Key Tax Reforms in the UAE

Global Minimum Tax Rules Released

February 2025

In 2023, the UAE introduced the global minimum tax ("GMT")[1], also known as Pillar Two, to keep up with the international standards and its own commitment as part of the BEPS Inclusive Framework ("IF"). The UAE's Ministry of Finance ("MoF") recently announced a 15% GMT, effective from 1 January 2025. Additionally, the MoF have now released Cabinet Decision 142 of 2024[2] imposing a 15% domestic minimum top-up tax ("DMTT") on UAE entities of a large multinational enterprise ("MNE"). Accompanying the Cabinet Decision, the MoF also released detailed rules prescribing the provisions, conditions and procedure to impose the DMTT in the UAE ("DMTT Rules").

The Cabinet Decision 142 along with the DMTT Rules, is a complete legislation providing for the 15% charge, entities covered and excluded, computation of top-up-tax, availability of reliefs, procedural and compliance requirements to implement the DMTT on large MNEs. The rules are largely aligned with the OECD's Pillar 2 Model Rules[3] and it expressly acknowledges the use of Pillar 2 Commentary and administrative guidance for interpretation. It covers some additional provisions to align with the UAE's tax landscape illustratively, provisions on penalties, clarifications, record keeping, general anti-avoidance rule ("GAAR").

What does the release of the DMTT Rules means for MNEs present in UAE? What is the impact on the tax cost and administration of the new compliance for the UAE entities? What reliefs are available and how it can be claimed? What steps should in-scope MNEs take to ensure compliance?

This article endeavours to throw light on some of the above aspects and decipher the key provisions of the DMTT Law.

Effective date of the DMTT

The DMTT will apply to financial years starting on or after 1 January 2025.

Key highlights of the DMTT Rules

How is minimum tax levied in the UAE?

The UAE imposed 15% GMT by applying the DMTT only on UAE entities which are part of large MNE groups, as defined.

FTI comments *– The UAE has introduced minimum taxation in a limited manner on local entities only by way of DMTT. In line with Bahrain and Qatar, UAE will not presently apply minimum tax to foreign subsidiaries of a UAE headquartered group (no Income Inclusion Rules - IIR) or other foreign group companies that are part of the same MNE Group (no Undertaxed Profits Rule - UTPR). Low taxed profits of these entities may fall under implementing GMT legislations of other countries.*

Who is covered?

DMTT applies to a UAE entity which is part of an in-scope MNE group.

- In-scope MNE's are those present in the UAE and at least one more foreign jurisdiction, including a foreign Permanent Establishment ("PE"), and with annual consolidated revenue exceeding €750 million for at least two out of four preceding fiscal years ("Revenue Threshold").
- A UAE entity covers a juridical person in the UAE, including a holding company, subsidiary, associates, joint ventures ("JVs") and JV subsidiaries, minority owned entities and PE.

FTI Comments *– The DMTT Rules clarify the ambiguity which surfaced in the past on the scope of MNE group – that it does not apply to purely domestic groups. Further, a UAE entity is a juridical person which is a tax resident of the UAE as per the corporate tax Law of UAE. Specific provisions apply for dual resident entities by virtue of effective management and control in the UAE or foreign country.*

Permanent exclusions and reliefs

Relief	Brief Description
Entities Excluded from DMTT	The following entities are excluded from the DMTT: — Government bodies, international organizations, NPOs, pension funds, investment funds and real estate investment vehicles that are an ultimate parent entity ("UPE"). — The subsidiaries and PEs of above, subject to meeting specific conditions. — Sovereign wealth funds ("SWFs") that are a government entity are not a UPE for DMTT purposes — An investment entity located in the UAE, subject to specific provisions ***FTI Comments*** *– The excluded entity list is largely aligned to the OECD Model Rules. Though excluded from top-up tax, an excluded entity's revenue is counted for the Revenue Threshold at MNE group level. MNE group can elect to not treat an entity as excluded entity for a period of five years. Additionally, SWFs (which are a UPE) are excluded from an MNE group. This treatment is in line with the tax neutrality principle for SWFs in general. Further, tax neutrality is sought to be achieved for investment entities, subject to separate provisions relating to a tax transparency elections and fulfilment of specific conditions.*

<table>
<tr><th>Relief</th><th>Brief Description</th></tr>
<tr><td>De-Minimis Exclusion</td><td>DMTT is deemed as zero where following conditions are cumulatively satisfied:
i. Average Pillar Two revenue for all UAE entities (in current and two preceding years) is less than €10 million; and
ii. Average Pillar Two income of all UAE entities (in current and two preceding years) is less than €1 million or a loss

FTI Comments – The exclusion is subject to an annual election. Further, the relief is based on detailed calculations of average Pillar Two revenue and Pillar Two income as per the DMTT rules. There could be some practical challenges in the first year where the Groups did not maintain Pillar Two compliant financial statements or data needed for the detailed calculations.</td></tr>
<tr><td>Simplified Calculation Relief</td><td>DMTT is deemed as zero if any of the following tests are met:
i. Routine Profits Test - All UAE entities' income, under a simplified computation, is less than or equal to substance-based income exclusion of that fiscal year.
ii. Deminimis Test - Average revenue for all UAE entities (in current and two preceding years), as determined by a simplified computation, is less than €10 million; and average income of all UAE entities (in current and two preceding years) is less than €1 million or is a loss.
iii. Effective Tax Rate ("ETR") Test - ETR for all UAE entities is at least 15%.

FTI Comments – The simplified calculations are stated to be based on the CbC Report of the MNE group, however, the exact basis of computations is not fully clear in the DMTT Rules. Similar relief is also present in the Bahrain DMTT, however, the calculation mechanism under Bahrain regulations is yet to be prescribed.</td></tr>
<tr><td>Substance Based Income Exclusion ("SBIE")</td><td>This exclusion provides that UAE's Pillar Two income is reduced by the SBIE to calculate the Excess Profit for top-up tax purposes.
— The Exclusion consists of payroll and tangible asset carve-outs.
— The payroll carve-out equals 5% of Eligible Payroll Costs for employees working in the UAE, except costs related to International Shipping Income and capitalized expenses.
— The tangible asset carve-out equals 5% of the carrying value of Eligible Tangible Assets in the UAE, excluding assets for sale, lease or investment, and those used for International Shipping Income.
— The 5% rate is increased during transition years to provide greater relief to MNEs.
— Payroll and asset costs related to excluded income are not included in the exclusion calculation.

FTI Comments – SBIE advances a policy rationale to exclude a fixed return for substance/ substantive activities within the UAE. Conceptually, excluding a fixed return from substantive activities focuses DMTT on "excess income", such as intangible-related income, which is most susceptible to BEPS risks. The computation of SBIE on identification of eligible employee costs, eligible asset value needs an independent evaluation.</td></tr>
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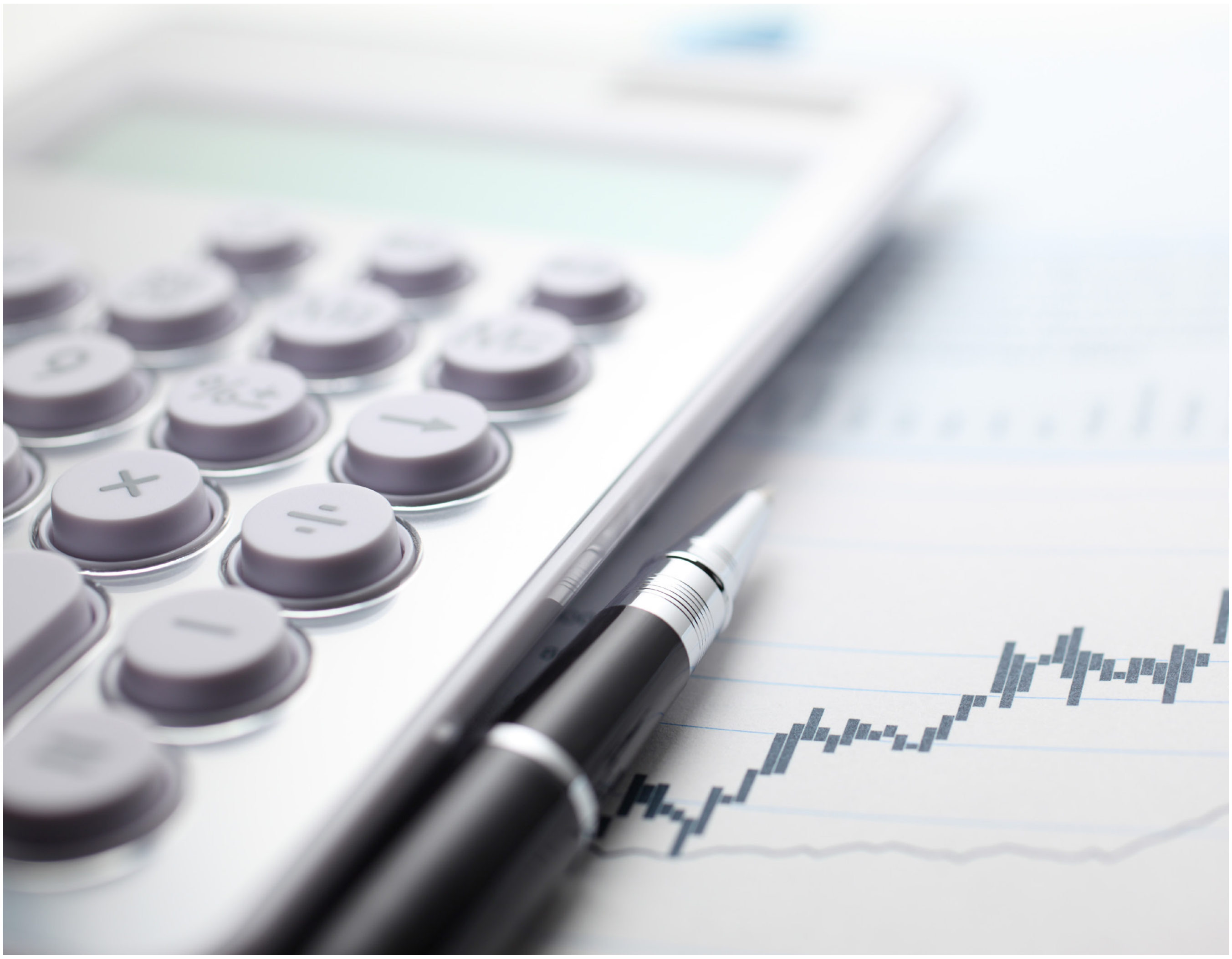
Relief	Brief Description
International Shipping Income Exclusion	— International Shipping Income and its ancillary income of a UAE entity will be excluded from the Pillar Two income or loss calculation of an entity, provided the ship is used by the entity for at least one year and the strategic or commercial management of all ships involved must be effectively carried out within the UAE. — This exclusion covers the profits from transportation of passengers or cargo by ships in international traffic and does not apply to transportation of passengers or cargo on inland waterways within the same jurisdiction. — Direct costs related to international shipping and qualified ancillary activities must be deducted from revenue to compute International Shipping Income. Indirect costs are allocated based on the revenue generated from these activities. ***FTI Comments*** *- The international shipping industry has long been subject to industry-specific tax rules, such as tonnage taxes, which are outside corporate income tax laws. Such special regimes are perceived to result in less volatile tax outcomes and provide a more stable basis for long term investment. The Pillar Two exclusion is aligned with these policy outcomes. Further, the scope of income sought to be covered is based on Article 8 of the OECD Model tax treaty.*



Temporary reliefs

Relief	Brief Description
Transitional CbCR Safe Harbour ("TCSH")	DMTT is deemed as zero if any one of below tests are met, based on a qualified CbCR for the fiscal year: **i. De-minimis test** – Revenue and profits of all UAE entities are less than €10 million/€1 million respectively in the tested fiscal year. **ii. Simplified ETR test** – Simplified ETR for MNE Group in the UAE is equal to or greater than 16% for fiscal years beginning in 2025 and 17% for fiscal years beginning in 2026. **iii. Routine Profits test** - UAE entities' profits before tax are less than or equal to SBIE of that fiscal year. ***FTI Comments*** *– TCSH is available based on election in the first fiscal year and applies for all of fiscal years that begin before 1 January 2027 and end before 1 July 2028.* *TCSH intends to reduce hardship for MNE Groups by avoiding detailed Pillar Two computations and claiming relief based on a Qualified CBC Report. TCSH applies to JV and JV subsidiaries also based on qualified financial statements. Further, TCSH does not absolve the MNE group from filing the detailed GloBE Information Return ("GIR"). As per OECD's Model Commentary, if MNE has not applied the TCSH in the first year in which it is subject to the Pillar Two Rules, the MNE Group cannot qualify for that safe harbour for that jurisdiction in a subsequent year – a "once out, always out" approach). Such intention is not expressly within the DMTT Rules in the UAE, however, the same may be implied given the same policy intent and reliance placed on the OECD Model Commentary.*
Exclusion For Initial Phase Of International Activity	DMTT is deemed as zero where all the below tests are satisfied: i. MNE group is present in up to six jurisdictions, ii. MNE group has tangible assets not exceeding €50 million in jurisdictions as specified; and iii. Ownership interests of UAE entity is not subject to GMT in hands of the parent company of the MNE in another jurisdiction under IIR. ***FTI Comments*** *– This relief is available for first five years of an MNE Group entering the scope of minimum tax rules and is in line with OECD Model Rules. Presently it is not clear if any specific notification or election is needed to claim this relief.*
Transitional Rates for SBIE	For the purpose of computing payroll carve out and tangible assets carve outs under SBIE, transition rates are prescribed for 2025 to 2032. For the year 2025 it is 9.6 % for payroll carve out and 7.6% for tangible assets carve out. This reduces annually until 2032 after which it settles at 5%. This is in line with the OECD Model Rules.

Computation of Top-Up tax

The top-up tax is computed based on following steps:

STEP 1 **Pillar 2 Income** calculated on jurisdictional basis

STEP 2 **Covered Taxes** calculated on jurisdictional basis

STEP 3 **Jurisdictional ETR**
Covered Taxes / Pillar 2 Income

STEP 4 **Top-up Tax % =**
Minimum ETR – Jurisdictional ETR

STEP 5 **Excess Profit =**
Pillar 2 Income – Substance Carve Out

STEP 6 **Jurisdictional Top-up Tax =**
(Top-up Tax % x Excess Profit)

- **Computation of Pillar Two Income** - The DMTT Rules provide the methodology for calculating Pillar Two income or loss, laying out specific accounting rules, the types of adjustments that need to be made to Financial Accounting Net Income or Loss, and various elections available to Constituent Entities to manage their income or loss calculations in line with the DMTT Rules.
- **Computation of covered taxes in the UAE** - The DMTT Rules also provide detailed framework for computing covered taxes in the UAE and how the same are considered to compute the ETR. This includes, but is not limited to, inclusions and exclusions of taxes of UAE entities, allocation of taxes, a mechanism to address temporary differences, impact of domestic deferred taxes and loss treatment.
- **Top-up tax payable** is computed taking into account the ETR and SBIE.
- **Allocation of top-up tax** - Once UAE top-up tax is computed, the same is allocated to each UAE entity calculating its share of the top-up tax based on the entity's Pillar Two income, relative to the aggregate Pillar Two income of all constituent entities in the UAE.
- There are detailed rules on mergers and acquisitions, tax neutrality and distribution regimes, flow through and hybrid entities, investment funds and entities.

FTI Comments – The computation of top-up tax payable is a detailed exercise with various adjustments needed to arrive at Pillar 2 Income and covered taxes. While the DMTT Rules are largely aligned with OECD's Model Rules of computing the top-up tax, there are some variations and adjustments prescribed (illustratively, for accrued pension income and expense, election to include dividend from portfolio shareholdings regardless of being short or long term and election to exclude foreign exchange gains or losses attributable to hedging instruments). The OECD commentary should be extensively relied on to understand and interpret the impact of specific provisions on computation of top-up tax.

Procedural requirements

	Requirement	Brief Description
1	**DMTT Registration and Deregistration**	— Entities subject to top-up tax are required to register with the Federal Tax Authority ("FTA"). — The FTA has the discretionary power to register an entity. — If an entity ceases to exist or is no longer in scope of the DMTT, it must file a deregistration with the FTA. — The form, manner and timeline for registration or deregistration is yet to be prescribed by the FTA.
2	**Filing 'Top-Up Tax' Return**	**Who should file?** — Each Constituent Entity, JV and JV Subsidiary located in the UAE is required to file the top-up tax return with the FTA. — The return can be filed directly by the above entities, or by a Domestic Designated Filing Entity on behalf of any of these entities. **Timelines of filing** — The top-up tax return must be filed no later than 15 months after the last day of the Reporting Fiscal Year. — For the first Transition Year, the filing must me made no later than 18 months after the last day of the Reporting Fiscal Year. **Information and reporting requirement** — The top-up tax return must include same type of information requirements as the Pillar Two Information Return ("PIR"). — There is an option to apply a simplified Jurisdictional Reporting Framework as set out in the PIR. This implies a less detailed reporting format, especially for groups with smaller operations or simpler tax structures. — Top-up Tax Return is subject to adjustments based on post-filing events, such as changes in tax rates or adjustments in Covered Taxes.
3	**Filing 'Pillar Two Information Return' ("PIR")**	**Who should file?** — Specific Entities, as determined by a Decision of the FTA. — Timelines of filing — The PIR must be filed no later than 15 months after the last day of the Reporting Fiscal Year. — Information and reporting requirement — The return must be filed in the OECD/G20 standard template and must adhere to its definitions and instructions. — The PIR must include the following details about MNE Group: — Identification of Constituent Entities, including their tax IDs, location and status under the Pillar Two rules. — Corporate structure information, including controlling interests between entities within the group. — Data needed to compute ETR and top-up tax — Allocation of top-up tax across jurisdictions under IIR and UTPR provisions. — Record of elections made according to the decision. — Any other necessary information as per the Pillar Two Implementation Framework.

***FTI Comments** – It is presently unclear as to who will be required to file PIR, given that all constituent entities in the UAE are otherwise required to file the top-up tax return with a format similar to PIR. By aligning the reporting requirements with those of OECD's GloBE Framework, the UAE ensures consistency in its reporting standards which will help MNEs meet global tax obligations efficiently. Further, filing through Designated Entity allows for flexibility in who is responsible for filing the return and potentially allows a centralized approach for filing within a group.*

Provisions of UAE Corporate Tax Law read into the DMTT Rules

The DMTT Law specifically included following provisions of the UAE CT Law:

- Article 50: GAAR
- Article 56: Record Keeping
- Article 59: Clarifications
- Article 60: Assessment of Corporate Tax and Penalties

For the Fiscal Year beginning on or before 31 December 2026 and ending before 1 July 2028, no penalties or sanctions will apply for the late filing of the top-up Tax Return or the PIR, provided that the MNE Group has taken reasonable measures to ensure the correct application of the Rules as the discretion of the FTA.

Further, the MoF reserves the authority and discretion to decide how other provisions of UAE CT Law will be applied in the context of the DMTT Law. This allows for flexibility and potential adjustments as needed in the implementation of the global tax rules.

Key takeaways

This is a very significant milestone in the UAE, re-emphasizing its international commitment as part of BEPS IF to address base erosion and profit shifting.

Like Bahrain and Qatar, the UAE has introduced the GMT in a limited manner by way of DMTT only. As to if the UAE chooses to implement IIR or UTPR in the future, that is one to watch.

The DMTT Rules provide the much-needed clarity on the various aspects like the computation of top-up tax, treatment of JVs, PEs, minority owned entities, the treatment of mergers and demergers, transfer of assets, conditions to claim reliefs and compliance obligations. Further rules are expected on aspects such as the filing forms and facility.

The availability of private clarification route is a welcome move, providing a robust avenue for taxpayers to achieve tax certainty and reduce disputes in future.

With the release of the executive rules implementing GMT from 1 January 2025, it now becomes imperative for MNEs to focus on the in-depth impact of DMTT, availability of reliefs along with the operational aspects of increased data management and reporting requirements.

For a discussion on this important development in UAE, please contact the FTI Consulting Middle East Tax Team (details below).

Endnotes

[1] Federal Decree-Law No. 60 of 2023 Amending Certain Provisions of the Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses [Source: www.mof.gov.ae]

[2] Cabinet Decision No. 142 of 2024 on the Imposition of Top-Up Tax on Multinational Enterprises [Source: www.mof.gov.ae]

[3] Tax Challenges Arising from Digitalization of the Economy – Global Anti-Base Erosion Model Rules (Pillar Two) (2021) [Source: www.oecd.org]

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