

The Bahamas' enactment of a Domestic Minimum Top-Up Tax



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Background and effective date

The Bahamas enacted the Domestic Minimum Top-Up Tax Act, 2024 (the Act) on 28 November 2024. The Act introduces a Domestic Minimum Top-Up Tax (DMTT) in line with the Organisation for Economic Cooperation and Development's (OECD) Pillar Two Framework. The objectives of the OECD's framework are to implement a global minimum tax at an effective rate of 15% on the income arising from multinational entities in each jurisdiction in which they operate. This framework is based on the Global Anti-Base Erosion Model Rules (Pillar Two) (GloBE Rules).

The Act seeks to introduce an **effective tax rate of 15 percent** for Multinational Entities (MNEs) operating in The Bahamas that have annual consolidated revenue of or above 750 million Euros in two of the last four years.

The Act is effective 1 January 2024 and applies to fiscal years of an MNE Group that begin after 31 December 2023 where **all** Constituent Entities in The Bahamas would be subject to the Income Inclusion Rule (IIR) or the Undertaxed Profits Rules (UTPR) in another jurisdiction. For all other MNE Groups the Constituent Entity would be subject to a DMTT for fiscal years beginning 1 January 2025.



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Key elements of the Act

Tax residence and permanent establishment

Section 2(3) of The Act states that **an Entity, other than a Flow-through Entity, is deemed to be resident in The Bahamas if it was incorporated, created or organised in The Bahamas; or the place of effective management of the Entity is in The Bahamas.** In addition, a permanent establishment is deemed to exist under the OECD Model Tax Convention on Income and Capital if an entity has a fixed place of business in a jurisdiction through which it conducts business including a place of management, a branch, an office, a factory, a workshop, a mine, an oil or gas well, a quarry or any other place of extraction of natural resources. Thus, if an entity has a branch in The Bahamas then that branch would be considered to create a Permanent Establishment and thus the income of that branch would be subject to The Bahamas' QDMTT if the MNE Group is in scope for Pillar Two.

Reporting of DMTT

Where an entity is in scope for DMTT, the entity will be required to file or have filed on its behalf with the Secretary the GloBE Information Return in accordance with Article 8.1 of the GloBE Model Rules. Any elections permitted under the GloBE Rules must be made in accordance with those rules.

Application of the GloBE Model rules

The Bahamas' proposed legislation provides that the DMTT will meet the requirements for a Qualified Domestic Minimum Top-Up Tax (QDMTT) and that the QDMTT Safe Harbour can be applied. The Act, in subsection 4(3) provides certain exclusions to the GloBE rules that will not apply to The Bahamas' DMTT as these primarily relate to the IIR and UTPR.

Application of the Act

The application of a DMTT applies to The Bahamas as a whole and does not allow for any exemptions for entities which are licenced and operate within the Port Area as defined in the agreement set out in the First Schedule to the Hawksbill Creek, Grand Bahama (Deep Water Harbour and Industrial Area) Act (Ch. 261); and (b) in section 2 of Freeport Bye-laws Act (Ch. 29).

Payment of DMTT

All amounts of DMTT in respect of the Fiscal Year of an MNE Group for which a Constituent Entity is liable must be paid no later than the day that is fifteen months after the last day of that Fiscal Year.



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Liability for DMTT

Subsection 5 of the Act sets out for those in-scope MNE Groups how the liability for DMTT will be determined:



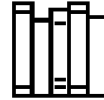
If an MNE Group is within the scope of the GloBE Model Rules, each of its Constituent Entities located in The Bahamas is jointly and severally liable to pay a tax, to be known as a domestic minimum top-up tax, to The Bahamas for each Fiscal Year.

1



The amount of DMTT payable is equal to the amount of Jurisdictional Top-up Tax that would be computed under [Article 5.2.3](#) of the GloBE Model Rules if both the reference to “Domestic Top Up Tax” in the formula and paragraph (d) in [Article 5.2.3](#) had been deleted.

2



The computation of DMTT payable in respect of a Minority-Owned Constituent Entity located in The Bahamas shall be consistent with the requirements of [Article 5.6](#) of the GloBE Model Rules.

3



The computation of DMTT payable in respect of a Joint Venture and its JV Subsidiaries, if any, located in The Bahamas, shall be consistent with the requirements of [Article 6.4.1\(a\)](#) of the GloBE Model Rules.

4



The computation of DMTT payable in respect of an Investment Entity located in The Bahamas shall be consistent with the requirements of [Articles 7.4 to 7.6](#) of the GloBE Model Rules, as applicable.

5



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Audit and accounting requirements

While the Act does not specify audit considerations, it is our understanding based on discussions held between the Financial Secretary and The Bahamas Institute of Chartered Accountants (BICA) that in scope entities will be required to file audited financial statements along with their GloBE Information Return. Thus, while the GloBE Information Return and payment of the QDMTT is not required until 15 months after the fiscal year end, the determination and calculation of taxes related to The Bahamas' QDMTT will need to be recognised and disclosed in the audited financial statements in line with any regulatory or other statutory reporting deadlines associated with those audited financial statements.

In 2023, the Financial Accounting Standards Board (FASB) staff concluded that for US GAAP, the minimum tax described in the Pillar Two Global Anti-Base Erosion (GloBE) rules is an alternative minimum tax per [ASC 740, Income taxes](#). As such, reporting entities do not recognise or adjust deferred tax assets and liabilities for the estimated future effects of Pillar Two taxes as long as enacted legislation is consistent with the OECD's GloBE Model Rules and associated commentary. Any Pillar Two top-up taxes are accounted for as a period cost impacting the effective tax rate in the year the GloBE minimum tax obligation arises. See below guidance for US GAAP clients.

[Accounting for Pillar Two: Frequently asked questions](#)

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Audit and accounting requirements

On 23 May 2023, the International Accounting Standards Board (IASB) issued [narrow-scope amendments to IAS 12 Income Taxes](#). The amendments provide a temporary exception from the requirement to recognise and disclose deferred taxes arising from enacted or substantively enacted tax law that implements the Pillar Two model rules published by the OECD, including tax law that implements QDMTT described in those rules. However, for annual reporting periods beginning on or after 1 January 2023, these entities will need to provide some additional disclosures about current taxes in their annual financial reports, as described below:

- the fact that they have applied the exception to recognising and disclosing information about deferred tax assets and liabilities related to Pillar Two income taxes [\[IAS 12 para 88A\]](#);
- their current tax expense (if any) related to the Pillar Two income taxes [\[IAS 12 para 88B\]](#); and

- during the period between the legislation being enacted or substantively enacted and the legislation becoming effective, entities will be required to disclose known or reasonably estimable information that would help users of financial statements to understand an entity's exposure to Pillar Two income taxes arising from that legislation. If this information is not known or reasonably estimable, entities are instead required to disclose a statement to that effect and information about their progress in assessing the exposure. [\[IAS 12 paras 88C-88D\]](#).

Note that an amendment for the IFRS for SMEs Accounting Standard with similar requirements as the IFRS amendment was proposed on 23 September 2023.

See below for guidance for IFRS clients.

[Global implementation of Pillar Two: Impact on deferred taxes and financial statement disclosures](#)



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Appendix

Determination of applicability of The Bahamas' Domestic Minimum Top-Up Tax to an MNE Group



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Applicability of The Bahamas' Domestic Minimum Top-Up Tax to an MNE Group

The following examples are for illustrative purposes only and are designed to assist in a preliminary assessment of whether The Bahamas' Domestic Minimum Top-up Tax is applicable to an MNE Group.

To the extent an MNE Group may be subject to The Bahamas' Domestic Minimum Top-Up tax they should seek legal advice from local counsel.

Monetary threshold

The following table shows the total revenues of a MNE Group in years for a 6 year period.

	MNE Group
Year 1	790
Year 2	770
Year 3	740
Year 4	730
Year 5	720
Year 6	710

Based on the above, the MNE Group would meet the monetary threshold to be in scope for Pillar 2 in Years 3, 4 and 5.

Adoption of IIR or UTPR in a jurisdiction outside of The Bahamas

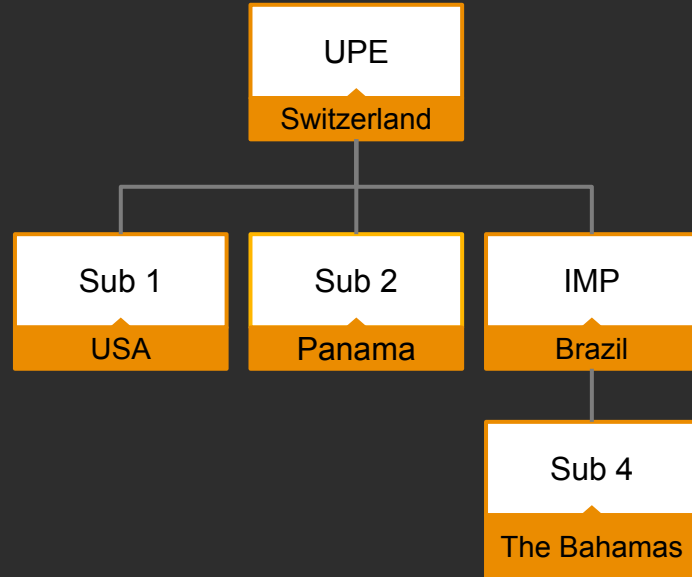
The examples on the subsequent pages are aimed at assisting in a preliminary assessment of whether The Bahamas' Domestic Minimum Top-Up tax is applicable in fiscal years beginning 1 January 2024 or deferred until fiscal years beginning 1 January 2025. To determine whether a country has adopted an IIR or UTPR refer to the [PwC Pillar Two Tracker](#).

Please consult with local legal counsel if there is a chance you are in scope for The Bahamas' Domestic Minimum Top-Up tax.

When does QDMTT in The Bahamas apply?

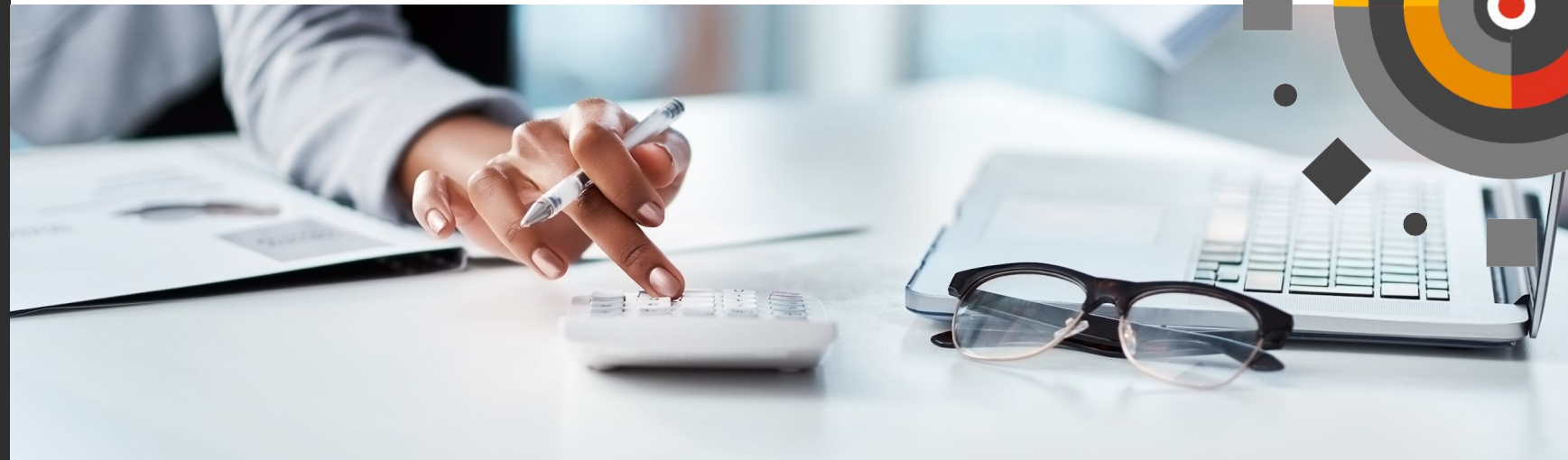
Example 1

The diagram below outlines the MNE's structure. The MNE meets the threshold for Pillar Two based on its revenues in two of the last four years. The fiscal year of the MNE Group is 31 December.



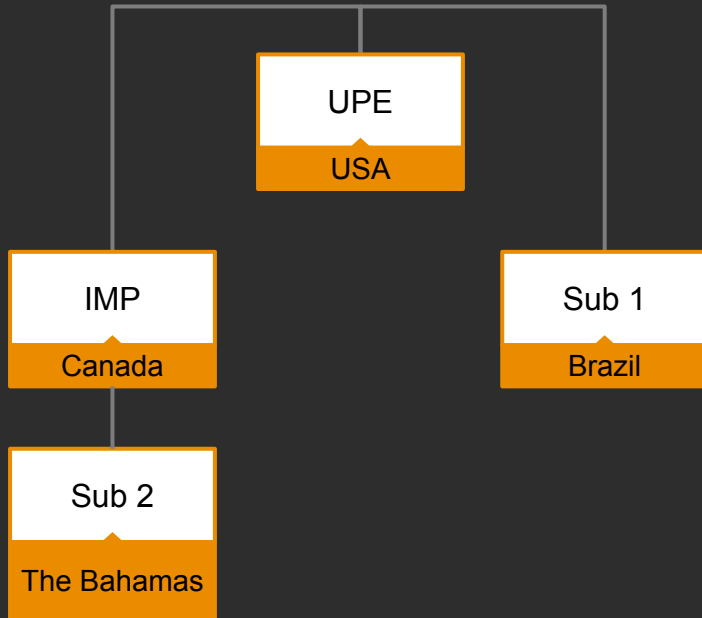
Considering the diagram in example 1, the UPE is located in Switzerland who has implemented a QDMTT from 1 January 2024. Brazil which is the intermediate parent of The Bahamas entity, has published legislation for the implementation of a QDMTT effective 1 January 2025 and no legislation has been announced in Panama or the USA. As no parent (ie Switzerland and Brazil) has adopted an IIR and no other entity within the group has adopted a UTPR for Fiscal Year 2024, a top up tax on The Bahamas entity will be applied from 1 January 2025. This is because no entity within the group would be able to tax profits from The Bahamas entity and thus the top up tax is deferred until 1 January 2025.

By contrast, if Panama had adopted a UTPR for Fiscal Year 2024 then the top-up tax in The Bahamas would apply from 1 January 2024. This is because in the absence of The Bahamas QDMTT being applied and no parent entity adopting the IIR, Panama would be required to apply the UTPR on the profits in The Bahamas as the UTPR can be applied by any entity within the group that has adopted a UTPR.



Example 2

The diagram below outlines the MNE Group structure. The fiscal year of the MNE is 31 December. The Group meets the monetary threshold for Pillar Two.



When does QDMTT in The Bahamas apply?

Given, that The Bahamas' intermediate parent in Canada has adopted an IIR for fiscal year 2024, The Bahamas entity would be in scope for a top-up tax from 1 January 2024. This is because in the absence of The Bahamas top-up tax being applied, the Canadian parent would be required to tax profits from The Bahamas entity under the IIR. Also, note that if Brazil were the IMP and Canada Sub 1, The Bahamas would not be in scope for the top-up tax until 1 January 2025 as the IIR can only be applied to profits in The Bahamas if the entity adopting it is a parent (immediate, ultimately or otherwise) rather than simply within the Group structure.

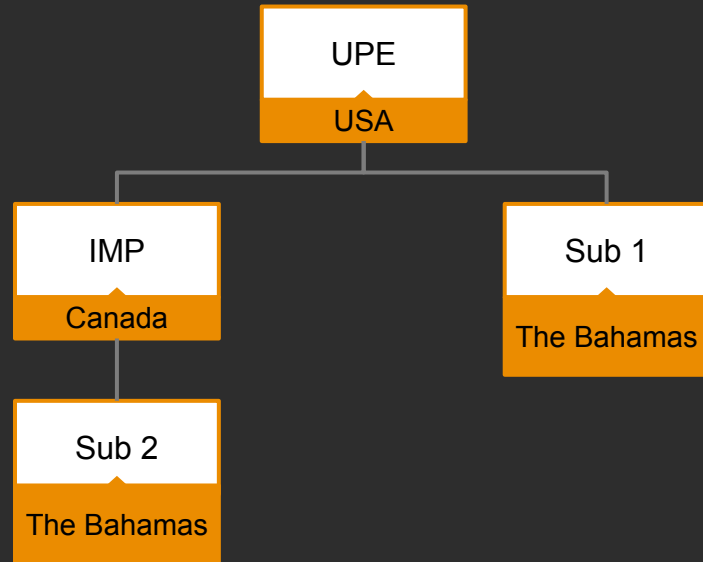


When does QDMTT in The Bahamas apply?

While one of The Bahamian entities has an intermediate parent in Canada that has adopted an IIR for fiscal year 2024, the other Bahamian entity has a US parent that has not adopted an IIR. The Bahamas' QDMTT only applies if all entities in The Bahamas within an MNE Group would be subject to an IIR and thus as only The Bahamian Sub 2 would have an IIR applicable, both Bahamian entities would only be in scope for a top-up tax from 1 January 2025. Once in scope the QDMTT would be calculated based on the combined income of both Bahamian entities.

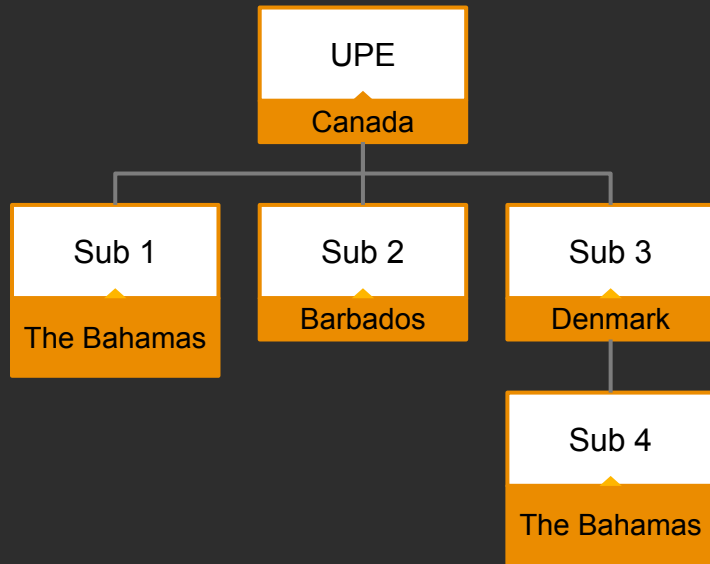
Example 3

The diagram below outlines the MNE Group structure. The fiscal year of the MNE is 31 December. The Group meets the monetary threshold for Pillar Two.



Example 4

The diagram below outlines the MNE Group structure with Denmark Sub 3 is 30% owned by the Canada UPE which has a controlling interest. The MNE is in scope for Pillar Two and has a fiscal year of 31 December.



When does QDMTT in The Bahamas apply?

Canada and Denmark have both adopted an IIR effective 1 January 2024 and as a result the top up tax would apply from 1 January 2024. As the Denmark Sub 3 is owned 30% but with a controlling interest by the Canada UPE, it would form a separate subgroup within the MNE Group. Thus there would be two separate QDMTT calculations. The Bahamas Sub 1 would have a QDMTT calculation and The Bahamas Sub 4 would have a separate QDMTT calculation.

If the Denmark Sub 3 represented a joint venture with the Canada UPE holding at least a 50% interest directly or indirectly then the Denmark Sub 3 and The Bahamas Sub 4 would form a separate subgroup within the MNE Group with similar implications as the minority controlling interest example.

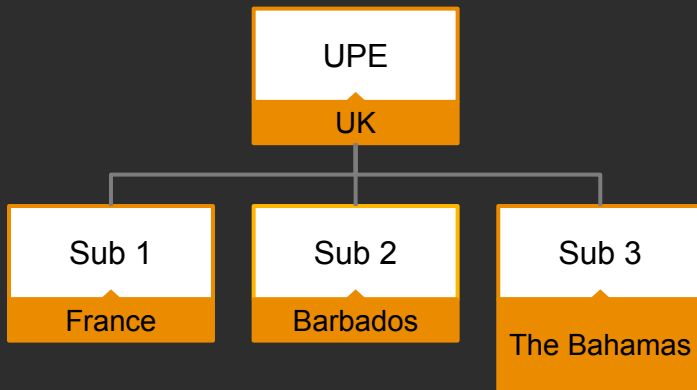


When does QDMTT in The Bahamas apply?

The UK has adopted an IIR effective 1 January 2024. Based on the Act, The Bahamas' QDMTT would apply for the fiscal year ending 31 October 2025 as the fiscal year ending 31 October 2024 would have begun prior to 1 January 2024 i.e. on 1 November 2023.

Example 5

The diagram below outlines the MNE Group structure. The MNE is in scope for Pillar Two and has a fiscal year of 31 October.





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