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July 17, 2024  
2024-1396

## Turkiye proposes to introduce Pillar Two rules to be effective from 2024

- A draft bill (Bill) before the Turkish Parliament would amend various tax laws, including global and domestic minimum taxes.
- The Bill will be enacted as Law upon discussions in the Grand National Assembly and enter into force following the approval of the Turkish President.

On 16 July 2024, the Turkish government introduced into Turkish Parliament a draft bill (Bill) proposing amendments to various tax laws, including global and domestic minimum taxes.

Article 36 of the Bill proposes a Turkish domestic minimum tax (Turkish DMT - *yurt içi asgari kurumlar vergisi*). (For more on Article 36, see EY Global Tax Alert, [Turkiye proposes draft bill amending tax laws for corporations and individuals](#), dated 17 July 2024.)

Articles 37 to 50 of the Bill introduce a qualifying domestic minimum tax and a global minimum tax based on the Global Anti-Base Erosion (GloBE) rules. These provisions are planned to be integrated into the Turkish Corporation Tax Code under a new section titled "Qualifying Domestic and Global Minimum Top-Up Corporation Tax and Temporary Provisions," which is further divided into the following five subsections:

1. Subject of the tax, definitions, exemptions and exceptions
2. Calculation of the tax burden, minimum top-up corporation tax base, rate and calculation
3. Taxpayer, taxation period, declaration, assessment, and payment of global minimum top-up corporation tax
4. Taxpayer, taxation period, declaration, assessment, and payment of qualified domestic minimum top-up corporation tax
5. Other provisions (i.e., mergers, spin-offs, and share transfers)

The introduction of the draft Bill to Parliament represents a significant step forward in Türkiye's implementation of Pillar Two.

This Tax Alert outlines the key aspects of the Qualifying Domestic and Global Minimum Top-Up Corporation Tax and Temporary Provisions.

### Key features of the legislation

The legislation implements:

- A global minimum tax by imposing top-up tax through an Income Inclusion Rule (IIR), applying to fiscal years starting from 1 January 2024
- An Undertaxed Profits Rule (UTPR), applying to fiscal years starting from 1 January 2025
- A Qualifying Domestic Minimum Top-Up Tax (QDMTT) applying to fiscal years starting from 1 January 2024

### Subject of the tax

The profits of the affiliated enterprises of multinational enterprise (MNE) groups that have ultimate parent entities with annual consolidated revenue exceeding the equivalent of €750m in Turkish Lira in at least two of the four accounting periods preceding the reporting period of the income are subject to qualifying domestic and global minimum top-up corporation tax for the relevant accounting period.

If the accounting period is other than 12 months, the amount determined by annualizing the calculated consolidated revenue is considered in determining the revenue threshold mentioned above.

### Taxpayer of the global minimum top-up corporation tax

Under the income inclusion principle, the taxpayer of the global minimum top-up corporation tax is the ultimate parent enterprise, intermediate parent enterprise, or partially owned parent enterprise resident in Türkiye, which are affiliated with MNE groups covered by the above thresholds and are resident in other countries.

Under the under-taxed payments principle, the taxpayer of the global minimum top-up corporation tax is the affiliated enterprises resident in Türkiye, excluding investment enterprises, which are affiliated with MNE groups that do not apply or partially apply the global minimum top-up corporation tax according to the relevant legislation under the qualified income inclusion principle and whose ultimate parent enterprise, intermediate parent enterprise, or partially owned parent enterprise is not resident in Türkiye.

The Bill proposes several regulations in cases where the ultimate parent enterprise, partially owned parent enterprise or the intermediate parent enterprise is resident in Türkiye.

## **Some of the exempt entities and activities**

The enterprises listed below and their permanent establishments are exempt from qualifying domestic and global minimum top-up corporation tax:

- a. Public institutions and organizations, as well as international organizations
- b. Nonprofit organizations
- c. Pension investment funds
- d. Funds that are considered as ultimate parent enterprises and are evaluated within the scope of investment funds
- e. Entities that are considered as ultimate parent enterprises and are evaluated within the scope of real estate investment vehicles, including real estate investment funds

Although not covered above, certain enterprises and their permanent establishments are also exempt from qualifying domestic and global minimum top-up corporation tax.

The profits derived from international maritime transport activities by the affiliated enterprises of MNE groups are exempt from qualifying domestic and global minimum top-up corporation tax.

## **Calculation of the tax burden, minimum top-up corporation tax base, rate and calculation**

Generally, the Bill's approach to definitions, the calculation of the GloBE income, covered taxes and tax base are similar to the GloBE rules.

Briefly, under the Bill, the global minimum top-up corporation tax is determined based on the income inclusion principle and the under-taxed payments principle. The tax burden of a MNE group with a net country-based income is calculated separately for each accounting period on a country-by-country basis. In calculating the country-based tax burden of an MNE group, the adjusted covered taxes of the affiliated enterprises located in that country are considered.

The adjusted covered taxes for an accounting period of an affiliated enterprise are equal to the sum of the adjusted amount of the current period tax expense accrued in relation to the covered taxes, as adjusted in accordance with the items provided in the Bill, plus the total deferred tax adjustment amount, as shown in the statement of changes in equity or other comprehensive income statement in the financial statements.

Items that can be deducted from and added to the deferred tax expense are listed in the Bill. Covered taxes that can be allocated from one affiliated enterprise to another, the allocation of profit or loss between a head office and its affiliated permanent establishment are described in the Bill.

The minimum corporation tax rate is 15%. The global minimum top-up corporation tax is calculated based on the global minimum top-up corporation tax base, which is determined by deducting 5% of the total annual gross wages of the employees of the affiliated enterprises in that country and 5% of the net book value of their tangible fixed assets from the total net country-based earnings.

For the 2024 accounting period, 7.8% of the net book value of tangible fixed assets and 9.8% of the gross wages of the employees of the affiliated enterprises are considered. These rates are reduced by 0.2% for the following four accounting periods, by 0.8% for the gross wages of the employees of the affiliated enterprises and by 0.4% for tangible fixed assets for each accounting period starting from the 2029 accounting period.

If the average annual country-based revenue of a MNE group is less than the Turkish Lira equivalent of €10m and the average annual country-based earnings are less than the Turkish Lira equivalent of €1m, the global minimum top-up corporation tax for the affiliated enterprises in this country can be considered zero for the relevant accounting period. Average revenue or earnings are the average of the total revenue or earnings for the accounting period in which the financial accounts related to a country are reported and the previous two accounting periods. The provisions mentioned here do not apply to stateless affiliated enterprises or affiliated enterprises that are investment businesses; further, their revenue, earnings, or losses are not considered in determining the average earnings or average revenue.

## **Determination of safe harbor countries**

The Turkish President is authorized to determine the places to be declared as safe harbors and to determine the conditions related to their designation; the Ministry of Treasury and Finance is authorized to determine the procedures and principles for the implementation of safe harbors.

If the country in which the MNE group operates is designated as a safe harbor, the global minimum top-up tax for the affiliated enterprises in this country can be considered zero for the relevant accounting period.

For MNE groups with affiliated enterprises in a maximum of six different countries and whose total value of tangible fixed assets in countries other than the country with the highest total value does not exceed the Turkish Lira equivalent of €50m, the global minimum top-up tax on the basis of under-taxed payments is considered zero for five accounting periods.

## **Taxation period, declaration, assessment and payment of global minimum top-up corporation tax**

The taxation period for the global minimum top-up corporation tax is the accounting period. For those assigned a special accounting period, the taxation period is the special accounting period. The accounting period is the taxation period that forms the basis for the preparation of the ultimate parent enterprise's consolidated financial statements.

The global minimum top-up corporation tax is assessed based on declarations made by the taxpayers. The calculated tax must be declared and paid by the last day of the fifteenth month following the month in which the accounting period ends.

Taxpayers are required to include the global minimum top-up corporation tax information declaration as an annex to the declarations.

### **Taxpayer of the qualified domestic minimum top-up corporation tax**

The taxpayer of the qualified domestic minimum top-up corporation tax is any affiliated enterprise or joint venture resident in Türkiye and affiliated with MNE groups covered in the "Subject of the tax" section, above.

### **Taxation period, declaration, assessment and payment of qualified domestic minimum top-up corporation tax**

The taxation period for the qualified domestic minimum top-up corporation tax is the accounting period. For those assigned a special accounting period, the taxation period is the special accounting period.

The qualified domestic minimum top-up corporation tax determined by applying the minimum top-up corporation tax rate to the global minimum top-up corporation tax base is assessed based on declarations made by the taxpayers, and any additional current-period qualified domestic minimum top-up corporation tax, if applicable, is added to this tax.

The provisions of other articles are also considered in determining the qualified domestic minimum top-up corporation tax. The calculated tax must be declared and paid from the first to the last day of the twelfth month following the month in which the accounting period ends.

If any taxpayer resident in Türkiye and affiliated with the same MNE groups declares and pays the entire qualified domestic minimum top-up corporation tax on their own behalf, the responsibilities of other taxpayers for the declaration and payment of this tax are waived. However, if the entire tax is not paid, the joint and several liabilities of the taxpayers affiliated with the same MNE group for the payment of the tax continue.

The Ministry of Treasury and Finance is authorized to determine the form and content of the declaration and its annexes provided to designate the place of assessment (i.e., the particular tax office or authority to which the tax is payable). This determination can be made in response to an application from the taxpayer or at the discretion of the Ministry, with consideration given to the necessity of the activity.

The Bill also proposes other provisions, such as mergers, spin-offs and share transfers that are generally similar to the GloBE rules.

The Ministry of Treasury and Finance is authorized to determine the procedures and principles for implementing these provisions.

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*Published by NTD's Tax Technical Knowledge Services group; Carolyn Wright, legal editor*



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