UAE Domestic Minimum Top-up Tax

Initial reactions and key takeaways | **February 2025**

UAE implements Pillar Two from 1 January 2025

The UAE has issued Cabinet Decision No (142) of 2024 that implements a Domestic Minimum Top-up Tax ("DMTT" or "DMTT Rules") in the UAE. The Cabinet Decision follows on from the December 2024 announcement made by the Ministry of Finance. The DMTT will apply to Multinational Enterprises ("MNEs") that are within scope of Pillar Two based on the OECD Global Anti-Base Erosion ("GloBE") Model Rules, and will be imposed in cases where the MNE's effective tax rate ("ETR") in the UAE is below 15%.

The DMTT is effective for financial years starting on or after 1 January 2025. Notably, the DMTT will only apply to MNEs with global consolidated revenues (in at least two of the preceding four fiscal years) of at least EUR 750m, including MNEs headquartered in and outside the UAE. The DMTT will not apply to UAE headquartered groups with no operations outside the UAE (see other exclusions below).

The DMTT Rules contain details on the calculation methodology of the Top-up Tax, scope and conditions for Covered Taxes, accounting standard requirements, various exclusions, certain administrative and compliance matters, and liability provisions. Broadly, the DMTT Rules align with the GloBE Model Rules.

There is no clarity on whether the UAE will also introduce an Income Inclusion Rule ("IIR") and/or Undertaxed Profits Rule ("UTPR"), the other charging mechanisms under the GloBE rules.

With the DMTT in place, MNEs will need to consider its impact on their existing UAE tax profiles and compliance obligations. We have outlined below certain key features of the DMTT, including some of our initial reactions and key takeaways.

Key features of the DMTT Rules

Issue	Comment
Scope of the rules	The DMTT introduces a jurisdictional-level Top-up Tax on UAE Constituent Entities ("CEs") and Joint Ventures ("JV") of an MNE Group, ensuring that profits of such groups are subject to a minimum ETR of 15%. Specifically, the tax applies where the ETR of the aggregate results of UAE CEs or JVs of an MNE Group is below 15%. An MNE Group is a group that consists of operations in two or more jurisdictions and meets the EUR 750m threshold. It is currently unclear if the UAE will also introduce the complementary IIR or UTPR, as prescribed by the GloBE Model Rules. The DMTT Rules apply to the following entities: **Constituent Entities -** entities or permanent establishments that are consolidated for purposes of the MNE Group's Consolidated Financial Statements ("CFS"). **Joint Venture** - entities whose results are reported under the equity accounting method in the CFS of the Ultimate Parent ("UPE"), where the UPE directly or indirectly holds an ownership of at least 50%. **Stateless Constituent Entities** created under the laws of the UAE that are Reverse Hybrid Entities. The DMTT Rules set out the requirements for calculating Pillar Two Income or Loss, Adjusted Covered Taxes and Top-up Tax for CEs, JVs and Stateless CEs. Importantly, Investment Entities located in the UAE will not be subject to Top-up Tax. Broadly, Investment Entities are entities or funds that are widely-held and meet specific requirements in the DMTT Rules. ***PwC Observation:*** *The DMTT Rules are generally aligned with the GloBE Model Rules. In accordance with the options outlined in the commentary to the GloBE rules, the UAE has chosen to apply the DMTT to JVs, meaning 100% of the UAE profits of JVs are subject to the DMTT, regardless of whether minority owners are subject to the GloBE rules. Further, while the UAE exempts Investment Entities from the DMTT, which is an allowable deviation from the GloBE Model Rules, these entities may still be subject to tax via an IIR or UTPR arising under the laws of another implementing jurisdiction.*

Key features of the DMTT Rules

Issue	Comment
Commentary and Guidance	The DMTT Rules clarify that the rules should be interpreted and applied in a way that is consistent with the commentary and administrative guidance developed by the OECD/G20 Inclusive Framework, as adopted by the Minister. ***PwC Observation:*** *Article 16 is helpful as it allows the use of the commentary and agreed administrative guidance as a reference point for interpretative purposes to allow for consistent application of the DMTT Rules with the GloBE rules of other implementing jurisdictions. Further it allows for any future updates to the commentary and administrative guidance to be incorporated into the DMTT Rules.*
Excluded Entities	The following entities are excluded from the application of the DMTT Rules: (i) Governmental entities; (ii) International organizations; (iii) Non-profit organizations; (iv) Pension funds; (v) Investment funds that are UPE; and (vi) Real estate investment vehicles that are UPEs. The DMTT Rules also extend the Excluded Entity definition to an Entity, subject to meeting certain conditions: ● Where at least 95% of its value is owned, directly or indirectly, by one of the aforementioned Excluded Entities (other than a pension services entity), and the entity operates exclusively or almost exclusively to hold assets or invest funds for these Excluded Entities, and/or it only carries out activities that are ancillary to those carried out by the Excluded Entity(ies). ● Where at least 85% of its value is owned, directly or indirectly, by one of the aforementioned Excluded Entities (other than a pension services entity), and the entity's income is primarily derived from gains and losses on shares or equity interests that are excluded from the calculation of the CEs' income or loss. Excluded Entities are not subject to a Top-up Tax on their income. However, the revenue of an Excluded Entity will be considered in determining whether the revenue threshold of EUR 750 million or more is met by the MNE Group. Further, the DMTT Rules ensure that a **sovereign wealth fund ("SWF") that meets certain requirements** is not considered as the UPE of an MNE Group. ***PwC Observation:*** *The treatment of Excluded Entities under the DMTT Rules are in line with the GloBE Model Rules. The DMTT Rules specifically highlight that SWFs, as defined, are excluded from DMTT. Given that SWFs cannot be UPEs, this means that the portfolio entities of these SWFs should be assessed and treated separately under the DMTT Rules.*
Allocation and liability of Top-up Tax	The DMTT Rules provide that the Top-up Tax will be allocated among CEs and JVs in proportion to each entity's Pillar Two income. Notwithstanding this, the DMTT Rules specify that all CEs (including Minority-owned Constituent Entities ("MOCEs")) located in the UAE and all Reverse Hybrid Entities are jointly and severally liable for the aggregate DMTT liability of CEs within the same MNE Group. Similarly all JVs and JV Subsidiaries located in the UAE are jointly and severally liable for Top-up Tax attributable to members of a JV Group. Likewise, any partner, beneficiary or any other person who holds an Ownership Interest in a CE that is not a legal person, created under the laws of the UAE and that is required to pay the Top-up Tax shall be jointly and severally liable to pay the Top-up Tax of that CE to the extent of its Ownership Interests in that Entity. ***PwC Observation:*** *Groups will need to consider how the allocation of a DMTT liability affects existing commercial arrangements and determine how to deal with the allocation of Top-up Taxes among group entities. In many cases it will be essential to develop an internal tax allocation and funding framework that governs how Top-up Tax is allocated. Importantly, the allocation of Top-up Tax under the DMTT Rules is determined by reference to an entity's Pillar Two income, meaning entities that would not pay any DMTT liability if calculated on a standalone basis (for example, if their individual ETR exceeded 15%, or if the entity had SBIE in excess of its Pillar Two income) may still be have a DMTT liability because of the other CEs in the UAE. This is especially relevant for non-wholly owned entities, where the liability may affect the underlying interests of minority owners. Minority shareholders in DMTT-affected entities should consider putting in place protective measures to ensure their investments are not subject to over-allocation of DMTT liability.*

Key features of the DMTT Rules

Issue	Comment

Calculation of the DMTT

The ETR and Top-up Tax calculations under the DMTT Rules are in line with the GloBE Model Rules, as illustrated below:

Step 1: Calculate the CE Income and Adjusted Covered Taxes for each UAE CE and aggregate	**(1) Aggregate CE Income =** Sum of all adjusted income for all non-excluded entities in UAE	**(2) Aggregate Adjusted Covered Taxes =** Sum of Adjusted Taxes for all non-excluded entities in UAE
Step 2: Calculate the ETR for UAE	**(3) ETR = (2) / (1) X 100**	
Step 3: Calculate the Top-up Tax percentage for UAE	**(4) Top-up Tax percentage =** 15% - (3)	
Step 4: Calculate the Substance-based Income Exclusion	**(5) Substance-based Income Exclusion =** 5% to 9.6% of the sum of eligible payroll costs for all entities in UAE + 5% to 7.6% of the sum of eligible tangible assets for all entities in UAE	
Step 5: Calculate Top-up Tax	**(6) Jurisdictional Top-up Tax =** (4) X [(1) - (5)]	
Step 6: Determine Additional Current Tax / Permanent Difference Tax liability	**(7)** Determine (if any) whether additional current tax and/or permanent difference tax liability arises due to certain criteria being met, e.g. restatement of financial statements or non-GloBE permanent differences	
Step 7: Determine the total DMTT liability	**(8) UAE total DMTT liability =** (6) + (7)	

The DMTT Rules follow the GloBE Model Rules in that JVs (and their subsidiaries) as well as MOCEs (and their subsidiaries) must calculate Top-up Tax separately from CEs in the UAE. MOCEs are entities that are consolidated but in which the UPE has an ownership interest of 30% or less.

Safe harbours and exclusions

The DMTT Rules provide for the following safe harbours and exclusions:

- *De minimis safe harbour* - the Top-up Tax is considered nil where the aggregate average revenue in the UAE is below EUR 10m and the average DMTT Income or Loss does not exceed EUR 1m for the current and two prior fiscal years.
- *The transitional Country-by-Country Reporting ("CbCR") Safe Harbour* - for fiscal years beginning on or before 1 January 2027 and excluding fiscal years ending after 1 July 2028, the Top-up Tax due may be considered nil if any of the simplified tests are met, i.e. De Minimis Test, ETR Test or Routine Profit Test. A Qualified CbCR is required to access this safe harbour.
- *Simplified Computation Safe Harbour (i.e. a permanent safe harbour)* - which incorporates similar tests as the transitional CbCR Safe Harbour, albeit under an alternative simplified income calculation methodology.
- *Initial phase of international activity exclusion* - the Top-up Tax is considered nil if:
    - the MNE Group operates in no more than six jurisdictions and holds Tangible Assets below EUR 50m outside its "reference jurisdiction", i.e. the jurisdiction which holds the highest amount of tangible assets; and
    - no interest in the UAE CEs / JVs is owned by a parent entity in the group which applies the IIR.

This exclusion only applies for upto five years from when the MNE Group becomes subject to Pillar Two.

PwC Observation: *Safe harbours and exclusions are broadly in line with GloBE Model Rules. Given that the UAE is a hub for many regional groups, the 'initial phase of international activity' exclusion will be welcomed by many groups that have limited international presence. That said, groups that meet the requirements of these exclusion will still need to register for DMTT and meet the required compliance requirements, notwithstanding their DMTT liability is deemed to be nil. The safe harbours and exclusions need to be tested on a yearly basis. Importantly, the transitional CbCR safe harbour requires Qualified CbCR to be eligible. For most groups, their current CbCR practices will be insufficient to meet the "qualified" requirements and will require significant modification to their current processes to be eligible to access the transitional CbCR safe harbour.*

Key features of the DMTT Rules

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Transfer pricing	The DMTT Rules prescribe that transactions between related entities must adhere to the arm's length criterion. Certain adjustments may be required to ensure that transactions between CEs are recorded in the same amount and consistently with the Arm's Length Principle. Groups will need to reassess their current global and domestic transfer pricing policies in light of these changes.
Registration	In scope CEs and JVs will be required to register with the Federal Tax Authority ("FTA"). Entities that cease to be within scope are required to deregister. The timeline and details of the registration and deregister will be communicated by the FTA. ***PwC Observation:*** *To date, there is no information released on the form and additional information required for DMTT registration in the UAE. In some jurisdictions, registration requirements for DMTT have been onerous and required the inclusion of significant amounts of information in relation to the group and each CE or JV, to be submitted as part of the registration process. Therefore, groups that fall under the scope of DMTT should start assessing the impact of the rules now to identify the entities that will be required to register and prepare the relevant information.*
Top-up Tax Return filing and payment	The DMTT Rules clarify that CEs and JVs in-scope of the rules will be required to file a Top-up Tax Return with the FTA within **15 months** from the end of the tax period (or 18 months for the first transition year). The 15 months timeline aligns with that adopted by most jurisdictions. Payment of Top-up Tax will be due on the same date in which the Top-up Tax Return is due. To minimise the compliance obligations for affected groups, a Designated Filing Entity can be appointed to pay the Top-up Tax and file the return on behalf of the other relevant CEs (including MOCEs) or JV Group member. The Top-up Tax Return to be developed by the FTA will contain equivalent information and reporting requirements as those under the Pillar Two Information Return, including the option to adopt a simplified jurisdictional reporting framework as provide in the Pillar Two Information Return. ***PwC Observation:*** *Although the deadline for the Top-up Tax Return filing and payment is 15 months from the end of the tax period, Pillar Two and DMTT obligations may exist well in advance of the filing and payment dates. In-scope groups will need to consider the obligations under the DMTT as part of their disclosures in their FY24 financial statements and their Q1 2025 interim financial statements reporting obligations. Further, potentially upto 250+ data points for each CE and JV is required to determine the DMTT liability and be disclosed as part of the relevant reporting obligations (the Top-up Tax Return and Pillar Two Information Return (see below)). Being able to obtain the necessary level of granularity in the group's accounts will require a significant investment of time and resources to meet the required obligations and avoid unnecessary risks of material errors in preparing the DMTT calculations.*
Pillar Two Information Return	In addition to the Top-up Tax Return, certain entities specified in a decision by the Minister will be required to file a Pillar Two Information Return. The template of the Pillar Two Information Return shall be provided by the FTA. It is expected to be in line with the standard GloBE Information Return template issued by the Inclusive Framework. The return should be filed within **15 months** from the end of the tax period. The expectation is that this will be filed by UAE headquartered MNEs as well as any other MNEs that chose the UAE as their Designated Filing Entity jurisdiction. ***PwC Observation:*** *The ability to file the Pillar Two Information Return in the UAE may be welcomed by many UAE headquartered groups. This may remove the burden from filing the Pillar Two Information Return (GloBE Information Return) in other jurisdictions that the UAE has a qualifying competent authority agreement ("QCAA") with at the time of filing. The QCAA would permit the FTA to exchange relevant information with foreign tax authorities.*

Key features of the DMTT Rules

Issue	Comment
DMTT Rules and UAE Corporate Tax Law ("UAE CT Law") - The DMTT Rules leverage certain features of the existing UAE CT regime, such as the rules related to the requirement to maintain IFRS financials (for all UAE CEs); the General Anti-abuse Rule, record-keeping requirements, clarification requests and the penalty regime (see below).	
Article 50 - General anti-abuse rules ("GAAR")	The DMTT Rules make reference to Article 50 of the UAE CT Law which contains the framework provisions for the GAAR. The GAAR targets arrangements entered into without a valid commercial reason where the main purpose is to obtain a Corporate Tax advantage that is not consistent with the intention of the UAE CT Law. ***PwC Observation:*** *The application of the GAAR into the DMTT Rules is not mandatory under the GloBE Model Rules or its commentary, but it does have precedent in other jurisdictions. MNEs will need to take into account these new requirements as part of their future planning and contemporaneously document the commercial reasoning of any undertaking where the outcome may directly or indirectly reduce potential Top-up Tax liabilities under the DMTT.*
Article 56 - Record-keeping requirements	Groups will be required to maintain the necessary records, documents and financial information used in determining their DMTT liability for a period of 7 years from the end of the relevant tax period.
Article 59 - Clarifications	Submitting clarification requests to seek guidance on the DMTT Rules will apply as per the UAE CT Law and can be submitted via the Emaratax portal on the FTA's website. Clarifications issued by the FTA are case-specific and do not constitute binding general guidance, ensuring that taxpayers receive tailored responses while maintaining compliance with the tax framework.
Article 60 - Penalties	The penalties regime will be in line with the UAE CT Law, including penalties related to: ● Failure to maintain required records: AED 10,000 / AED 20,000 ● Non-submission of documents in Arabic upon request: AED 5,000 ● Late filing of tax return: AED 500 per month for the first 12 months and AED 1,000 per month from the 13th month onwards ● Failure to settle payable tax: 14% per annum on the unsettled amount, calculated monthly ● Submission of incorrect tax return: AED 500 penalty, unless corrected before the submission deadline

Must-do immediate next steps

To comply with the DMTT Rules, MNE Groups will need to take several immediate steps to assess whether they are in scope, complete the required disclosures for the 2024 financial year, register if needed, and plan for both 2025 interim and year-end compliance requirements. This also includes reviewing their transfer pricing policies and ensuring timely compliance throughout the year. We have outlined some of the immediate steps that must be taken to ensure compliance with the Law.

- **Assessment:** Determine whether the MNE Group or JV (including JV Subsidiaries) is in scope of DMTT including undertaking an impact assessment and, if required, a data and systems gap assessment, to understand the impact (financial and otherwise), whether any safe harbours or exclusions are available, if it needs to register and, if relevant, the steps it needs to undertake to be able to meet its DMTT compliance, reporting and payment obligations, as well as any related financial statement disclosures. This will involve engaging with the broader business functions (finance, legal, tax, investment teams, etc.) within the group to ensure they understand the impact of the DMTT, and the need for internal stakeholder buy-in and attention to tackle it. See more in relation to Pillar Two immediate actions here.
- **2024 Financial Year Disclosure Requirements:** Affected MNEs must ensure compliance with IAS 12 requirements relating to Pillar Two disclosures. The DMTT Rules may give rise to an immediate need to revisit the financial statement disclosures for FY24 accounts that have yet to be signed. At a minimum, in-scope MNE Groups will need to disclose an assessment of their Pillar Two profile, including the Law for FY25 purposes. See more in relation to Pillar Two accounting disclosures here.
- **DMTT Registration:** MNE Groups in scope of the DMTT must complete the registration with the FTA within the prescribed deadline (yet to be published by the FTA). Penalties may be imposed for failure to register in a timely manner.
- **Use Assessment for Compliance Planning and Execution:** MNE Groups must prepare for implementation based on their initial impact assessment and data and systems gap assessment, including to plan for:
    - **Interim Financial Reporting:** Interim financial statement disclosures and / or provisions, if required, for the first quarter of 2025.
    - **Year-End Reporting and Roadmap:** Create a roadmap to ensure end-of-year compliance for tax and financial statement purposes.
        - This will include not only determining the year-end DMTT tax liability and DMTT filing requirements, but also determining the timing of the DMTT filing, especially in situations where an MNE Group may be in a refund position.
        - In addition, MNE Groups will need to consider the processes to be able to determine and provision for DMTT liabilities to ensure compliance with their statutory financial reporting obligations.
- **Qualified CbCR:** Ensure that CbCR meets the ‘qualifying’ requirements in order to access the reliefs under the transitional CbCR Safe Harbour.
- **Transfer pricing policies:** MNE Groups must map intercompany transactions, review and update transfer pricing policies to ensure compliance with the Arm’s Length principle. Groups will need to potentially consider their transfer pricing compliance obligations, including the potential for CbCR reporting becoming mandatory as part of the forthcoming Executive Regulations.

Contact Us

MNE Groups operating in the UAE should plan ahead and prepare for the upcoming compliance requirements. Our team is working on impact assessments, readiness, and implementation and compliance support, such as systems and process updates for a variety of businesses in the region in the context of the Pillar Two rules including DMTTs, and will be happy to support you. Please contact us for further assistance.

Stay tuned for any further updates!

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