. it holds less than €50 million of tangible assets outside of the country in which it has the largest tangible asset base.
- This relief will no longer apply after the group has been in scope for 5 years.
- This is to prevent the rules deterring groups from undertaking international activity in cases where this might otherwise bring a group´s entire domestic activities within scope of the rules through the UTPR.
  - ➢ This will not apply in scenarios where UTPR is necessary to counter group inversion.

WORLD BANK GROUP
Equitable Growth, Finance & Institutions

Reporting

- The OECD Model Rules provide a coordinated and standardized approach to reporting, which is designed to reduce the compliance burden for businesses and facilitate the effective administration of the GloBE rules.
- MNE´s will be required to submit a GloBE return providing detailed information to support their GloBE calculation, including information about the calculation of their ETRs, any top up tax liabilities, and how they are allocated between different jurisdictions.
- This information will be provided in a standardized return, which will ensure the same information is provided to every tax administration and reduce tax compliance costs.
- The Model Rules allow for returns to be exchanged between tax administrations using a similar approach to the model developed for Country-by-Country Reporting.
  - ➢ The Group will file its GloBE return with the jurisdiction of its Ultimate Parent Entity or a designated filing entity where different. This jurisdiction will exchange with others.