

Pillar Two - Middle East insights



Pillar Two: Family Businesses/Family Offices

Pillar Two is a series of globally endorsed tax rules to impose a minimum 15% effective tax rate on the profits of large multinational groups in each jurisdiction in which they operate. Over 140 countries globally have committed to implementing Pillar Two. The rules are being introduced globally to end the 'race to the bottom' on tax rates by ensuring that all large multinational organisations are subject to a minimum effective corporate tax rate.

Key Pillar Two considerations

Did you know that family businesses may be subject to Pillar Two?

If your family business and/or family office has aggregate revenues over EUR 750 million in two of the four preceding fiscal years and has overseas operations or investments, you may be within the scope of Pillar Two. **This is the case even if your family business/family office is not required to prepare Consolidated Financial Statements.**

In scope family businesses calculate their effective tax rate for each jurisdiction where they operate, and pay top-up tax for the difference between their effective tax rate in each jurisdiction and the 15% minimum rate, regardless of concessions available (e.g. reduced tax rates for free-zone activities). If one jurisdiction does not tax the profits at the appropriate rate, other jurisdictions in which you operate are allowed to do so. As such, there is no escaping Pillar Two top-up tax.

The rules contain safe harbours and de minimis exclusions to reduce compliance. Notwithstanding this, even where no top-up tax liability arises, family businesses in scope of the rules have significant global compliance and reporting requirements. **Penalties for non-compliance and non-filing can be significant in some jurisdictions, including criminal penalties against directors and entity officers.**

Pillar Two and family businesses

We have highlighted below some of the key considerations that family enterprises need to be aware of in a Pillar Two context:

01 Determining the Ultimate Parent Entity ("UPE")

It is important to identify the UPE and the entities potentially within scope of Pillar Two. Sometimes the ownership of the personal assets or Family Office entity is commingled with business assets in the same ownership structure, which would bring those personal assets within the scope of the Pillar Two rules. Family asset holding structures, such as a trust, foundation or waqf can also be a UPE.

02 Pillar Two reporting obligations

If you are in scope of Pillar Two, regardless of any liability, you will be required to register and file a Pillar Two tax return in the implementing jurisdictions. In addition, the GLOBE Information Return ("GIR") needs to be filed, which includes all the relevant Pillar Two calculations for the group. The GIR is required to be filed with every relevant jurisdiction - however, jurisdictions are only allowed to access data relevant to their own calculations, which may include information on entities outside the jurisdiction.

03 The Pillar Two calculations are complex

Assessing your potential top-up tax is not an easy task. Pillar Two calculations rely heavily on the group's financial statements, including both current and deferred taxes, regardless of whether the group is required to prepare such statements. Typically, this is around 250+ data points per entity. Ensuring the right data is readily available is fundamental to minimising potential audit risks.

04 The undertaxed profits rule ("UTPR")

UTPR has application in implementing jurisdictions in FY25. If a group within the scope of Pillar Two operates in any jurisdiction in FY25 that has implemented the UTPR, the entire under-taxed profits of the group will become subject to top-up tax (not just profits of entities operating in that jurisdiction). For example, if a group has an entity in the UK, all undertaxed profits of the entire group, including profits in the UPE jurisdiction, if it has not implemented Pillar Two, are potentially subject to tax in the UK under its UTPR. At least 17 countries have enacted the UTPR for application in FY25, with more expected to follow.

Immediate next steps

You need to urgently prioritise certain actions to determine if your family business or Family Office activities fall under the rules for FY24 and FY25. Start with an expedited Pillar Two impact assessment and safe harbour testing to determine your immediate and future Pillar Two obligations. Given the complexity of these calculations, it is crucial to engage tax experts well in advance to assess the potential impact. This includes potential top-up tax liabilities, evaluating whether your current business and/or personal asset ownership structure is still suitable, ensuring your investments remain viable despite higher taxation, and implementing processes to consider Pillar Two in future investments or new structures, including protecting any business or personal investments made by the Family Office.

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