Inland Revenue (Amendment) (Minimum Tax for Multinational Enterprise Groups) Bill 2024

Draft Committee Stage Amendments Proposed by the Government

Purpose

This paper sets out the Committee Stage Amendments ("CSAs") to the Inland Revenue (Amendment) (Minimum Tax for Multinational Enterprise Groups) Bill 2024 ("the Bill") proposed by the Government, having regard to comments and suggestions from the stakeholders and the latest Administrative Guidance issued by the Organisation for Economic Co-operation and Development after the gazettal of the Bill in December 2024.

List of Proposed CSAs

2. A full list of proposed CSAs to be moved by the Government is at **Annex A.** A marked-up version of the extract of the Bill is at **Annex B**. Specifically, we propose –

(a) removing the main purpose test ("MPT") under the proposed section 26AH of the Bill. Instead of the MPT, we will apply section 61A of the Inland Revenue Ordinance (Cap. 112) ("IRO") (i.e. the sole or dominant purpose test) with modifications as the general anti-avoidance rule ("GAAR") to address potential avoidance arrangements in the context of the Global Anti-base Erosion ("GloBE") and Hong Kong minimum top-up tax ("HKMTT") regimes to facilitate compliance. Section 61A is a long standing GAAR in the tax laws of Hong Kong and has been applied effectively. Applying a modified section 61A to the GloBE and HKMTT regimes will provide certainty, simplicity and consistency to in-scope multinational enterprise ("MNE") groups with respect to anti-avoidance;

(b) amending the time limit for raising top-up tax assessment under section 20 of the proposed Schedule 63 (originally the proposed Schedule 62; the proposed Schedules 60 to 63 will be renumbered as Schedules 61 to 64). A fixed time limit of 8 years in relation to non-evasion cases and 12 years in relation to evasion cases are proposed respectively to provide greater certainty to MNE groups;

(c) shortening the proposed record-keeping period under section 17 of the proposed Schedule 63 (originally the proposed Schedule 62) from 12

years to 9 years after the completion of the transactions, acts or operations to which the records relate so as to reduce compliance burden;

(d) extending the time limit for taxpayers' application to correct errors or omissions in top-up tax assessment under section 70A(1) of the IRO, and for claiming refund of tax paid in excess in top-up tax assessment under section 79(1) of the IRO from 6 years after the end of the year of assessment concerned to 8 years to align with the extension of the time limit for raising top-up tax assessment and the record-keeping period;

(e) amending the time limit for initiating proceedings under the proposed section 80R from 6 years to 8 years after the date on which the offence was committed, and removing the other time limit of the expiry of 2 years from the day on which the offence was discovered by the Commissioner of Inland Revenue ("the Commissioner") so as to provide certainty;

(f) extending the proposed time limit for Hong Kong constituent entities to file GloBE Information Return, if exchange mechanisms fail, from 30 days to at least 60 days, and relieving a Hong Kong constituent entity from the relevant filing requirement under certain conditions under section 7 of the proposed Schedule 63 (originally the proposed Schedule 62) to reduce compliance burden;

(g) repealing the proposed section 80Q which relates to offences by directors and officers of Part 4AA entities and service providers to reduce compliance burden;

(h) amending section 84 of the IRO to provide that no prosecution in respect of an offence under the proposed section 80O (i.e. offences by Part 4AA entities) may be commenced except at the instance of or with the sanction of the Commissioner to align the treatment for prosecution under the proposed section 80O with that under section 80 of the IRO;

(i) amending the proposed section 25A to clarify that the reimbursement for top-up tax is not taken into account when calculating the profits or loss in the paying entity or receiving entity for the purpose of profits tax under Part 4, and relaxing the limit of reimbursement for top-up tax to an entity or permanent establishment to provide flexibility;

(j) amending sections 50, 50AAA and 50AAAB of the IRO to provide clarity that the qualified domestic minimum top-up tax ("QDMTT") payable in other jurisdictions is allowable as a tax credit through a bilateral relief or unilateral relief with respect to specified scenarios;

(k) amending section 15N of the IRO to provide that a QDMTT paid in a territory outside Hong Kong will also be taken into account under the "subject to tax" condition as provided in the participation requirement under the foreign-sourced income exemption regime, and clarify that the top-up tax percentage in relation to any top-up tax paid in that territory would be disregarded under the meaning of "applicable rate" for the purpose of section 15N;

(l) providing additional guidance on safe harbours by amending Part 3 of the proposed Schedule 61 (originally the proposed Schedule 60) to provide for (i) certain situations where the QDMTT safe harbour does not apply to an MNE group's jurisdictional top-up tax under the GloBE rules for a fiscal year; and (ii) exclusion of certain deferred tax expenses from the simplified covered taxes for the calculation of the simplified effective tax rate in relation to the application of the transitional Country-by-Country Reporting safe harbour;

(m) incorporating the requirement for mandatory e-filing of profits tax return by in-scope MNE groups into the Bill by amending section 51AAB of the IRO and introducing a new Schedule 65; and

(n) including relevant textual amendments and drafting improvements to enhance clarity (e.g. clarifying whether the term "tax" under certain provisions covers top-up tax).

Advice Sought

3. Members are invited to consider the draft CSAs set out in this paper. Subject to Members' views and agreement, the Government will move the CSAs upon the resumption of second reading debate of the Bill.

Financial Services and the Treasury Bureau
Inland Revenue Department
April 2025

Annex A

Inland Revenue (Amendment) (Minimum Tax for Multinational Enterprise Groups) Bill 2024

Committee Stage

Amendments to be moved by the Secretary for Financial Services and the Treasury

Clause	Amendment Proposed
3(1)[1]	In the proposed definition of ***service provider***, in paragraphs (a) and (d), by deleting "62" and substituting "63".
3(2)[2]	In the proposed definition of ***profits tax***, in paragraph (b), by adding ", in sections 50AAA and 50AAAB and Schedule 54, in section 59(1B), (1C) and (1D) and in Schedules 16D and 16E" after "those Parts".
3(2)[3]	By adding in alphabetical order— "***foreign DMTT*** (外地當地最低補足稅) means a minimum tax that is included in the domestic law of a territory outside Hong Kong and implemented and administered in that territory and that— (a) is a QDMTT; or (b) would have been a QDMTT but for either or both of paragraphs (c) and (d) of the definition of ***qualified domestic minimum top-up tax*** in Article 10.1.1 of the GloBE rules; ***foreign IIR top-up tax*** (外地收入納入規則補足稅) means a tax under an IIR, as defined by Article 10.1.1 of the GloBE rules, implemented and administered in a territory outside Hong Kong (whether or not a qualified IIR);

[1] The Inland Revenue (Amendment) (Tax Deductions for Assisted Reproductive Service Expenses) Ordinance 2025 gazetted on 28 February 2025 added a new Schedule 60 to the IRO. The proposed Schedules 60, 61, 62 and 63 of the Bill are proposed to be renumbered as Schedules 61, 62, 63 and 64. This CSA is a consequential amendment.

[2] This CSA serves to clarify that a reference to profits tax in sections 50AAA and 50AAAB and Schedule 54, in section 59(1B), (1C) and (1D) and in Schedules 16D and 16E means profits tax under Part 4.

[3] This CSA serves to include the relevant definitions in section 2 of the IRO as the definitions are applicable to other parts of the IRO.

foreign UTPR top-up tax (外地低稅利潤規則補足稅) means a tax under a UTPR, as defined by Article 10.1.1 of the GloBE rules, implemented and administered in a territory outside Hong Kong (whether or not a qualified UTPR);

GloBE rules (《全球反侵蝕稅基規則》) has the meaning given by section 26AD(1);

QDMTT (合資格當地最低補足稅) means a qualified domestic minimum top-up tax as defined by Article 10.1.1 of the GloBE rules;

qualified IIR (合資格收入納入規則) has the meaning given by Article 10.1.1 of the GloBE rules;

qualified UTPR (合資格低稅利潤規則) has the meaning given by Article 10.1.1 of the GloBE rules;".

3(3)[4] (a) By deleting "section 2(8)" and substituting "section 2(10)".

(b) By renumbering the proposed section 2(9) as section 2(11).

New[5] By adding—

"**5A. Section 15N amended (when does section 15M not apply)**

(1) Section 15N(6)—

Repeal paragraphs (a) and (b)

Substitute

"(a) the sum is subject to a similar tax or QDMTT in that territory (and this paragraph is not met by the sum being subject to any foreign IIR top-up tax or foreign UTPR top-up tax in that territory); and

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4 These are consequential amendments.

5 This CSA serves to clarify that a specified foreign-sourced income that is subject to a similar tax as defined under section 16(2I)(b) or QDMTT in a territory outside Hong Kong (but not an IIR top-up tax or UTPR top-up tax) is to be regarded as meeting the "subject to tax" condition in section 15N(6)(a) under the foreign-sourced income exemption ("FSIE") regime, and that the applicable rate, in relation to a sum subject to a similar tax or QDMTT in a territory means the rate of the similar tax in that territory for the purposes of section 15N(6)(b). The top-up tax percentage in relation to any top-up tax paid in that territory will be disregarded in determining whether the corporate tax rate of that jurisdiction has met the stipulated reference rate.

(b) the applicable rate, or (if there is more than one applicable rate) the highest applicable rate, of a similar tax in that territory is equal to or higher than the reference rate.".

(2) Section 15N(9)—

Repeal the definition of *applicable rate*

Substitute

"***applicable rate*** (適用稅率), in relation to a sum subject to a similar tax or QDMTT (***specified tax***) in a territory, means—

(a) if the specified tax is chargeable at the time the sum accrues—the rate of a similar tax in that territory applicable at that time; or

(b) if the specified tax is chargeable for the taxable period during which the sum accrues—the rate of a similar tax in that territory applicable for that taxable period;".".

6(1)[6] By deleting "and (ca)".

6[7] By adding—

"(1A) Section 16(2)(c), (2A)(c), (2E)(c)(i) and (2F)(c)(i)—

Repeal

"Ordinance"

Substitute

"Ordinance (other than Part 4AA)".

(1B) Section 16(2I)(b)—

Repeal

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[6] The term "specified tax" used in section 16(1)(ca) is proposed to be modified. The proposed section 16(2L) will apply to section 16(1)(c) only but not section 16(1)(ca).

[7] This CSA serves to clarify that the term "chargeable to tax under this Ordinance" in section 16(2)(c), (2A)(c), (2E)(c)(i) and (2F)(c)(i) does not cover a top-up tax charged under Part 4AA and the term "profits tax" in section 16(2I)(b) refers to profits tax under Part 4 only.

"Ordinance;"

Substitute

"Part;".".

6(2)[8] By deleting the proposed section 16(2L) and substituting—

"(2L) A reference in subsection (1)(c) to a tax paid in a territory outside Hong Kong in respect of the profits referred to in that subsection—

(a) includes a foreign DMTT paid in a territory only to the extent to which it is a QDMTT paid, in respect of the profits referred to in that subsection that are income of a permanent establishment, in that territory; but

(b) does not include a foreign IIR top-up tax or a foreign UTPR top-up tax.".

6[9] By adding—

"(3) Section 16(3), definition of ***specified tax***, paragraph (c)—

Repeal

"(lb)."

Substitute

"(lb),

but does not include a foreign IIR top-up tax, a foreign UTPR top-up tax or a foreign DMTT.". ".

[8] This CSA serves to clarify that a foreign DMTT which is a QDMTT paid in a territory outside Hong Kong in respect of the profits referred to in section 16(1)(c) that are income of a permanent establishment in that territory would be eligible for a deduction under that section, and that a foreign IIR top-up tax or foreign UTPR top-up tax is not eligible for such deduction.

[9] This CSA serves to clarify that specified tax as defined under section 16(3) for the purpose of section 16(1)(ca) does not include a foreign IIR top-up tax, a foreign UTPR top-up tax or a foreign DMTT.

New[10] By adding—

"**6A. Section 18G amended (financial instrument: interpretation of this section and sections 18H, 18I, 18J, 18K and 18L)**

(1) Section 18G(1), English text, definition of ***specified financial reporting standard***—

Repeal the full stop

Substitute a semicolon.

(2) Section 18G(1)—

Add in alphabetical order

"***tax*** (稅) means tax charged under this Part.".

6B. Section 18H amended (financial instrument: application of sections 18I, 18J, 18K and 18L)

Section 18H(1)—

Repeal

"to a person"

Substitute

"for ascertaining profits in respect of which a person is chargeable to tax under this Part".

6C. Section 20A amended (persons chargeable on behalf of a non-resident)

After section ~~Section~~ 20A(3)—

Add

"(4) In this section—

tax (稅) means tax charged under this Part.".

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[10] This CSA serves to clarify the following –
(i) for the purposes of sections 18G, 18H, 18I, 18J, 18K and 18L, the term "tax" contained in a provision therein refers to a tax charged under Part 4 only;
(ii) the election under section 18H for application of sections 18I, 18J, 18K and 18L applies to profits tax under Part 4 only;
(iii) the term "tax" in section 20A refers to a tax charged under Part 4 only;
(iv) the term "tax" in section 20B refers to a tax charged under Part 4 only; and
(v) the term "tax" in section 22 refers to a tax charged under Part 4 only.

6D. Section 20B amended (persons chargeable in respect of certain profits of a non-resident)

(1) Section 20B(4), English text, definition of ***entertainer or sportsman***—

Repeal the full stop

Substitute a semicolon.

(2) Section 20B(4)—

Add in alphabetical order

"***tax*** (稅) means tax charged under this Part.".

6E. Section 22 amended (assessment of partnerships)

(1) Section 22(6), English text, definition of ***general partner***—

Repeal the full stop

Substitute a semicolon.

(2) Section 22(6)—

Add in alphabetical order

"***tax*** (稅) means tax charged under this Part.".".

7[11] By deleting the proposed section 25A and substituting—

"**25A. Reimbursement for certain top-up tax not taken into account for purposes of Part 4**

(1) This section applies to a payment (***intra-group payment***) made by an entity or permanent establishment of an MNE group (***paying entity***) to another entity or permanent establishment of the MNE group (***receiving entity***).

(2) An intra-group payment is not to be taken into account in calculating the profits or loss of the receiving entity for the

[11] This CSA serves to clarify that reimbursement for top-up tax is not taken into account in calculating the profits or loss in the paying entity or receiving entity of an MNE group for the purpose of Part 4 profits tax, and that the reimbursement for top-up tax should not exceed the amount of top-up tax that (a) is payable by the paying entity under an allocation of the applicable tax among entities and permanent establishments of the MNE group concerned that are relevant to the applicable assessment; and (b) has been paid (or agreed to be paid) by the receiving entity on behalf of the paying entity.

purposes of profits tax under this Part if the payment is proved by the receiving entity, to an assessor's satisfaction, to be reimbursement for an applicable tax under an applicable assessment.

(3) No deduction is allowable for an intra-group payment, for determining the profits tax to which the paying entity is chargeable under this Part, if the payment is reimbursement for an applicable tax under an applicable assessment.

(4) An intra-group payment is not reimbursement for an applicable tax under an applicable assessment unless the amount of the intra-group payment does not exceed the amount of the applicable tax that—

(a) is payable by the paying entity under an allocation of the applicable tax under the applicable assessment specified in subsection (5); but

(b) has been paid, or agreed to be paid, by the receiving entity on behalf of the paying entity.

(5) For the purposes of subsection (4)(a), an allocation of the applicable tax under the applicable assessment is—

(a) for an applicable tax other than an IIR top-up tax or a foreign IIR top-up tax—such an allocation among the entities and permanent establishments of the MNE group concerned that are relevant to the applicable assessment; or

(b) for an IIR top-up tax or a foreign IIR top-up tax—such an allocation among the receiving entity of the intra-group payment and the other entities and permanent establishments of the MNE group concerned each of which (***same group entity***) meets the descriptions in both subparagraphs (i) and (ii)—

(i) the same group entity is relevant to the applicable assessment;

(ii) the receiving entity is a parent entity of the same group entity

(6) For the purposes of subsection (5), an entity or permanent establishment is relevant to an applicable assessment if it has been taken into account in determining the ETR of a jurisdiction taken into account in making the applicable assessment.

(7) In this section—

applicable tax (適用稅項) means—

(a) a top-up tax; or

(b) a foreign IIR top-up tax, a foreign UTPR top-up tax or a foreign DMTT;

applicable assessment (適用評稅) means—

(a) in relation to a top-up tax, an assessment under Part 4AA; or

(b) in relation to a foreign IIR top-up tax, a foreign UTPR top-up tax or a foreign DMTT implemented by a territory outside Hong Kong, an assessment (however described) made by the tax authority of that territory;

(8) An expression in this section, and defined or otherwise explained in any provision of Part 4AA or Part 1 of Schedule 61 (***definition provision***), has the same meaning as in the definition provision.".

8[12] In the proposed Part 4AA, in Note 1, by deleting "60 to 63" and substituting "61 to 64".

8[13] In the proposed section 26AD(1), in the definition of ***GloBE rules***, in paragraph (a), by deleting "60" and substituting "61".

[12] This is a consequential amendment.

[13] This is a consequential amendment.

8[14] In the proposed section 26AD(1), in the definitions of ***OECD GloBE rules document*** and ***specified OECD GloBE rules guidance***, by deleting "63" and substituting "64".

8[15] In the proposed section 26AD(2), by deleting "60, 61, 62 and 63" and substituting "61, 62, 63 and 64".

8[16] In the proposed section 26AE(3), by deleting "60" and substituting "61".

8[17] In the proposed section 26AE(4), by deleting "61" and substituting "62".

8[18] In the proposed section 26AE(5), by deleting "62" and substituting "63".

8[19] In the proposed section 26AF(1) and (2), by deleting "60, 61 and 62" and substituting "61, 62 and 63".

8[20] In the proposed section 26AG—

(a) in the heading, by deleting "**60 to 63**" and substituting "**61 to 64**";

(b) in subsection (1)(b), by deleting "60, 61, 62 and 63" and substituting "61, 62, 63 and 64".

8[21] By deleting the proposed section 26AH.

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[14] This is a consequential amendment.

[15] This is a consequential amendment.

[16] This is a consequential amendment.

[17] This is a consequential amendment.

[18] This is a consequential amendment.

[19] This is a consequential amendment.

[20] These are consequential amendments.

[21] This CSA is proposed in response to respondents' feedback. It serves to remove the main purpose test under the proposed section 26AH. The general anti-avoidance rule under section 61A is to be applied, with proposed modifications, to the global minimum tax and HKMTT regimes. See footnote 89.

New[22] By adding—

"**8A. Section 40AB amended (Schedule 17A: specified alternative bond scheme and its tax treatment)**

(1) Section 40AB, heading—

Repeal

"**tax treatment**"

Substitute

"**treatment under this Ordinance (other than Part 4AA)~~)~~**"

(2) Section 40AB—

Repeal

"tax treatment"

Substitute

"treatment, under this Ordinance (other than Part 4AA),".".

9[23] By deleting the clause and substituting—

"**9. Section 50 amended (tax credits under double taxation arrangements)**

(1) Section 50(1)—

Repeal

"This"

Substitute

[22] This CSA serves to clarify that the tax treatment of specified alternative bond schemes specified under section 40AB and Schedule 17A does not apply to a top-up tax under Part 4AA.

[23] This CSA serves to clarify that no foreign top-up tax is to be allowed as a tax credit under section 50 except for the circumstances provided for under the proposed new section 50AAAD, and to clarify that the tax that is chargeable in Hong Kong and to be offset by a foreign tax credit under section 50 does not include a top-up tax under Part 4AA.

"Subject to section 50AAAD, this".

(2) Section 50(1A)(b), after "Ordinance"—

Add

", other than a top-up tax".".

New[24] By adding—

"**9A. Section 50AAA amended (unilateral tax credits—no double taxation arrangements or specified DT arrangements made)**

(1) Section 50AAA(1)—

Repeal

"This"

Substitute

"Subject to section 50AAAD, this".

(2) Section 50AAA(7)—

Repeal the definition of *similar tax*

Substitute

"***similar tax*** (類似稅項), in relation to specified income, means—

(a) a tax that is of substantially the same nature as the tax specified in Part 2 of Schedule 54 for the income; or

(b) a foreign DMTT regarded as a similar tax for the purposes of this section under section 50AAAD(3).".".

[24] This CSA is proposed in response to respondents' feedback. It serves to provide that a foreign QDMTT payable in a territory outside Hong Kong in the cases as described in the proposed new section 50AAAD is to be regarded as a similar tax for the purposes of section 50AAA and allowed as a tax credit against profits tax payable in respect of a specified foreign-sourced income.

New[25] By adding—

"**9B. Section 50AAAB amended (unilateral tax credits—no relief for underlying profits etc. under specified DT arrangements made)**

(1) Section 50AAAB(1)—

Repeal

"This"

Substitute

"Subject to section 50AAAD, this".

(2) Section 50AAAB(10)—

Repeal the definition of *similar tax*

Substitute

"***similar tax*** (類似稅項) means—

(a) a similar tax as defined by section 16(2I)(b); or

(b) a foreign DMTT regarded as a similar tax for the purposes of this section under section 50AAAD(3);".".

New[26] By adding—

"**10A. Section 50AAC amended (interpretation of Part 8AA)**

(1) Section 50AAC(1), definition of ***foreign tax***, after "any tax"—

Add

[25] This CSA is proposed in response to respondents' feedback. It serves to provide that a foreign QDMTT payable in a territory outside Hong Kong in the cases as described in the proposed new section 50AAAD is to be regarded as a similar tax for the purposes of section 50AAAB and allowed as a tax credit against profits tax payable in respect of a specified foreign-sourced income that is a dividend.

[26] This CSA serves to clarify that for the purpose of Part 8AA of the IRO, the definition of foreign tax does not include a foreign IIR top-up tax, a foreign UTPR top-up tax or a foreign DMTT, and the definition of Hong Kong tax does not include a top-up tax under Part 4AA.

"(other than a foreign IIR top-up tax, a foreign UTPR top-up tax or a foreign DMTT)".

(2) Section 50AAC(1), definition of ***Hong Kong tax***, after "other than"—

Add

"a top-up tax or an".".

New[27] By adding—

"**10B. Section 50AAAD added**

After section 50AAAC—

Add

"**50AAAD. Tax credits denied, or allowed, for certain foreign top-up taxes**

(1) Neither a foreign IIR top-up tax, nor a foreign UTPR top-up tax, is to be allowed as a credit against tax payable in Hong Kong under section 50 (including that section as applied by section 50AAA or 50AAAB).

(2) A foreign DMTT is to be allowed as a credit against tax payable in Hong Kong under section 50 only to the extent to which the foreign DMTT is—

(a) a QDMTT payable in a territory in respect of income of a permanent establishment in that territory; or

(b) a QDMTT payable in a case described in section 50(5)(c), (7)(a) or (7A) by a company in respect of the profits out of which it pays the dividend.

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[27] This CSA serves to specify the circumstances where a foreign DMTT is to be allowed as a credit against profits tax payable in Hong Kong under section 50 (including that section as applied by section 50AAA or 50AAAB). It also specifies that neither a foreign IIR top-up tax, nor a foreign UTPR top-up tax, is to be allowed as a credit against profits tax payable under section 50 (including that section as applied by section 50AAA or 50AAAB).

(3) A foreign DMTT is to be regarded as a similar tax, for the purposes of sections 50AAA and 50AAAB, to the extent to which the foreign DMTT is—

(a) a QDMTT payable in a territory in respect of income of a permanent establishment in that territory;

(b) a QDMTT payable in the case described in section 2(3)(b) of Schedule 54, by the investee company in respect of the profits out of which it pays the dividend; or

(c) a QDMTT payable—

(i) in the case described in section 50AAAB(2) by the subject company in respect of the profits out of which it pays the subject dividend; or

(ii) in the case described in subsection (7) of section 50AAAB in respect of the profits referred to in subsection (6)(a)(i) or (ii) (as the case requires) of that section.".".

New[28] By adding—

"**10C. Section 51AAB substituted**

Section 51AAB—

[28] This CSA is proposed in response to respondents' feedback. The Government has briefed the Panel on Financial Affairs of the Legislative Council ("LegCo") that we would mandate entities of MNE groups meeting the revenue thresholds under the global minimum tax and Hong Kong minimum top-up tax regimes (i.e. in-scope MNE groups) to file their profits tax returns in an electronic form starting from the year of assessment 2025/26 (i.e. mandatory e-filing requirement) by way of a gazette notice subject to negative vetting by the LegCo. In order to enable the Inland Revenue Department to efficiently obtain accounting data in the financial statements of in-scope MNE groups' entities in Hong Kong for top-up tax verification and compliance purposes, we propose to implement the mandatory e-filing requirement through a CSA to the Bill. This CSA serves to amend section 51AAB of the IRO to mandate a specified person to e-file a specified return for a specified year of assessment. The specified matters are to be set out in a new Schedule 65, which can be amended by the Commissioner of Inland Revenue by gazette notice subject to negative vetting. As compared with issuing gazette notices under the original section 51AAB, the Schedule setting out the provisions in relation to the specified matters lays a clear and structured framework to impose the mandatory e-filing requirements. It also echoes with the respondents' feedback that the Government should provide early clarity for in-scope MNE groups to prepare for tax filing requirement at an earlier stage.

Repeal the section

Substitute

"**51AAB. Specified person must furnish specified return in form of electronic record**

(1) A person who is required under section 51(1) to furnish a specified return for a specified year of assessment must file it in the form of an electronic record if the person is a specified person for the specified year of assessment.

(2) The requirements relating to a return furnished in the form of an electronic record under section 51AA(2) also apply to a return furnished in the form of an electronic record under subsection (1).

(3) In this section—

specified person (指明人士), in relation to a specified year of assessment, means a person that is specified in column 2 of Part 1 of Schedule 65 opposite that year of assessment;

specified return (指明報表), in relation to a specified person, means a return that is specified in column 3 of Part 1 of Schedule 65 opposite that person;

specified year of assessment (指明課稅年度) means a year of assessment specified in column 4 of Part 1 of Schedule 65.

(4) The Commissioner may, by notice published in the Gazette, amend Schedule 65.".".

12[29] In the proposed section 79A—

(a) in the heading, by deleting "**60, 61 or 62**" and substituting "**61, 62 or 63**";

[29] These are consequential and textual amendments.

(b) in subsection (1), in the definition of ***Part 4AA entity***, in paragraphs (a), (b) and (c), by deleting "60, 61 or 62" and substituting "61, 62 or 63";

(c) in subsection (2)(a), by deleting "60, 61 or 62" and substituting "61, 62 or 63";

(d) in subsection (2)(b), by deleting "60 or of Schedule 61 or 62 (***definition provisions***)" and substituting "61 or of Schedule 62 or 63 (***definition provision***)";

(e) in the English text, in subsection (2), by deleting "the definition provisions" and substituting "the definition provision".

13[30] In the heading, by deleting "**80R**" and substituting "**80Q**".

13[31] (a) In the proposed section 80O(1)(a)(i), (ii) and (iii), (b) and (c) and (2), by deleting "62" and substituting "63".

(b) In the proposed section 80O(11), in the definition of ***top-up tax undercharged amount***, in paragraph (a), by deleting "62" and substituting "63".

13[32] In the proposed section 80P(1), (2), (3), (4)(a) and (5)(a), by deleting "62" and substituting "63".

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30 This is a corresponding amendment in light of the proposed removal of section 80Q. See footnote 33.

31 These are consequential ~~amednments~~amendments.

32 This is a consequential amendment.

13[33] (a) By deleting the proposed section 80Q.

(b) By renumbering the proposed section 80R as section 80Q.

(c) In the proposed section 80Q(1)—

(i) by deleting "80O, 80P or 80Q" and substituting "80O or 80P";

(ii) by deleting everything after "brought" and substituting "within 8 years after the day on which the offence was committed.".

(d) In the proposed section 80Q(2), by deleting "80O, 80P or 80Q" and substituting "80O or 80P".

14(1)[34] In the proposed section 82(1AAD)(a), by deleting "62" and substituting "63".

15(1)[35] In the proposed section 82A(1L)(a)(i), (ii), (iii) and (iv), by deleting "62" and substituting "63".

15(2)[36] In the proposed section 82A(4)(a)(i)(I), by deleting "62" and substituting "63".

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[33] This CSA is proposed in response to respondents' feedback. Part (a) of the CSA serves to remove the proposed section 80Q which relates to offences by director or officer of Part 4AA entities and service provider. We have reviewed the proposed offence provisions and consider that the proposed offence and penal provisions under sections 80O, 82 and 82A are sufficient to deter non-compliance under the GloBE and HKMTT regimes while ensuring Hong Kong's ability to enforce the rules.

Parts (b), (c)(i) and (d) of the CSA are consequential amendments. The proposed section 80R is renumbered as section 80Q, if the originally proposed section 80Q is removed.

Part (c)(ii) of the CSA is proposed to amend subsection (1) of the proposed section 80Q (as renumbered) to provide a fixed time limit for bringing a proceedings in respect of an offence under the proposed sections 80O and 80P. The time limit is revised from 6 years to 8 years after the day on which the offence was committed. The extension of 2 years aligns with the extension of the record-keeping period, the time limit for the application to correct errors or omissions in top-up tax returns and the repayment of tax paid in excess.

[34] This is a consequential amendment.

[35] This is a consequential amendment.

[36] This is a consequential amendment.

15(4)[37] In the proposed definition of ***top-up tax undercharged amount***, in paragraph (a), by deleting "62" and substituting "63".

New[38] By adding—

"**15A. Section 84 amended (prosecutions, sanction of Commissioner)**

Section 84(1)—

Repeal

"80"

Substitute

"80, 80O".

15B. Section 87 amended (general power of Chief Executive in Council to exempt)

Section 87, after "Ordinance"—

Add

", other than a top-up tax".

15C. Section 88 amended (exemption of charitable bodies)

(1) Section 88—

Renumber the section as section 88(1).

(2) After section 88(1)—

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[37] This is a consequential amendment.

[38] Clause 15A serves to provide that no prosecution in respect of an offence under section 80O may be commenced except at the instance of or with the sanction of the Commissioner. This will align the treatment for prosecution under the proposed section 80O with that under section 80 and ensure that an appropriate level of scrutiny is exercised in instituting prosecution.

Clauses 15B and 15C serve to clarify that the term "tax" under sections 87 and 88 does not cover a top-up tax under Part 4AA.

Clause 15D serves to clarify that the tax treatment of specified alternative bond scheme under Schedule 17A does not apply to a top-up tax under Part 4AA, and that the term "tax" under Schedule 17A does not include a top-up tax charged under Part 4AA.

Clause 15E is a consequential amendment.

Add

"(2) Subsection (1) does not apply to a top-up tax.".

15D. Schedule 17A amended (specified alternative bond scheme and its tax treatment)

(1) Schedule 17A, heading—

Repeal

"**Tax Treatment**"

Substitute

"**Treatment ~~Under~~ under ~~This~~ this Ordinance (~~Other~~ other ~~Than~~ than Part 4AA)**".

(2) Schedule 17A, section 1(2), definition of ***special purpose vehicle***, paragraph (b)—

Repeal

"requires)."

Substitute

"requires);".

(3) Schedule 17A, section 1(2)—

Add in alphabetical order

"tax (稅) does not include a top-up tax.".

15E. Schedule 54 amended (specifications for section 50AAA in relation to unilateral tax credits)

Schedule 54—

Repeal

"& 50AAA]"

Substitute

", 50AAA & 50AAAD]".".

16[39] (a) In the heading, by deleting "**60 to 63**" and substituting "**61 to 65**";

[39] These are consequential amendments.

(b) By deleting "Schedule 59" and substituting "Schedule 60".

16[40] By renumbering the proposed Schedules 60, 61, 62 and 63 as Schedules 61, 62, 63 and 64.

16[41] In the proposed Schedule 61, by deleting "26AG, 26AH & 79A & Schs. 61 & 62]" and substituting "26AG & 79A & Schs. 62 & 63]".

16[42] In the proposed Schedule 61, in the English text, in Part 1, in Article 2.4.1—

(a) by deleting "Entities of an MNE Group" and substituting "entities of an MNE group";

(b) by deleting "Constituent Entities having" and substituting "constituent entities having";

(c) by deleting "Top-up Tax Amount for the Fiscal Year" and substituting "top-up tax amount for the fiscal year".

16[43] In the proposed Schedule 61, in Part 1—

(a) in the English text, in Article 5.2.3, in paragraph (d), by deleting "Domestic" and substituting "domestic";

(b) in Article 6.5.1, in Note 2, by deleting "62" and substituting "63";

(c) in the English text, in Article 7.4, in the heading, by deleting the dash and substituting a hyphen;

(d) in the passage under the Article 8.1 heading, by deleting "62" and substituting "63";

(e) in the Chinese text, in Chapter 9, in the heading, by deleting "度" and substituting "渡".

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[40] This is a consequential amendment.

[41] This is a consequential amendment.

[42] These are textual amendments.

[43] These are textual amendments to the English and Chinese texts, and consequential amendments.

(f) in the passage under the Article 9.4 heading, by deleting "62" and substituting "63";

(g) in Article 10.1.1—

(i) in the definition of ***Designated filing entity***, in the note, by deleting "62" and substituting "63";

(ii) in the definition of ***Designated local entity***, in the note, by deleting "62" and substituting "63";

(iii) in the definition of ***Filing constituent entity***, in the note, by deleting "62" and substituting "63";

(iv) in the definition of ***GloBE information return***, in the note, by deleting "62" and substituting "63";

(v) in the English text, in the definition of ***Other comprehensive income***, by deleting ". other" and substituting ". Other";

(vi) in the English text, in the definition of ***Qualified domestic minimum top-up tax***, in paragraph (d), by deleting "framework" and substituting "Framework";

(vii) in the Chinese text, in the definition of *有形資產帳面淨值*, by deleting "未" and substituting"末";

(viii) in the Chinese text, in the definition of *指定本地實體*, by deleting "團團" and substituting"團"

(ix) in the Chinese text, in the definition of *淨稅項開支*, by deleting "expenses" and substituting "expense".

16[44] In the proposed Schedule 61, in Part 2, in section 3—

(a) by adding ", to which Article 2.4.1 in Part 1 (as modified by section 2 of this Part) applies (***specified HK constituent entity***)," after "allocated to a HK constituent entity";

(b) in paragraph (b), by adding "specified" before "HK constituent entity's";

(c) by adding "specified" before "HK constituent entity (***CE1***)" ;

[44] These are textual amendments for the purpose of clarity.

(d) in the formula, by adding "specified" before "HK" (wherever appearing).

16[45] In the proposed Schedule 61, in Part 2, in sections 5, 6, 7 and 8, by deleting "62" (wherever appearing) and substituting "63".

16[46] In the proposed Schedule 61, in Part 3, in section 1—

(a) in the heading, by deleting "**60**" and substituting "**61**";

(b) in subsection (1), by adding in alphabetical order—

"***Jan-2025 AG version*** (《2025 年 1 月行政指引》版本)—see subsection (4);

Jun-2024 AG version (《2024 年 6 月行政指引》版本)—see subsection (5);";

(c) in the English text, in subsection (2), by deleting "(***definition provisions***), has the same meaning as in the definition provisions" and substituting "(***definition provision***), has the same meaning as in the definition provision";

(d) by adding—

"(4) A reference in this Part to a paragraph of the Commentary to Article 9.1.2 (Jan-2025 AG version) is a reference to that paragraph stipulated, in paragraph 11 of the Third Jan-2025 Administrative Guidance, to be incorporated into the Commentary to that Article of the OECD GloBE model rules.

(5) A reference in this Part to a paragraph of the Commentary to Article 10.1 (Jun-2024 AG version) is a reference to that paragraph stipulated, in paragraph 24 of Chapter 6 of the Jun-2024 Administrative Guidance, to be incorporated into the Commentary to that Article of the OECD GloBE model rules.".

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[45] This is a consequential amendment.

[46] The proposed addition of the definitions of "Jan-2025 AG version" and "Jun-2024 AG version" is to provide for references to the relevant paragraphs in the Administrative Guidances issued in June 2024 and January 2025 for the purpose of interpreting the provisions on safe harbours. Part (a) is a consequential amendment and part (c) is a textual amendment.

16[47] In the proposed Schedule 61, in Part 3, in section 2, in the heading, by deleting "**60**" and substituting "**61**".

16[48] In the proposed Schedule 61, in Part 3, in section 3(3)—

(a) by deleting "where the qualified CbC report was based on the constituent entity's reporting package, or separate financial statements, incorporating the purchase price accounting adjustment";

(b) in paragraph (a), by deleting "qualified".

16[49] In the proposed Schedule 61, in Part 3, by deleting section 6(1)(b) and substituting—

"(b) the MNE group's profit before income tax for the jurisdiction for the fiscal year is less than EUR 1 million or the MNE group has a loss for the jurisdiction for the fiscal year.".

16[50] In the proposed Schedule 61, in Part 3, in section 7(3), in the definition of ***simplified covered taxes***—

(a) in paragraph (a), by deleting "and";

(b) in paragraph (b), by deleting the full stop and substituting "; and";

(c) by adding—

"(c) excluded deferred tax expenses.";.

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47 This is a consequential amendment.

48 This is a drafting improvement.

49 This is a textual amendment for the purpose of clarity.

50 This CSA is proposed in response to the Administrative Guidance issued in January 2025. It serves to provide that certain deferred tax expenses are to be excluded from the simplified covered taxes for the calculation of the simplified ETR in relation to the application of the transitional Country-by-Country Reporting safe harbour.

16[51] In the proposed Schedule 61, in Part 3, in section 7(3), by adding in alphabetical order—

"***excluded deferred tax expenses*** (被豁除遞延稅項開支)—

(a) means any deferred tax expenses attributable to the reversal of deferred tax assets and deferred tax liabilities described in subparagraph (a), (b) or (c) of paragraph 8.5 of the Commentary to Article 9.1.2 (Jan-2025 AG version) in a tested fiscal year; but

(b) for determining the simplified covered taxes within the grace period, described in paragraph 8.8 of the Commentary to Article 9.1.2 (Jan-2025 AG version), may exclude the deferred tax expenses attributable to the reversal of such deferred tax assets up to the maximum amount allowed under paragraphs 8.9, 8.10 and 8.11 of the Commentary to Article 9.1.2 (Jan-2025 AG version).".

16[52] In the proposed Schedule 61, in Part 3, in section 13(4)(b), by deleting "results from the arrangement" and substituting "is".

16[53] In the proposed Schedule 61, in Part 3, by deleting section 13(5)(a) and (b) and substituting—

"(a) the amount included in taxable income is offset by a tax attribute, such as a loss carryforward or an unused interest carryforward, with respect to which a valuation adjustment or accounting recognition adjustment has been made or would have been made if the adjustment determination were made without regard to the ability of a constituent entity to use the tax attribute with respect to any hybrid arbitrage arrangement entered into after 15 December 2022; or

(b) the payment that gives rise to the expense or loss also gives rise to a taxable deduction or loss of a constituent entity that is

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[51] This CSA is proposed in response to the Administrative Guidance issued in January 2025. It serves to provide for the definition of deferred tax expenses to be excluded from the simplified covered taxes. See footnote 50.

[52] This is a textual amendment.

[53] This is a drafting improvement.

located in the same jurisdiction as the constituent entity counterparty (***counterparty jurisdiction***), without being included as an expense or loss in determining the profit or loss before income tax for the counterparty jurisdiction, including as a result of being an expense or loss in the financial statements of a flow-through entity that is owned by a constituent entity in the counterparty jurisdiction.".

16[54] In the proposed Schedule 61, in Part 3, by deleting section 13(8) and substituting—

"(8) In this section—

duplicate tax recognition arrangement (重複稅項確認安排) means an arrangement entered into after 15 December 2022 that results in each of 2 or more constituent entities of an MNE group including part or all of the same income tax expense in—

(a) its adjusted covered taxes; or

(b) its simplified ETR for the purpose of applying the transitional CbCR safe harbour,

but does not include an arrangement that also results in the income subject to tax being included in the relevant financial statements of each such constituent entity.

(8A) Despite subsection (8), an arrangement is not a duplicate tax recognition arrangement if it arises solely because the simplified ETR of a constituent entity of the MNE group (***first constituent entity***) does not require adjustments for income tax expenses that would otherwise be allocated to another constituent entity of the MNE group in determining the first constituent entity's adjusted covered taxes.".

16[55] In the proposed Schedule 61, in Part 3, by deleting section 14(4)(a) and substituting—

[54] This is a drafting improvement.

[55] This is a drafting improvement.

"(a) the transitional CbCR safe harbour did not apply to the MNE group for the jurisdiction for a previous fiscal year; and".

16[56] In the proposed Schedule 61, in Part 3, in section 16, in the heading, by deleting "**60**" and substituting "**61**".

16[57] In the proposed Schedule 61, in the Chinese text, in Part 3, in section 16, by deleting "就本分部而言" and substituting"在本分部中".

16[58] In the proposed Schedule 61, in Part 3, in section 19—

(a) in the heading, by deleting "**60**" and substituting "**61**";

(b) in the definition of ***QDMTT safe harbour standards***, by deleting "63" and substituting "64".

16[59] In the proposed Schedule 61, in Part 3, in section 20(d), by deleting "23 or 24" and substituting "23, 24, 24A or 24B".

16[60] In the proposed Schedule 61, in Part 3, in Division 4, in Subdivision 2, by adding—

"**24A. Disqualifying condition—no charge for securitization entity**

(1) The QDMTT safe harbour does not apply to an MNE group's jurisdictional top-up tax under the GloBE rules for a fiscal year, for constituent entities of the group located in a jurisdiction, if—

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56 This is a consequential amendment.

57 This is a textual amendment to the Chinese text.

58 These are consequential amendments.

59 This is a corresponding amendment in light of the proposed addition of sections 24A and 24B in the proposed Schedule 61 (as renumbered).

60 This CSA is proposed in response to the Administrative Guidances issued in June 2024 and January 2025. It serves to provide for the specific circumstances under which the QDMTT safe harbour does not apply to an MNE group's jurisdictional top-up tax under the GloBE rules for a fiscal year.

(a) a member of the MNE group is a securitization entity participating in a securitization arrangement and is located in the jurisdiction; and

(b) the qualified domestic minimum top-up tax in the jurisdiction does not impose a charge in any circumstances on a securitization entity.

(2) In subsection (1)—

securitization arrangement (證券化安排) has the meaning given by paragraph 148.4 of the Commentary to Article 10.1 (Jun-2024 AG version);

securitization entity (證券化實體) has the meaning given by paragraphs 148.2 and 148.3 of the Commentary to Article 10.1 (Jun-2024 AG version).

24B. Disqualifying condition—non-exclusion of tax attributes from total deferred tax adjustment amount or from simplified covered taxes

The QDMTT safe harbour does not apply to an MNE group's jurisdictional top-up tax under the GloBE rules for a fiscal year, for constituent entities of the group located in a jurisdiction, if—

(a) the general government of the jurisdiction provided the tax attributes described in paragraph 8.5 of the Commentary to Article 9.1.2 (Jan-2025 AG version); and

(b) the jurisdiction does not exclude those tax attributes from Article 9.1.1 computations in determining the total deferred tax adjustment amount or from the simplified covered taxes under the transitional CbCR safe harbour. ".

16[61] In the proposed Schedule 61, in Part 3, in sections 25(1), 26(1) and 27, by deleting "23 and 24" and substituting "23, 24, 24A and 24B".

[61] This is a consequential amendment.

16[62] In the proposed Schedule 61, in Part 3, in section 29, in the heading, by deleting "**60**" and substituting "**61**".

16[63] In the proposed Schedule 61, in Part 3, by deleting section 32(a) and (b) and substituting—

"(a) the MNE group's average GloBE revenue for the jurisdiction, as determined under the simplified income calculation in accordance with Article 5.5 of the GloBE rules, is less than EUR 10 million; and

(b) the MNE group's average GloBE income for the jurisdiction, as determined under the simplified income calculation in accordance with Article 5.5 of the GloBE rules, is less than EUR 1 million or the MNE group has a loss for the jurisdiction.".

16[64] In the proposed Schedule 61, in Part 3, in section 35, in the heading, by deleting "**60**" and substituting "**61**".

16[65] In the proposed Schedule 61, in Part 3, in section 36—

(a) in subsection (3), by deleting everything after "equal to the" and substituting "total revenue of the SC NMCEs for the jurisdiction for the year as determined in accordance with the relevant CbC regulations.";

(b) in subsection (4), by deleting everything after "equal to the" and substituting "total revenue of the SC NMCEs for the jurisdiction for the year as determined in accordance with the relevant CbC regulations.";

(c) in subsection (5), by deleting everything after "equal to the" and substituting "income tax accrued (current year) of the SC NMCEs

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62 This is a consequential amendment.

63 This is a drafting improvement.

64 This is a consequential amendment.

65 This is a drafting improvement.

for the jurisdiction for the year as determined in accordance with the relevant CbC regulations.".

16[66] In the proposed Schedule 62, by deleting ", 26AH & 79A & Sch. 62]" and substituting "& 79A & Sch. 63]".

16[67] In the proposed Schedule 62, in section 1, in the heading, by deleting "**61**" and substituting "**62**".

16[68] In the proposed Schedule 62, in section 2—

(a) in the heading, by deleting "**61**" and substituting "**62**";

(b) in subsection (2), by deleting "60 (***definition provisions***), has the same meaning as in the definition provisions" and substituting "61 (***definition provision***), has the same meaning as in the definition provision".

16[69] In the proposed Schedule 62, in section 5(5), by deleting the definition of ***local accounting standard*** and substituting—

"***local accounting standard*** (本地會計準則) means—

(a) the International Financial Reporting Standards; or

(b) accounting standards as defined by section 357(1) of the Companies Ordinance (Cap. 622).".

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66 This is a consequential amendment.

67 This is a consequential amendment.

68 These are consequential and textual amendments.

69 This CSA serves to expand the definition of "local accounting standard" under the proposed Schedule 62 (as renumbered) to cover both (a) the International Financial Reporting Standards and (b) accounting standards prescribed by the Hong Kong Institute of Certified Public Accountants to reduce compliance burden of in-scope MNE groups.

16[70] In the proposed Schedule 62 —

(a) in section 6(c), by adding "subject to paragraph (ca)," before "Articles";

(b) after section 6(c), by adding—

"(ca) if the HK constituent entity is a hybrid entity or reverse hybrid entity, covered taxes accrued in the financial accounts of a constituent entity-owner of the HK constituent entity are to be included in the adjusted covered taxes of the HK constituent entity if the taxes—

(i) are allocated to the HK constituent entity under Article 4.3.2(d) of the GloBE rules;

(ii) are imposed by the jurisdiction of the HK constituent entity; and

(iii) relate to the income of the HK constituent entity;".

16[71] In the proposed Schedule 62, by deleting section 7 and substituting—

"**7. Modification—Article 9.3 of the GloBE rules**

(1) This section applies for determining, under section 4 of this Schedule, the HKMTT to which a HK constituent entity of an MNE group is chargeable for a fiscal year.

(2) Article 9.3 of the GloBE rules only applies to an MNE group for a fiscal year if none of the ownership interests in a HK constituent entity of the group is held, directly or indirectly, by a parent entity subject to a qualified IIR for the fiscal year.

(3) Article 9.3 of the GloBE rules has effect as if—

(a) its Article 9.3.1 read—

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[70] Under section 6(c) of the proposed Schedule 62 (as renumbered), for determining the HKMTT to which a HK constituent entity of an MNE group is chargeable, Article 4.3.2(d) of the GloBE rules is to be disregarded. This CSA is proposed in response to the Administrative Guidance issued in June 2024 to provide for an exception where Article 4.3.2(d) of the GloBE rules is applied for determining the HKMTT chargeable.

[71] This CSA serves to clarify the application of Article 9.3 of the GloBE model rules on the initial expansion relief in the context of HKMTT.

"9.3.1. Subject to Article 9.3.4 the top-up tax for each constituent entity of an MNE group shall be reduced to zero during the initial phase of the MNE group's international activity, notwithstanding the requirements otherwise provided in Chapter 5."; and

(b) its Article 9.3.5 were omitted.".

16[72] In the proposed Schedule 63, by deleting "26AH, 79A, 80O, 80P, 82 & 82A & Sch. 60]" and substituting "79A, 80O, 80P, 82 & 82A & Sch. 61]".

16[73] In the proposed Schedule 63, in section 1—

(a) in the heading, by deleting "**62**" and substituting "**63**";

(b) in subsection (2), by deleting "60 (***definition provisions***), has the same meaning as in the definition provisions" and substituting "61 (***definition provision***), has the same meaning as in the definition provision".

16[74] In the proposed Schedule 63, in section 2, in the heading, by deleting "**62**" and substituting "**63**".

16[75] In the proposed Schedule 63, in section 3, by adding—

"(4) Despite subsection (1)(b), a HK constituent entity of an MNE group is not required to comply with section 11(1)(a) and (1A) of this Schedule for a fiscal year if—

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72 This is a consequential amendment.

73 These are consequential and textual amendments.

74 This is a consequential amendment.

75 This CSA serves to relieve a HK constituent entity of an MNE group (which is neither the ultimate parent entity ("UPE"), nor the designated filing entity, nor the designated local entity) from complying with certain requirements under section 11 of the proposed Schedule 63 (as renumbered) if another HK constituent entity of the MNE group has complied with the relevant requirements with the consent of all HK constituent entities or the UPE of the MNE group. This will ease tax compliance burden.

(a) the HK constituent entity is neither the UPE, nor the designated filing entity, nor the designated local entity, of the MNE group; and

(b) both of the following apply—

(i) another HK constituent entity of the MNE group has complied with this section for the fiscal year, including complying with section 11(1)(a) and (1A) of this Schedule; and

(ii) that other HK constituent entity's top-up tax return for the fiscal year contains a statement, for the purpose of section 11(1A) of this Schedule, that the assessment triggering information concerned is provided in the return with the consent of all HK constituent entities, or the UPE, of the MNE group.".

16[76] In the proposed Schedule 63, in section 5(1), by adding "beginning on or after 1 January 2025" after "a fiscal year".

16[77] In the proposed Schedule 63, in section 7(1), by deleting "within 30 days after the date of the Commissioner's notice" and substituting "by the specified deadline".

16[78] In the proposed Schedule 63, in section 7, by adding—

"(2A) A HK constituent entity of an MNE group (***subject entity***) is not required to comply with a Commissioner's notice if, by the specified deadline, another HK constituent entity of the group (***specified entity***)—

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[76] This CSA serves to clarify that a fiscal year under section 5 of the proposed Schedule 63 (as renumbered) means a fiscal year beginning on or after 1 January 2025.

[77] This CSA is proposed in response to respondents' feedback to extend the 30-day time limit for HK constituent entities to file GloBE information return if exchange mechanisms fail to alleviate compliance burden. See footnote 79.

[78] This CSA is proposed in response to respondents' feedback to provide that a HK constituent entity is not required to comply with a Commissioner's notice under section 7(1) of the proposed Schedule 63 (as renumbered) if another HK constituent entity of the group that is the UPE or designated local entity has complied with the requirement. This will reduce tax compliance burden.

(a) has complied with the Commissioner's notice; and

(b) has informed the Commissioner in writing that the specified entity—

(i) is the UPE or designated local entity of the group; and

(ii) has complied with the Commissioner's notice on behalf of the subject entity and all other HK constituent entities of the group.".

16[79] In the proposed Schedule 63, in section 7(3)—

(a) in the English text, in the definition of ***return exchange date***, by deleting the full stop and substituting a semicolon;

(b) by adding in alphabetical order—

"***specified deadline*** (指明期限) means the later of the following—

(a) the expiry of 60 days after the date of the Commissioner's notice under subsection (1);

(b) a date specified in the Commissioner's notice.".

16[80] In the proposed Schedule 63, in section 11(1), by deleting everything after "must" and substituting—

"contain—

(a) information specified by the Board of Inland Revenue as assessment triggering information (***assessment triggering information***); and

(b) other information specified by the Board of Inland Revenue.".

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[79] This CSA is proposed in response to respondents' feedback to extend the time limit for HK constituent entities to file GloBE information return if exchange mechanisms fail from 30 days to at least 60 days to reduce compliance burden.

[80] This CSA serves to clarify that the information in a top-up tax return for an MNE group contains information specified by the Board of Inland Revenue as assessment triggering information, and other information specified by the Board of Inland Revenue.

16[81] In the proposed Schedule 63, in section 11, by adding—

"(1A) A top-up tax return, filed by a HK constituent entity of an MNE group, that contains assessment triggering information must contain a statement as to whether the assessment triggering information is provided in the return with the consent of all HK constituent entities, or the UPE, of the MNE group.".

16[82] In the proposed Schedule 63, in section 14—

(a) in the heading, by deleting "**62**" and substituting "**63**";

(b) in paragraphs (a) and (c), by deleting ", 61A".

16[83] In the proposed Schedule 63, in section 16(1) and (2), by deleting "62" (wherever appearing) and substituting "63".

16[84] In the proposed Schedule 63, in section 17(1)(b), by deleting "12" and substituting "9".

16[85] In the proposed Schedule 63, in section 19(2), by deleting "62" and substituting "63".

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[81] This CSA serves to provide that a top-up tax return, filed by a Hong Kong constituent entity, that contains assessment triggering information must contain a statement as to whether such information is filed with the consent of all HK constituent entities or the UPE, which is necessary for determining whether another HK constituent entity can be relieved from the requirements to comply with section 11(1)(a) (i.e. to file assessment triggering information) and new (1A) of the proposed Schedule 63 (as renumbered). See also footnotes 75 and 80.

[82] These are consequential amendments.

[83] This is a consequential amendment.

[84] This CSA is proposed in response to respondents' suggestion to shorten the proposed record-keeping period. It serves to shorten the period from 12 years to 9 years after the completion of the transactions, acts or operations to which the records relate. For Part 4 profits tax, the existing statutory record-keeping period is 7 years. The extension from 7 years to 9 years aligns with the extension of the time limit for raising additional top-up tax assessments, the application to correct errors or omissions in top-up tax returns and the repayment of tax paid in excess.

[85] This is a consequential amendment.

16[86] In the proposed Schedule 63, in section 20(2), by deleting "60 and 61" and substituting "61 and 62".

16[87] In the proposed Schedule 63, in section 20(3), by deleting everything after "only do so within" and before "and the provisions of" and substituting—

"8 years or, if the non-assessment or under-assessment is due to fraud or wilful evasion, within 12 years, after—

(i) the end of the fiscal year of the MNE group to which the non-assessment or under-assessment relates (if the fiscal year ends on 31 March); or

(ii) the end of 31 March of the year next following the end of the fiscal year of the MNE group to which the non-assessment or under-assessment relates (if the fiscal year ends on a day other than 31 March),".

16[88] In the proposed Schedule 63, in section 20(4), by deleting everything after "a reference to the period of" and substituting—

"8 years after—

(a) the end of the fiscal year of the MNE group to which the repayment relates (if the fiscal year ends on 31 March); or

(b) the end of 31 March of the year next following the end of the fiscal year of the MNE group to which the repayment

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86 This is a consequential amendment.

87 This CSA is proposed in response to respondents' suggestion to provide a fixed time limit for raising top-up tax assessment to enhance certainty. The time limit is revised to 8 years after the end of the year of assessment in which the fiscal year ends (in relation to non-evasion cases) and 12 years after the end of the year of assessment in which the fiscal year ends (in relation to evasion cases). For Part 4 profits tax, the existing statutory time limit is 6 years after the end of the relevant year of assessment for non-evasion cases and 10 years after the end of the relevant year of assessment for evasion cases. The extension of 2 years aligns with the extension of the record-keeping period and the time limit for the application to correct errors or omissions in top-up tax returns and the repayment of tax paid in excess.

88 This CSA serves to provide a fixed time limit for raising an assessment in respect of a top-up tax repaid by mistake to enhance certainty. The time limit is revised from 6 years to 8 years after the end of the year of assessment in which the fiscal year ends to which the repayment relates. The extension of 2 years aligns with the extension of the record-keeping period, and the time limit for raising top-up tax assessment, the application to correct errors or omissions in top-up tax returns and the repayment of tax paid in excess.

relates (if the fiscal year ends on a day other than 31 March).".

16[89] In the proposed Schedule 63, by adding—

"**20A. Modification to section 61A (transactions designed to avoid liability for tax)**

For the purposes of section 14 of this Schedule, section 61A has effect as if section 61A(1)(ca) and (cb) were enacted and read—

"(ca) any change in the top-up tax liability of any Part 4AA entity of an MNE group, or the overall top-up tax liability of an MNE group, that has resulted, will result or may reasonably be expected to result from the transaction;

(cb) whether the result that has been achieved, will be achieved or may reasonably be expected to be achieved by the transaction is inconsistent with the outcomes provided under the OECD GloBE model rules, as construed in accordance with the OECD GloBE rules guidance;".

16[90] In the proposed Schedule 63, in section 25(a), by deleting "60 and 61; and" and substituting "61 and 62;".

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89 This CSA is proposed in response to respondents' feedback of raising the threshold of the general anti-avoidance rule. Jurisdictions implementing the Base Erosion and Profit Shifting ("BEPS") 2.0 framework are expected to demonstrate how their legislation addresses arrangements that could undermine the integrity of the BEPS 2.0 framework in order to attain a qualified status in the peer review process. Therefore, it is necessary for Hong Kong to provide a general anti-avoidance rule to safeguard its GloBE and HKMTT regimes. This CSA is to apply section 61A of the IRO (i.e. the sole or dominant purpose test) with modifications to deal with avoidance arrangements in the context of the GloBE and HKMTT regimes. The matters to be considered to determine whether the transaction entered into was for the sole or dominant purpose of obtaining a top-up tax benefit would include whether there is any change in the overall top-up tax liability of the MNE group concerned, and whether the result that has been achieved, will be achieved or may reasonably be expected to be achieved by the transaction is inconsistent with the outcomes provided under the OECD GloBE model rules, as construed in accordance with the OECD GloBE rules guidance.

90 This is a consequential amendment.

16[91] In the proposed Schedule 63, in section 25, by adding—

"(ab) the reference in section 70A(1) to 6 years after the end of a year of assessment is to be read as 8 years after—

(i) the end of the fiscal year of the MNE group (if the fiscal year ends on 31 March); or

(ii) the end of 31 March of the year next following the end of the fiscal year of the MNE group (if the fiscal year ends on a day other than 31 March); and".

16[92] In the proposed Schedule 63, by deleting section 26 and substituting—

"**26. Modification to section 79 (tax paid in excess to be refunded)**

For the purposes of section 14 of this Schedule—

(a) section 79 applies subject to this Schedule and Schedules 61 and 62; and

(b) the reference in section 79(1) to 6 years of the end of a year of assessment is to be read as 8 years of—

(i) the end of the fiscal year of the MNE group (if the fiscal year ends on 31 March); or

(ii) the end of 31 March of the year next following the end of the fiscal year of the MNE group (if the fiscal year ends on a day other than 31 March).".

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[91] This CSA is proposed in response to respondents' suggestion to correspondingly extend the period for assessors to correct errors or omissions under section 70A of the IRO if the time limit for raising additional top-up tax assessments is extended. The time limit is revised to 8 years after the end of the year of assessment concerned. The extension aligns with the extension of the record-keeping period, and the time limit for raising additional top-up tax assessments and the repayment of tax paid in excess.

[92] This CSA is proposed in response to respondents' suggestion to extend the time limit for claiming a refund of tax paid in excess of the amount of top-up tax chargeable under section 79(1) of the IRO. The time limit is revised to 8 years after the end of the year of assessment concerned. The extension aligns with the extension of the record-keeping period, and the time limit for raising additional top-up tax assessments and for the application to correct errors or omissions in top-up tax returns.

16[93] In the proposed Schedule 63, in section 27—

(a) in the heading, by deleting "**62**" and substituting "**63**";

(b) by deleting the definition of ***assessed group*** and substituting—

"***assessed subgroup*** (被評稅子集團), in relation to an MNE group—

(a) for UTPR top-up tax, means HK constituent entities of the MNE group other than those that are investment-related entities;

(b) for HKMTT, means—

(i) HK constituent entities of the MNE group, other than the following—

(A) those that are investment-related entities;

(B) those that are minority-owned constituent entities;

(ii) HK constituent entities that—

(A) are minority-owned constituent entities of the same minority-owned subgroup of the MNE group; and

(B) are not investment-related entities; or

(iii) a HK constituent entity that—

(A) is a minority-owned constituent entity but not of a minority-owned subgroup of the MNE group; and

(B) is not an investment-related entity;".

16[94] In the proposed Schedule 63, in section 28, in the heading, by deleting "**62**" and substituting "**63**".

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93 This CSA provides for drafting improvement to substitute assessed group with assessed subgroup and clarifies that investment-related entities are to be excluded from the relevant assessed subgroup for the purposes of UTPR top-up tax and HKMTT.

94 This is a consequential amendment.

16[95] In the proposed Schedule 63, in section 29, by deleting "assessed group" (wherever appearing) and substituting "assessed subgroup".

16[96] In the proposed Schedule 63, in section 30—

(a) in subsections (1), (2) and (4), by deleting "assessed group" (wherever appearing) and substituting "assessed subgroup";

(b) in subsections (1)(a) and (3), by deleting "61" and substituting "62".

16[97] In the proposed Schedule 63, in section 31—

(a) in the heading, by deleting "**assessed group**" and substituting "**assessed subgroup**";

(b) by deleting "assessed group" (wherever appearing) and substituting "assessed subgroup".

16[98] In the proposed Schedule 63, in section 32—

(a) in the heading, by adding "**specified assessment or**" after "**Objection to**";

(b) by deleting subsection (1)(a) and substituting—

"(a) the HK constituent entity—

(i) that has filed a top-up tax return required under this Schedule; and

(ii) that—

(A) is the UPE, designated filing entity, or designated local entity, of the MNE group; or

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95 This is a consequential amendment.

96 This is a consequential amendment.

97 These are consequential amendments.

98 Part (a) of this CSA is a textual amendment and part (c) is a consequential amendment. Part (b) of this CSA serves to clarify the HK constituent entity which may object to a specified assessment of an MNE group under the proposed section 32(1)(a) of Schedule 63 (as renumbered).

(B) has complied with section 11(1)(a) and (1A) of this Schedule; or";

(c) in subsections (2), (3) and (4), by deleting "assessed group" (wherever appearing) and substituting "assessed subgroup".

16[99] In the proposed Schedule 63, by adding—

"**32A. UTPR top-up tax or HKMTT : overpayment by constituent entity may be applied to offset its assessed subgroup's liability**

(1) This section applies if—

(a) a combined specified assessment (***1st-mentioned assessment***) of a UTPR top-up tax or HKMTT (***subject top-up tax***) for a fiscal year is made on HK constituent entities of an assessed subgroup and one or more than one such HK constituent entity has paid a sum for settling its liability for the subject top-up tax; and

(b) subsequently, any reassessment or additional assessment that is a combined specified assessment (***2nd-mentioned assessment***) is made for the subject top-up tax for that fiscal year for those constituent entities under which—

(i) one or more than one HK constituent entity has its liability for the subject top-up tax reduced (each a ***liability-reduced entity***) and would, but for this section, become entitled to a refund of any sum as tax overpaid (***overpaid sum***); and

(ii) one or more than one other HK constituent entity has its liability for the subject top-up tax increased (each a ***liability-increased entity***).

[99] This CSA serves to provide that the Commissioner may apply a liability-reduced entity's overpaid sum to offset UTPR top-up tax or HKMTT of a liability-increased entity in the case of reassessment or additional assessment made for top-up tax.

(2) The Commissioner may apply a liability-reduced entity's overpaid sum to offset any subject top-up tax of a liability-increased entity.

(3) Subsection (2) applies even if section 31 of this Schedule does not apply to the assessed subgroup.

(4) This section does not affect the right and liabilities of a HK constituent entity of an assessed subgroup in relation to any other HK constituent entities of the assessed subgroup.".

16[100] In the proposed Schedule 63, in section 33, by deleting "assessed group" (wherever appearing) and substituting "assessed subgroup".

16[101] In the proposed Schedule 63, in section 33(2), by deleting everything after "establishment that" and substituting "was at any time in the taxable year a HK constituent entity of the assessed subgroup.".

16[102] In the proposed Schedule 63, in section 34—

(a) by deleting "Parts 6C, 9, 10, 11, 12 and 13, as modified by this Part," (wherever appearing) and substituting "the CE-related provisions";

(b) by deleting "those Parts, as so modified," (wherever appearing) and substituting "the CE-related provisions";

(c) by adding—

"(3) In this section—

CE-related provisions (成員實體相關條文) means the following—

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100 This is a consequential amendment.

101 It is our intent that HK constituent entities of an in-scope MNE group will become jointly and severally liable to top-up tax if the designated paying entity fails to make the top-up tax payment by the due date. This intent has been consistently and clearly communicated to stakeholders. This CSA serves to better reflect this intent by removing the condition that a linked entity needs to be a HK constituent entity of the assessed subgroup at the time when the notice requiring payment of the amount of the top-up tax not paid is issued. We will explore administrative arrangements for allowing a "clean exit" for a HK constituent entity of an in-scope MNE group which intends to leave the group subject to the satisfaction of specified conditions.

102 This is a drafting improvement for clarity.

(a) Parts 6C, 9, 10, 11, 12 and 13, as modified by this Part;

(b) Part 2 of this Schedule.".

16[103] In the proposed Schedule 63, in section 35(2), by adding "HK" before "constituent entities".

16[104] In the proposed Schedule 63, in section 35(3)—

(a) by deleting "***assessed group*** in" and substituting "***assessed subgroup*** in";

(b) by deleting "***assessed group*** (被評稅集團)" and substituting "***assessed subgroup*** (被評稅子集團)".

16[105] In the proposed Schedule 63, in section 36(2)—

(a) by deleting "***assessed group*** in" and substituting "***assessed subgroup*** in";

(b) by deleting "***assessed group*** (被評稅集團)" and substituting "***assessed subgroup*** (被評稅子集團)".

16[106] In the proposed Schedule 64, by deleting ", 26AG & 26 AH & Sch. 60]" and substituting "& 26AG & Sch. 61]".

16[107] In the proposed Schedule 64, Part 1, by adding—

"

7.	OECD/G20 Base Erosion and Profit Shifting Project: Tax Challenges Arising from the Digitalisation of the Economy—Administrative	15 January 2025	First Jan-2025 Administrative Guidance	1 January 2025

[103] This is a textual amendment.

[104] These are consequential amendments.

[105] These are consequential amendments.

[106] This is a consequential amendment.

[107] This CSA serves to include the latest Administrative Guidances and OECD GloBE rules document issued in January and March 2025 in the proposed Schedule 64 (as renumbered).

	Guidance on the Global Anti-Base Erosion Model Rules (Pillar Two), Central Record of Legislation with Transitional Qualified Status (January 2025)			
8.	OECD/G20 Base Erosion and Profit Shifting Project: Tax Challenges Arising from the Digitalisation of the Economy—Administrative Guidance on Article 8.1.4 and 8.1.5 of the Global Anti-Base Erosion Model Rules	15 January 2025	Second Jan-2025 Administrative Guidance	1 January 2025
9.	OECD/G20 Base Erosion and Profit Shifting Project: Tax Challenges Arising from the Digitalisation of the Economy—Administrative Guidance on Article 9.1 of the Global Anti-Base Erosion Model Rules	15 January 2025	Third Jan-2025 Administrative Guidance	1 January 2025
10.	OECD/G20 Base Erosion and Profit Shifting Project: Tax Challenges Arising from the Digitalisation of the Economy—GloBE Information Return (January 2025)	15 January 2025	Jan-2025 GloBE Information Return	1 January 2025
11.	OECD/G20 Base Erosion and Profit Shifting Project: Tax Challenges Arising from the Digitalisation of the Economy—Administrative Guidance on the Global Anti-Base	31 March 2025	Mar-2025 Administrative Guidance	1 January 2025

	Erosion Model Rules (Pillar Two), Central Record of Legislation with Transitional Qualified Status			

".

16[108] At the end of the proposed Schedule 64, by deleting "".".

16[109] After the proposed Schedule 64, by adding—

"**Schedule 65**

[s. 51AAB]

Specified Person, Specified Return and Specified Year of Assessment for Purposes of Section 51AAB

Part 1

Specified Person, Specified Return and Specified Year of Assessment

Column 1	Column 2	Column 3	Column 4
Item	Specified person	Specified return	Specified year of assessment
1.	Phase 1 applicable entity	Return for profits tax under Part 4, of either of the following types— (a) Profits Tax Return—Corporations; (b) Profits Tax Return—Persons Other than Corporations	Year of assessment beginning on or after 1 April 2025

[108] This is a minor textual amendment.

[109] This CSA serves to add a new Schedule 65 to specify the requirement of mandatory e-filing of profits tax returns for in-scope MNE groups for a year of assessment beginning on or after 1 April 2025. See also footnote 28.

Part 2

Interpretation

1. In this Schedule—

fiscal year (財政年度) has the meaning given by Article 10.1.1 of the GloBE rules;

GloBE rules (《全球反侵蝕稅基規則》) has the meaning given by section 26AD(1);

in-scope MNE group (受涵蓋跨國企業集團) has the meaning given by section 1(1) of Schedule 63;

MNE group (跨國企業集團) has the meaning given by Article 1.2.1 of the GloBE rules;

Part 4AA entity (第 4AA 部實體) has the meaning given by section 1(1) of Schedule 63;

phase 1 applicable entity (第 1 階段適用實體) is to be construed in accordance with sections 2 and 3 of this Part.

2. An entity or permanent establishment (***subject entity***) is a phase 1 applicable entity for a year of assessment (***subject year of assessment***) if—

(a) the subject entity is a Part 4AA entity of an MNE group for the corresponding fiscal year of the group for the subject year of assessment; and

(b) any of the following applies—

(i) the MNE group is an in-scope MNE group for the corresponding fiscal year of the group (beginning on or after 1 January 2025) for the subject year of assessment;

(ii) the MNE group was an in-scope MNE group for a fiscal year of the group (beginning on or after 1 January 2025) preceding the fiscal year mentioned in subparagraph (i).

3. An entity or permanent establishment that is, under section 2 of this Part, a phase 1 applicable entity for a year of assessment remains to be a phase 1 applicable entity for every subsequent year of assessment, whether or not it meets any of the conditions in section 2(a) and (b) of this Part for any such subsequent year of assessment.

4. For the purposes of this Part and in relation to an entity or permanent establishment of an MNE group, the corresponding fiscal year of the MNE group for a year of assessment is the

fiscal year of the MNE group within which the basis period of the year of assessment of the entity or permanent establishment ends.”. ”.

Annex B

Inland Revenue (Amendment) (Minimum Tax for Multinational Enterprise Groups) Bill 2024

(Extract)

Clause 3

3. Section 2 amended (interpretation)

(1) Section 2(1)—

Repeal the definition of *service provider*

Substitute

"***service provider*** (服務提供者)—

(a) except in relation to a provision of Part 9 or 9A or Schedule ~~62~~63—has the meaning given by section 50A(1);

(b) in relation to a provision of Part 9—has the meaning given by section 51AAD(8);

(c) in relation to a provision of Part 9A—has the meaning given by section 58B(2); or

(d) in relation to a provision of Schedule ~~62~~63—has the meaning given by section 2 of that Schedule;".

(2) Section 2(1)—

Add in alphabetical order

"***foreign DMTT*** (*外地當地最低補足稅*) means a minimum tax that is included in the domestic law of a territory outside Hong Kong and implemented and administered in that territory and that—

(a) is a QDMTT; or

(b) would have been a QDMTT but for either or both of paragraphs (c) and (d) of the definition of ***qualified domestic minimum top-up tax*** in Article 10.1.1 of the GloBE rules;

foreign IIR top-up tax (*外地收入納入規則補足稅*) means a tax under an IIR, as defined by Article 10.1.1 of the GloBE rules, implemented and administered in a territory outside Hong Kong (whether or not a qualified IIR);

foreign UTPR top-up tax (*外地低稅利潤規則補足稅*) means a tax under a UTPR, as defined by Article 10.1.1 of the GloBE rules, implemented and administered in a territory outside Hong Kong (whether or not a qualified UTPR);

GloBE rules (*《全球反侵蝕稅基規則》*) has the meaning given by section 26AD(1);

HKMTT (*香港最低補足稅*)—see section 26AE(4);

IIR top-up tax (收入納入規則補足稅)—see section 26AE(2);

profits tax (*利得稅*)—

(a) in this Ordinance (except in a reference to profits tax under Part 4 (however worded) or to provisional profits tax), means, subject to paragraph (b)—

(i) profits tax under Part 4 (including provisional profits tax under Part 10B); or

(ii) top-up tax under Part 4AA; or

(b) in Parts 4, 7, 8AA, 8A, 9A and 10B and Schedules relating to provisions of those Parts, in sections 50AAA and 50AAAB and Schedule 54, in section 59(1B), (1C) and (1D) and in Schedules 16D and 16E, means profits tax under Part 4 (including provisional profits tax under Part 10B);

QDMTT (*合資格當地最低補足稅*) means a qualified domestic minimum top-up tax as defined by Article 10.1.1 of the GloBE rules;

qualified IIR (*合資格收入納入規則*) has the meaning given by Article 10.1.1 of the GloBE rules;

qualified UTPR (*合資格低稅利潤規則*) has the meaning given by Article 10.1.1 of the GloBE rules;

top-up tax (*補足稅*) means—

(a) IIR top-up tax;

(b) UTPR top-up tax; or

(c) HKMTT;

UTPR top-up tax (*低稅利潤規則補足稅*)—see section 26AE(2);".

(3) After section 2(~~8~~10)—

Add

"(~~9~~11) Unless otherwise provided by this Ordinance, an entity is a tax resident in Hong Kong if—

(a) where the entity is a company—the entity is incorporated in Hong Kong or, if incorporated outside Hong Kong, normally managed or controlled in Hong Kong; or

(b) in any other case—the entity is constituted under the laws of Hong Kong or, if otherwise constituted, normally managed or controlled in Hong Kong.".

New (Clause 5A added)

5A. Section 15N amended (when does section 15M not apply)

(1) Section 15N(6)—

Repeal paragraphs (a) and (b)

Substitute

"(a) the sum is subject to a similar tax or QDMTT in that territory (and this paragraph is not met by the sum being subject to any foreign IIR top-up tax or foreign UTPR top-up tax in that territory); and

(b) the applicable rate, or (if there is more than one applicable rate) the highest applicable rate, of a similar tax in that territory is equal to or higher than the reference rate.".

(2) Section 15N(9)—

Repeal the definition of *applicable rate*

Substitute

"***applicable rate*** (適用稅率), in relation to a sum subject to a similar tax or QDMTT (***specified tax***) in a territory, means—

(a) if the specified tax is chargeable at the time the sum accrues—the rate of a similar tax in that territory applicable at that time; or

(b) if the specified tax is chargeable for the taxable period during which the sum accrues—the rate of a similar tax in that territory applicable for that taxable period;".

Clause 6

6. Section 16 amended (ascertainment of chargeable profits)

(1) Section 16(1)(c) ~~and (ca)~~ —

Repeal

"subsection (2J)"

Substitute

"subsections (2J) and (2L)".

(1A) Section 16(2)(c), (2A)(c), (2E)(c)(i) and (2F)(c)(i) —

Repeal

"Ordinance"

Substitute

"Ordinance (other than Part 4AA)".

(1B) Section 16(2I)(b)—

Repeal

"Ordinance;"

Substitute

"Part;".

(2) After section 16(2K)—

Add

~~"(2L) Subsection (1)(c) and (ca) does not apply in relation to any top-up tax paid, in a territory outside Hong Kong, under an IIR or UTPR within the meaning of the OECD GloBE model rules (as defined by section 26AD(1)) implemented and administered in that territory (whether or not a qualified IIR or qualified UTPR).".~~

"(2L) A reference in subsection (1)(c) to a tax paid in a territory outside Hong Kong in respect of the profits referred to in that subsection—

(a) includes a foreign DMTT paid in a territory only to the extent to which it is a QDMTT paid, in respect of the profits referred to in that subsection that are income of a permanent establishment, in that territory; but

(b) does not include a foreign IIR top-up tax or a foreign UTPR top-up tax.".

"(3) Section 16(3), definition of ***specified tax***, paragraph (c)—

Repeal

"(lb)."

Substitute

"(lb),

but does not include a foreign IIR top-up tax, a foreign UTPR top-up tax or a foreign DMTT.".".

New (Clauses 6A, 6B, 6C, 6D and 6E added)

6A. Section 18G amended (financial instrument: interpretation of this section and sections 18H, 18I, 18J, 18K and 18L)

(1) Section 18G(1), English text, definition of ***specified financial reporting standard***—

Repeal the full stop

Substitute a semicolon.

(2) Section 18G(1) —

Add in alphabetical order

"***tax*** (稅) means tax charged under this Part.".

6B. Section 18H amended (financial instrument: application of sections 18I, 18J, 18K and 18L)

Section 18H(1) —

Repeal

"to a person"

Substitute

"for ascertaining profits in respect of which a person is chargeable to tax under this Part".

6C. Section 20A amended (persons chargeable on behalf of a non-resident)

After section 20A(3)—

Add

"(4) In this section—

"***tax*** (稅) means tax charged under this Part.".

6D. Section 20B amended (persons chargeable in respect of certain profits of a non-resident)

(1) Section 20B(4), English text, the definition of ***entertainer or sportsman***—

Repeal the full stop

Substitute a semicolon.

(2) Section 20B(4)—

Add in alphabetical order

"***tax*** (稅) means tax charged under this Part.".

6E. Section 22 amended (assessment of partnerships)

(1) Section 22(6), English text, the definition of ***general partner***—

Repeal the full stop

Substitute a semicolon.

(2) Section 22(6) —

Add in alphabetical order

"***tax*** (稅) means tax charged under this Part.".

Clause 7

7. Section 25A added

After section 25—

Add

~~**"25A. Reimbursement for top-up tax not taken into account for purposes of Part 4**~~

~~(1) A payment made to a designated paying entity of an MNE group by another constituent entity of the MNE group in respect of, but not exceeding, the amount of UTPR top-up tax or HKMTT that the other constituent entity would have been chargeable to for the fiscal year had section 31 of Schedule 62 not applied, must not be taken into account in calculating the profits or loss of either entity for the purposes of profits tax under this Part.~~

~~(2) An expression in subsection (1) that is also used in Schedule 62 has the same meaning as in that Schedule.".~~

"25A. Reimbursement for certain top-up tax not taken into account for purposes of Part 4

(1) This section applies to a payment (***intra-group payment***) made by an entity or permanent establishment of an MNE group (***paying entity***) to another entity or permanent establishment of the MNE group (***receiving entity***).

(2) An intra-group payment is not to be taken into account in calculating the profits or loss of the receiving entity for the purposes of profits tax under this Part if the payment is proved by the receiving entity, to an assessor's satisfaction, to be reimbursement for an applicable tax under an applicable assessment.

(3) No deduction is allowable for an intra-group payment, for determining the profits tax to which the paying entity is chargeable under this Part, if the payment is reimbursement for an applicable tax under an applicable assessment.

(4) An intra-group payment is not reimbursement for an applicable tax under an applicable assessment unless the amount of the intra-group payment does not exceed the amount of the applicable tax that—

(a) is payable by the paying entity under an allocation of the applicable tax under the applicable assessment specified in subsection (5); but

(b) has been paid, or agreed to be paid, by the receiving entity on behalf of the paying entity.

(5) For the purposes of subsection (4)(a), an allocation of the applicable tax under the applicable assessment is—

(a) for an applicable tax other than an IIR top-up tax or a foreign IIR top-up tax—such an allocation among the entities and permanent establishments of the MNE group concerned that are relevant to the applicable assessment; or

(b) for an IIR top-up tax or a foreign IIR top-up tax—such an allocation among the receiving entity of the intra-group payment and the other entities and permanent establishments of the MNE group concerned each of which (***same group entity***) meets the descriptions in both subparagraphs (i) and (ii)—

(i) the same group entity is relevant to the applicable assessment;

(ii) the receiving entity is a parent entity of the same group entity

(6) For the purposes of subsection (5), an entity or permanent establishment is relevant to an applicable assessment if it has been taken into account in determining the ETR of a jurisdiction taken into account in making the applicable assessment.

(7) In this section—

applicable tax (適用稅項) means—

(a) a top-up tax; or

(b) a foreign IIR top-up tax, a foreign UTPR top-up tax or a foreign DMTT;

applicable assessment (適用評稅) means—

(a) in relation to a top-up tax, an assessment under Part 4AA; or

(b) in relation to a foreign IIR top-up tax, a foreign UTPR top-up tax or a foreign DMTT implemented by a territory outside Hong Kong, an assessment (however described) made by the tax authority of that territory;

(8) An expression in this section, and defined or otherwise explained in any provision of Part 4AA or Part 1 of Schedule 61 (***definition provision***), has the same meaning as in the definition provision.”.

Clause 8

8. Part 4AA added

After Part 4—

Add

"**Part 4AA**

Minimum Tax for Multinational Enterprise Groups

Notes—

1. The purpose of this Part and Schedules ~~60 to 63~~ 61 to 64 is to implement, in Hong Kong, the Global Anti-Base Erosion Model Rules (***OECD GloBE model rules***) as part of the OECD/G20 Base Erosion and Profit Shifting (BEPS) Project.
2. The OECD GloBE model rules ensure a multinational enterprise group, with an annual consolidated revenue of at least EUR 750 million in at least 2 of the 4 fiscal years immediately preceding the current fiscal year (***in-scope MNE group***), pays a minimum level of tax (currently at 15%) on the income arising in each of the jurisdictions where it operates.
3. The OECD GloBE model rules consist of the income inclusion rule (***IIR***) and the undertaxed profits rule (***UTPR***). The IIR and UTPR, as applied to constituent entities located in a jurisdiction, are explained in Notes 4 to 8 respectively.
4. For the purposes of the IIR and UTPR, an in-scope MNE group must—
   (a) identify, for each jurisdiction in which the group operates (***operating jurisdiction***), the constituent entities of the group; and
   (b) for each operating jurisdiction—
      (i) determine for each constituent entity operating there—
         (A) its income (or loss) for the purposes of the OECD GloBE model rules; and
         (B) the tax attributable to the income for the purposes of the OECD GloBE model rules;
      (ii) determine—
         (A) the aggregate income (or loss) under subparagraph (i)(A) for all constituent entities in the operating jurisdiction; and
         (B) the aggregate tax under subparagraph (i)(B) for all constituent entities in the operating jurisdiction; and
      (iii) determine the effective tax rate for the operating jurisdiction by dividing the result of subparagraph (ii)(B) by the result of subparagraph (ii)(A).
5. A ***low-tax jurisdiction*** is an operating jurisdiction for which the effective tax rate is below the minimum rate.
6. The top-up tax for a low-tax jurisdiction is the product of—
   (a) the excess income (the result of Note 4(b)(ii)(A) for the jurisdiction less a substance-based income exclusion for the jurisdiction); and
   (b) the top-up tax percentage (that is, the difference between the minimum tax rate and the effective tax rate for the jurisdiction).
7. A parent entity of the MNE group located in Hong Kong is subject to the IIR implemented in Hong Kong. Under the IIR, the top-up tax is charged at the level of the

parent entity, in proportion to its ownership interests in those constituent entities in the low-tax jurisdictions, other than Hong Kong.

8. The UTPR is a backstop to the IIR, as explained below—

(a) all or part of the top-up tax computed for the constituent entities of the MNE group operating in low-tax jurisdictions may not be fully brought into charge under IIR, especially if the ultimate parent entity is not located in a jurisdiction implementing IIR;

(b) under the UTPR, that top-up tax not brought into charge is the UTPR top-up tax amount, which—

(i) is allocated among Hong Kong and other jurisdictions implementing the UTPR; and

(ii) payable by constituent entities of the MNE group located in Hong Kong and those other jurisdictions.

9. Apart from its constituent entities located in a jurisdiction, joint ventures, subsidiaries of joint ventures and stateless constituent entities (collectively ***other entities***) of the MNE group located or operating in low-tax jurisdictions outside Hong Kong may render the MNE group liable to top-up tax under the IIR or UTPR in Hong Kong.

10. In addition, a domestic minimum top-up tax, intended to be a qualified domestic minimum top-up tax under the OECD GloBE model rules, is imposed under this Part. It is a domestic tax fully credited against tax liability under IIR and UTPR. In effect—

(a) should Hong Kong be a low-tax jurisdiction for an MNE group, a domestic minimum top-up tax is payable in Hong Kong by the constituent entities and other entities of the group located or operating in Hong Kong; and

(b) the total amount of the domestic minimum top-up tax payable by the entities mentioned in paragraph (a) is equal to the top-up tax that would (in the absence of the domestic minimum top-up tax) have been payable on the income of those entities, under IIR implemented in other jurisdictions by parent entities in those other jurisdictions.

26AD. Interpretation of Part 4AA

(1) In this Part—

fiscal year (财政年度) has the meaning given by Article 10.1.1 of the GloBE rules;

GloBE rules (《全球反侵蚀税基规则》)—

(a) subject to paragraph (b), means the rules set out in Part 1 of Schedule ~~60~~61 (***adopted rules***), read together with Part 2 of that Schedule; or

(b) in—

(i) the definitions of ***agreed administrative guidance***, ***commentary***, ***GloBE implementation framework***, ***qualified domestic minimum top-up tax***, ***qualified IIR*** and ***qualified UTPR*** in Article 10.1.1 of the adopted rules;

(ii) a reference to subject to the GloBE rules in the adopted rules; and

(iii) a reference to the scope of the GloBE rules in the adopted rules,

means the OECD GloBE model rules (as implemented by any jurisdiction, if applicable);

OECD GloBE model rules (經合組織《全球反侵蝕稅基規則範本》) means the rules that are set out in the document entitled OECD/G20 Base Erosion and Profit Shifting Project: Tax Challenges Arising from the Digitalisation of the Economy—Global Anti-Base Erosion Model Rules (Pillar Two) published on 20 December 2021;

OECD GloBE rules document (經合組織《全球反侵蝕稅基規則》文件) means a document with its title and other particulars specified in Part 1 of Schedule ~~63~~64;

OECD GloBE rules guidance (經合組織《全球反侵蝕稅基規則》指引) means the guidance in the OECD GloBE rules documents and includes the specified OECD GloBE rules guidance;

specified OECD GloBE rules guidance (指明經合組織《全球反侵蝕稅基規則》指引) means any guidance in relation to a provision of the OECD GloBE model rules specified in column 3 of Part 2 of Schedule ~~63~~64 that has effect in relation to a corresponding provision of the GloBE rules and is specified opposite to that provision in column 4 of that Part.

(2) A note located in this Part or in Schedules ~~60, 61, 62 and 63~~ 61, 62, 63 and 64 is provided for information only and has no legislative effect.

26AE. Charge of top-up tax under IIR and UTPR and charge of domestic minimum top-up tax under HKMTT

(1) The GloBE rules have effect for implementing, in Hong Kong, the OECD GloBE model rules to ensure that a multinational enterprise group, with an annual consolidated revenue of at least EUR 750 million in at least 2 of the 4 fiscal years immediately preceding the current fiscal year, pays a minimum level of tax at 15% on the income arising in each of the jurisdictions where it operates.

(2) Without limiting subsection (1), the GloBE rules have effect for charging top-up taxes under the IIR and UTPR within the meaning of the OECD GloBE model rules, to be called the ***IIR top-up tax*** and ***UTPR top-up tax*** respectively.

(3) Part 3 of Schedule ~~60~~61 provides for various transitional and permanent safe harbours in relation to the implementation of the GloBE rules.

(4) Schedule ~~61~~62 has effect for charging a domestic minimum top-up tax within the meaning of the OECD GloBE model rules, to be called the ***Hong Kong minimum top-up tax*** or ***HKMTT***.

(5) Schedule ~~62~~63 contains the provisions on the administration of the IIR top-up tax, UTPR top-up tax and HKMTT including—

(a) requirements for the filing of returns and notices and provision of information relevant to the determination of liability for any top-up tax; and

(b) provisions that disapply provisions of this Ordinance in relation to any top-up taxes or modify them in their application in relation to any top-up tax.

(6) The IIR top-up tax is payable in relation to a fiscal year beginning on or after 1 January 2025.

(7) The UTPR top-up tax is payable in relation to a fiscal year beginning on or after a date specified by the Secretary for Financial Services and the Treasury by notice published in the Gazette.

(8) The HKMTT is payable in relation to a fiscal year beginning on or after 1 January 2025.

26AF. Consistency with the OECD GloBE rules documents

(1) This Part and Schedules ~~60, 61 and 62~~61, 62 and 63 are to be construed in accordance with the OECD GloBE rules guidance in a way that best serves the purpose of making provision for the following, within the meaning of the OECD GloBE model rules—

(a) a qualified IIR;

(b) a qualified UTPR;

(c) a qualified domestic minimum top-up tax;

(d) safe harbours.

(2) The OECD GloBE rules guidance is to be given effect to in a way that supplements, and clarifies the interpretation and operation of, this Part and Schedules ~~60, 61 and 62~~61, 62 and 63.

26AG. Power to amend definition of *OECD GloBE model rules* and Schedules ~~60 to 63~~61 to 64

(1) The Secretary for Financial Services and the Treasury may, by notice published in the Gazette, amend—

(a) the definition of ***OECD GloBE model rules*** in section 26AD(1); and

(b) Schedules ~~60, 61, 62 and 63~~61, 62, 63 and 64.

(2) A notice published under subsection (1) may contain any incidental, supplemental, evidential, consequential, savings and transitional provisions that are expedient in consequence of the amendments made under that subsection.

~~**26AH Anti-avoidance of obligations under Part 4AA**~~

~~If —~~

~~(a) a person enters into any arrangements; and~~

~~(b) the main purpose, or one of the main purposes, of the person in entering into the arrangements is to avoid any obligation under this Part (including Schedules 60, 61, 62 and 63),~~

~~this Part (including the Schedules) has effect as if the arrangements had not been entered into.".~~

New (Clause 8A added)

8A. Section 40AB amended (Schedule 17A: specified alternative bond scheme and its tax treatment)

(1) Section 40AB, heading—

Repeal

"**tax treatment**"

Substitute

"**treatment under this Ordinance (other than Part 4AA)**"

(2) Section 40AB—

Repeal

"tax treatment"

Substitute

"treatment, under this Ordinance (other than Part 4AA),".

Clause 9

~~**9. Section 50 amended (tax credits under double taxation arrangements)**~~

~~At the end of section 50—~~

~~**Add**~~

~~"(11) To avoid doubt, no top-up tax payable under an IIR or UTPR, within the meaning of the OECD GloBE model rules and implemented and administered in a territory outside Hong Kong (whether or not a qualified IIR or qualified UTPR) is to be allowed as a credit under this section.".~~

9. Section 50 amended (tax credits under double taxation arrangements)

(1) Section 50(1)—

Repeal

"This"

Substitute

"Subject to section 50AAAD, this".

(2) Section 50(1A)(b), after "Ordinance"—

Add

", other than a top-up tax".

New (Clauses 9A, 9B, 10A, 10B and 10C added)

9A. Section 50AAA amended (unilateral tax credits—no double taxation arrangements or specified DT arrangements made)

(1) Section 50AAA(1)—

Repeal

"This"

Substitute

"Subject to section 50AAAD, this".

(2) Section 50AAA(7)—

Repeal the definition of *similar tax*

Substitute

"***similar tax*** (類似稅項), in relation to specified income, means—

(a) a tax that is of substantially the same nature as the tax specified in Part 2 of Schedule 54 for the income; or

(b) a foreign DMTT regarded as a similar tax for the purposes of this section under section 50AAAD(3).".

9B. Section 50AAAB amended (unilateral tax credits—no relief for underlying profits etc. under specified DT arrangements made)

(1) Section 50AAAB(1)—

Repeal

"This"

Substitute

"Subject to section 50AAAD, this".

(2) Section 50AAAB(10)—

Repeal the definition of *similar tax*

Substitute

"***similar tax*** (類似稅項) means—

(a) a similar tax as defined by section 16(2I)(b); or

(b) a foreign DMTT regarded as a similar tax for the purposes of this section under section 50AAAD(3);".

10A. Section 50AAC amended (interpretation of Part 8AA)

(1) Section 50AAC(1), definition of ***foreign tax***, after "any tax"—

Add

"(other than a foreign IIR top-up tax, a foreign UTPR top-up tax or a foreign DMTT)".

(2) Section 50AAC(1), definition of ***Hong Kong tax***, after "other than"—

Add

"a top-up tax or an".

10B. Section 50AAAD added

After section 50AAAC—

Add

"50AAAD. Tax credits denied, or allowed, for certain foreign top-up taxes

(1) Neither a foreign IIR top-up tax, nor a foreign UTPR top-up tax, is to be allowed as a credit against tax payable in Hong Kong under section 50 (including that section as applied by section 50AAA or 50AAAB).

(2) A foreign DMTT is to be allowed as a credit against tax payable in Hong Kong under section 50 only to the extent to which the foreign DMTT is—

(a) a QDMTT payable in a territory in respect of income of a permanent establishment in that territory; or

(b) a QDMTT payable in a case described in section 50(5)(c), (7)(a) or (7A) by a company in respect of the profits out of which it pays the dividend.

(3) A foreign DMTT is to be regarded as a similar tax, for the purposes of sections 50AAA and 50AAAB, to the extent to which the foreign DMTT is—

(a) a QDMTT payable in a territory in respect of income of a permanent establishment in that territory;

(b) a QDMTT payable in the case described in section 2(3)(b) of Schedule 54, by the investee company in respect of the profits out of which it pays the dividend; or

(c) a QDMTT payable—

(i) in the case described in section 50AAAB(2) by the subject company in respect of the profits out of which it pays the subject dividend; or

(ii) in the case described in subsection (7) of section 50AAAB in respect of the profits referred to in subsection (6)(a)(i) or (ii) (as the case requires) of that section.".

10C. Section 51AAB substituted

Section 51AAB—

Repeal the section

Substitute

"51AAB. Specified person must furnish specified return in form of electronic record

(1) A person who is required under section 51(1) to furnish a specified return for a specified year of assessment must file it in the form of an electronic record if the person is a specified person for the specified year of assessment.

(2) The requirements relating to a return furnished in the form of an electronic record under section 51AA(2) also apply to a return furnished in the form of an electronic record under subsection (1).

(3) In this section—

specified person (指明人士), in relation to a specified year of assessment, means a person that is specified in column 2 of Part 1 of Schedule 65 opposite that year of assessment;

specified return (指明報表), in relation to a specified person, means a return that is specified in column 3 of Part 1 of Schedule 65 opposite that person;

specified year of assessment (指明課稅年度) means a year of assessment specified in column 4 of Part 1 of Schedule 65.

(4) The Commissioner may, by notice published in the Gazette, amend Schedule 65."

Clause 12

12. Section 79A added

Part 14, before section 80—

Add

"**79A. Interpretation of Part 14: offences relating to Schedule ~~60, 61 or 62~~61, 62 or 63**

(1) In this Part—

Part 4AA entity (第 4AA 部實體) means—

(a) in relation to a provision of this Part that relates to any requirement, liability or obligation imposed under Schedule ~~60, 61 or 62~~61, 62 or 63 (***GloBE-related obligation***) on a HK constituent entity (however described), the HK constituent entity;

(b) in relation to a GloBE-related obligation that also applies, under Schedule ~~60, 61 or 62~~61, 62 or 63 (as the case requires), to a HK standalone JV or HK member of a JV group (however described), the HK standalone JV or HK member (as the case requires); or

(c) in relation to a GloBE-related obligation that also applies, under Schedule ~~60, 61 or 62~~61, 62 or 63 (as the case requires), to a Part 4AA stateless constituent entity (however described), the stateless constituent entity.

(2) Unless the contrary intention appears, an expression—

(a) used in a provision of this Part that relates to any requirement, liability or obligation under Schedule ~~60, 61 or 62~~61, 62 or 63; and

(b) defined or otherwise explained in any provision of Part 4AA or of Part 1 of Schedule ~~60 or of Schedule 61 or 62 (***definition provisions***)~~ 61 or of Schedule 62 or 63 (***definition provision***),

has the same meaning as in the ~~definition provisions~~definition provision.".

Clause 13

13. Sections 80O to ~~80R~~80Q added

After section 80N—

Add

"**80O. Minimum tax for MNE groups: offences by Part 4AA entities**

(1) A Part 4AA entity commits an offence if the entity, without reasonable excuse—

(a) fails to comply with—

(i) a requirement under section 3(1) of Schedule ~~62~~63;

(ii) a requirement under section 5(1) of Schedule ~~62~~63; or

(iii) a requirement of a notice given to it under section 12(1) of Schedule ~~62~~63;

(b) in purported compliance with section 3(1) of Schedule ~~62~~63, files, or causes or allows to be filed on its behalf, a top-up tax return that is misleading, false or inaccurate in a material particular, whether or not because any information is omitted from the top-up tax return;

(c) in purported compliance with section 5(1) of Schedule ~~62~~63, files, or causes or allows to be filed on its behalf, a notice that is misleading, false or inaccurate in a material particular, whether or not because any information is omitted from the notice; or

(d) makes any statement or provides any information relating to any matter or thing, affecting its MNE group's top-up tax liability, that is misleading, false or inaccurate in a material particular, whether or not because anything is omitted from the statement or information.

(2) For subsection (1)(a)(i) and (ii), (b), (c) and (d), engaging a service provider under section 13 of Schedule ~~62~~63 does not in itself constitute a reasonable excuse.

(3) A Part 4AA entity that commits an offence under subsection (1)(a)(i) or (ii) is liable on conviction to a fine at level 3 and a further fine of treble the top-up tax undercharged amount.

(4) A Part 4AA entity that commits an offence under subsection (1)(a)(iii) is liable on conviction to a fine at level 3.

(5) A Part 4AA entity that commits an offence under subsection (1)(b), (c) or (d) is liable on conviction to a fine at level 3 and a further fine of treble the top-up tax undercharged amount.

(6) In case of an offence under subsection (1)(a), the court may order the Part 4AA entity, within a time specified in the order, to do the act that the entity has failed to do.

(7) Any Part 4AA entity that does not comply with an order of the court under subsection (6) commits an offence and is liable on conviction to a fine at level 4.

(8) In relation to a Part 4AA entity that is not a corporation, this section applies to a person who acts for the entity or is responsible for the management of the entity as if a reference to a Part 4AA entity in this section were a reference to that person.

(9) In relation to a Part 4AA entity that is a permanent establishment of a main entity, this section also applies to the main entity as if a reference to a Part 4AA entity in this section were a reference to the main entity.

(10) In subsection (1)(d), in relation to a Part 4AA entity of an MNE group, a reference to a matter or thing affecting the MNE group's top-up tax liability is a reference to a matter or thing relevant to the determination of any top-up tax payable by a Part 4AA entity of the MNE group.

(11) In subsections (3) and (5)—

top-up tax undercharged amount (補足稅少徵稅款)—

(a) for an offence that relates to a failure to comply with a provision of Schedule ~~62~~63—means the amount of top-up tax that has been undercharged as a result of the failure, or would have been so undercharged if the failure had not been detected; or

(b) for an offence that relates to any top-up tax return, notice, statement or information that is misleading, false or inaccurate in a material particular—means the amount of top-up tax that—

(i) has been undercharged as a result of the top-up tax return, notice, statement or information; or

(ii) would have been so undercharged if the top-up tax return, notice, statement or information had been accepted as correct.

80P. Minimum tax for MNE groups: offences by service provider

(1) This section applies if a service provider is engaged by a Part 4AA entity under section 13 of Schedule ~~62~~63 to file, for or on behalf of a Part 4AA entity—

(a) a top-up tax return; or

(b) a notice required to be filed under a provision of that Schedule.

(2) A person who is a service provider engaged to carry out a Part 4AA entity's obligations under section 3(1) of Schedule ~~62~~63 commits an offence if the person, without reasonable excuse, fails to cause a top-up tax return to be filed as required by that section.

(3) A person who is a service provider engaged to carry out a Part 4AA entity's obligations under section 5(1) of Schedule ~~62~~63 commits an offence if the person, without reasonable excuse, fails to cause a notice to be filed as required by that section.

(4) A person who is a service provider commits an offence if—

(a) the person, without reasonable excuse and in purported compliance with section 3(1) of Schedule ~~62~~63, files on behalf of a Part 4AA entity, or causes or allows the entity to file, a top-up tax return not in accordance with the information provided, or instructions given, by the entity to the service provider; and

(b) the top-up tax return is misleading, false or inaccurate in a material particular, whether or not because any information is omitted from the top-up tax return.

(5) A person who is a service provider commits an offence if—

(a) the person, without reasonable excuse and in purported compliance with section 5(1) of Schedule ~~62~~63, files on behalf of a Part 4AA entity, or causes or allows the entity to file, a notice not in accordance with the information provided, or instructions given, by the entity to the service provider; and

(b) the notice is misleading, false or inaccurate in a material particular, whether or not because any information is omitted from the notice.

(6) A person who commits an offence under subsection (2), (3), (4) or (5) is liable on conviction to a fine at level 3.

(7) The court may order a person who commits an offence under subsection (2) or (3) to do, within the time specified in the order, the act that the person has failed to do.

(8) A person who fails to comply with an order of the court under subsection (7) commits an offence and is liable on conviction to a fine at level 6.

~~**80Q. Minimum tax for MNE groups: offences by directors etc. of Part 4AA entities and service provider**~~

~~If —~~

~~(a) any of the following persons is a corporation —~~

~~(i) a Part 4AA entity that commits an offence under section 80O;~~

~~(ii) a person who commits an offence under section 80O by virtue of section 80O(8) or (9);~~

~~(iii) a service provider that commits an offence under section 80P; and~~

~~(b) the offence was committed with the consent or connivance of a director, or other officer concerned in the management, of the corporation, or any person purporting to act as such director or officer (***specified person***),~~

~~the director or officer or specified person, as the case requires, also commits the offence and is liable on conviction to the penalty provided for that offence.~~

~~80R~~80Q. Minimum tax for MNE groups: miscellaneous provisions for certain offences

(1) Despite section 26 of the Magistrates Ordinance (Cap. 227), proceedings in respect of an offence under section ~~80O, 80P or 80Q~~80O or 80P (other than an indictable offence) may be brought within 8 years after the day on which the offence was committed. ~~no later than the later of the following —~~

~~(a) the expiry of 2 years from the day on which the offence was discovered by the Commissioner;~~

~~(b) the expiry of 6 years after the day on which the offence was committed.~~

(2) The Commissioner may compound an offence under section ~~80O, 80P or 80Q~~80O or 80P, and may, before judgment, stay or compound any proceedings instituted for the offence.".

Clause 14

14. Section 82 amended (penal provisions relating to fraud, etc.)

(1) After section 82(1AAC)—

Add

"(1AAD) A person commits an offence if the person either—

(a) wilfully, with intent to evade top-up tax or to assist any other person to evade top-up tax, and in purported compliance with a requirement under section 3(1) or 5(1) of Schedule ~~62~~63, provides information that is misleading, false or inaccurate in a material particular; or

(b) wilfully, with intent to evade top-up tax or to assist any other person to evade top-up tax, omits anything from the statement made or information provided, in relation to any matter or thing affecting an MNE group's top-up tax liability, in purported compliance with the requirement.".

(…)

Clause 15

15. Section 82A amended (additional tax in certain cases)

(1) After section 82A(1K)—

Add

"(1L) If—

(a) a person that is a Part 4AA entity of an MNE group—

(i) without reasonable excuse, fails to comply with section 3(1) of Schedule ~~62~~63;

(ii) without reasonable excuse, fails to comply with section 5(1) of Schedule ~~62~~63;

(iii) without reasonable excuse and in purported compliance with section 3(1) of Schedule ~~62~~63, files, or causes or allows to be filed on its behalf, a top-up tax return that is misleading, false or inaccurate in a material particular, whether or not because any information is omitted from the top-up tax return;

(iv) without reasonable excuse and in purported compliance with section 5(1) of Schedule ~~62~~63, files, or causes or allows to be filed on its behalf, a notice that is misleading, false or inaccurate in a material particular, whether or not because any information is omitted from the notice; or

(v) without reasonable excuse, makes any statement or provides any information relating to any matter or thing, affecting the MNE group's top-up tax liability, that is misleading, false or inaccurate in a material particular, whether or not because anything is omitted from the statement or information; and

(b) no prosecution for an offence under section 80O or 82 has been instituted in respect of the same facts,

the person is liable to be assessed under this section to additional tax of an amount not exceeding treble the top-up tax undercharged amount.

(1M) In relation to a Part 4AA entity that is not a corporation, subsection (1L) applies to a person who acts for the entity or is responsible for the management of the entity as if a reference to a Part 4AA entity in that subsection were a reference to that person.

(1N) In relation to a Part 4AA entity that is a permanent establishment of a main entity, subsection (1L) also applies to the main entity as if a reference to a Part 4AA entity in that subsection were a reference to the main entity.

(1O) Section 80O(10) applies to subsection (1L)(a)(v) as it applies to section 80O(1)(d).".

(2) After section 82A(4)(a)(i)(H)—

Add

"(I) for additional tax to be assessed under subsection (1L)—the alleged failure to comply with section 3(1) or 5(1) of Schedule ~~62~~63 or the allegation that the top-up tax return, notice, statement or information is misleading, false or inaccurate in a material particular;".

(3) Section 82A(9), Chinese text, definition of *少徵稅款*, paragraph (b)—

Repeal

"款。"

Substitute

"款；".

(4) Section 82A(9)—

Add in alphabetical order

"***top-up tax undercharged amount*** (補足稅少徵稅款)—

(a) for additional tax assessed because of a failure to comply with a provision of Schedule ~~62~~63—means the amount of top-up tax that has been undercharged as a result of the failure, or would have been so undercharged if the failure had not been detected; or

(b) for additional tax assessed because of any top-up tax return, notice, statement or information that is misleading, false or inaccurate in a material particular—means the amount of top-up tax that—

(i) has been undercharged as a result of the top-up tax return, notice, statement or information; or

(ii) would have been so undercharged if the top-up tax return, notice, statement or information had been accepted as correct;".

New (Clauses 15A, 15B, 15C, 15D and 15E added)

15A. Section 84 amended (prosecutions, sanction of Commissioner)

Section 84(1)—

Repeal

"80"

Substitute

"80, 80O".

15B. Section 87 amended (general power of Chief Executive in Council to exempt)

Section 87, after "Ordinance"—

Add

", other than a top-up tax".

15C. Section 88 amended (exemption of charitable bodies)

(1) Section 88—

Renumber the section as section 88(1).

(2) After section 88(1)—

Add

"(2) Subsection (1) does not apply to a top-up tax.".

15D. Schedule 17A amended (specified alternative bond scheme and its tax treatment)

(1) Schedule 17A, heading—

Repeal

"**Tax Treatment**"

Substitute

"**Treatment under this Ordinance (other than Part 4AA)**".

(2) Schedule 17A, section 1(2), definition of ***special purpose vehicle***, paragraph (b)—

Repeal

"requires)."

Substitute

"requires);".

(3) Schedule 17A, Section 1(2)—

Add in alphabetical order

"tax (稅) does not include a top-up tax.".

15E. Schedule 54 amended (specifications for section 50AAA in relation to unilateral tax credits)

Schedule 54—

Repeal

"& 50AAA]"

Substitute

", 50AAA & 50AAAD]".

Clause 16

16. Schedules ~~60 to 63~~61 to 65 added

After ~~Schedule 59~~ Schedule 60—

Add

"**Schedule ~~60~~61**

[ss. 26AD, 26AE, 26AF, ~~26AG, 26AH & 79A & Schs. 61 & 62]~~ 26AG & 79A & Schs. 62 & 63]

GloBE Rules

Part 1

(…)

Article 2.4. Application of the UTPR

2.4.1. Constituent ~~Entities of an MNE Group~~ entities of an MNE Group located in Hong Kong shall be denied a deduction (or required to make an equivalent adjustment under domestic law) in an amount resulting in those ~~Constituent Entities having~~ constituent entities having an additional cash tax expense equal to the UTPR ~~Top-up Tax Amount for the Fiscal Year~~ top-up tax amount for the fiscal year allocated to Hong Kong.

Note—

Article 2.4.1 is modified by Part 2 of this Schedule to suit circumstances in Hong Kong.

(…)

Article 5.2. Top-up tax

5.2.1. The top-up tax percentage for a jurisdiction for a fiscal year shall be the positive percentage point difference, if any, computed in accordance with the following formula:

Top up tax percentage = minimum rate – effective tax rate

where the effective tax rate is the effective tax rate determined in accordance with Article 5.1 for the jurisdiction for the fiscal year.

Note—

In relation to Article 5.2.1, see the specified OECD GloBE rules guidance in—

(a) paragraphs 15.1 to 15.5 of Chapter 5 of the 2023 Commentary; and

(b) section 2.7 of the Feb-2023 Administrative Guidance.

5.2.2. The excess profit for the jurisdiction for the fiscal year is the positive amount, if any, computed in accordance with the following formula:

Excess Profit = Net GloBE Income – Substance Based Income Exclusion

where:

(a) the net GloBE income is the net GloBE income determined under Article 5.1.2 for the jurisdiction for the fiscal year; and

(b) the substance-based income exclusion is the substance-based income exclusion determined under Article 5.3 for the jurisdiction for the fiscal year (if any).

5.2.3. The jurisdictional top-up tax for a jurisdiction for a fiscal year is equal to the positive amount, if any, computed in accordance with the following formula:

Jurisdictional Top up Tax
= (Top up Tax Percentage x Excess Profit) + Additional Current Top up Tax – Domestic Top up Tax

where:

(a) the top-up tax percentage is percentage point difference determined in accordance with Article 5.2.1 for the jurisdiction for the fiscal year;

(b) the excess profit is the excess profit determined in accordance with Article 5.2.2 for the jurisdiction for the fiscal year;

(c) the additional current top-up tax is the amount determined, or treated as additional current top-up tax, under Article 4.1.5 or Article 5.4.1 for the jurisdiction for the fiscal year; and

(d) the ~~Domestic~~domestic top-up tax is the amount payable under a qualified domestic minimum top-up tax of the jurisdiction for the fiscal year.

(…)

Article 6.5. Multi-parented MNE groups

6.5.1. The following provisions apply to multi-parented MNE groups:

(a) the entities and constituent entities of each group are treated as members of a single MNE group for purposes of the GloBE rules (the multi-parented MNE group);

(b) an entity (other than an excluded entity) shall be treated as a constituent entity if it is consolidated on a line-by-line basis by the multi-parented MNE group or its controlling interests are held by entities in the multi-parented MNE group;

(c) the consolidated financial statements of the multi-parented MNE group shall be the consolidated financial statements referred to in the definition of stapled structure or dual-listed arrangement (as relevant) prepared under an acceptable financial accounting standard, which is deemed to be the accounting standard of the ultimate parent entity;

(d) the ultimate parent entities of the separate groups that comprise the multi-parented MNE group shall be the ultimate parent entities of the multi-parented MNE group (when applying the GloBE rules in respect of a multi-parented MNE group, a reference to an ultimate parent entity shall apply, as required, as if they were a reference to multiple ultimate parent entities);

(e) the parent entities of the multi-parented MNE group (including each ultimate parent entity) located in Hong Kong shall apply the IIR in accordance with Article 2.1 to Article 2.3 with respect to their allocable share of the top-up tax of the low-taxed constituent entity;

(f) all of the constituent entities of the multi-parented MNE group located in Hong Kong shall apply the UTPR in accordance with Article 2.4 to Article 2.6, taking into account the top-up tax of each low-taxed constituent entity of the multi-parented MNE group; and

(g) the ultimate parent entities are required to submit the GloBE information return in accordance with Article 8.1 unless they appoint a single designated filing entity and that return shall include the information concerning each of the groups that comprise the multi-parented MNE group.

Notes—

1. The reference in Article 6.5.1(f) to "Article 2.4 to Article 2.6" is to be read as "Article 2.4 to Article 2.6, read with Part 2 of this Schedule", because of Part 2 of this Schedule.
2. Similarly, the reference in Article 6.5.1(g) to "Article 8.1" is to be read as "Part 2 of Schedule ~~62~~63", because of Part 2 of this Schedule.

(…)

Article 7.4. Effective tax rate computation for investment~~—~~-related entities

7.4.1. The rules of Article 7.4 apply to constituent entities that meet the definition of an investment-related entity, except investment-related entities that are tax transparent entities or subject to an election under Article 7.5 or Article 7.6.

(…)

Article 8.1. Filing obligation

[Article 8.1 of the OECD GloBE model rules is omitted. See, instead, Part 2 of Schedule ~~62~~63 for provisions on filing obligations.]

(…)

Article 9.4. Transitional relief for filing obligations

[Article 9.4 of the OECD GloBE model rules is omitted. See, instead, Part 2 of Schedule ~~62~~63 for provisions on transitional relief for filing obligations.]

(…)

Article 10.1. Defined terms

10.1.1. The terms set out below have the following definitions:

(…)

Designated filing entity (指定交表實體) means the constituent entity, other the ultimate parent entity, that has been appointed by the MNE Group to file the GloBE information return on behalf of the MNE Group.

Note—

As provided in Part 2 of this Schedule, the definition of ***designated filing entity*** is to be read to the effect that the expression has the meaning given by section 2 of Schedule ~~62~~63.

Designated local entity (指定本地實體) means the constituent entity of an MNE Group that is located in Hong Kong and that has been appointed by the other constituent entities located in Hong Kong of the MNE Group to file the GloBE information return, or to submit the notifications under Article 8.1.3.

Note—

As provided in Part 2 of this Schedule, the definition of ***designated local entity*** is to be read to the effect that the expression has the meaning given by section 2 of Schedule ~~62~~63.

(…)

Filing constituent entity (交表成員實體) is an entity filing the GloBE information return in accordance with Article 8.1.

Note—

The reference in the definition of ***filing constituent entity*** to "Article 8.1" is to be read as "Part 2 of Schedule ~~62~~63", because of Part 2 of this Schedule.

(…)

GloBE information return (全球反侵蝕稅基資料報表) means that standardized return to be developed in accordance with the GloBE implementation framework that contains the information described in Article 8.1.4.

Note—

The reference in the definition of ***GloBE information return*** to "Article 8.1.4" is to be read as "section 10 of Schedule ~~62~~63", because of Part 2 of this Schedule.

(…)

Other comprehensive income (其他綜合收入) means items of income and expense that are not recognised in profit or loss as required or permitted by the authorised financial accounting standard used in the consolidated financial statements~~. other~~. Other comprehensive income is usually reported as an adjustment to equity in the statement of financial position (balance sheet).

(…)

Qualified domestic minimum top-up tax (合資格當地最低補足稅) means a minimum tax that is included in the domestic law of a jurisdiction and that:

(a) determines the excess profits of the constituent entities located in the jurisdiction (domestic excess profits) in a manner that is equivalent to the GloBE rules;

(b) operates to increase domestic tax liability with respect to domestic excess profits to the minimum rate for the jurisdiction and constituent entities for a fiscal year;

(c) is implemented and administered in a way that is consistent with the outcomes provided for under the GloBE rules and the Commentary, provided that such jurisdiction does not provide any benefits that are related to such rules; and

(d) has the status of a qualified domestic minimum top-up tax (including transitional qualified status) for the fiscal year as determined by the Inclusive ~~framework~~ Framework.

A qualified domestic minimum top-up tax may compute domestic excess profits based on an acceptable financial accounting standard permitted by the authorised accounting body or an authorised financial accounting standard adjusted to prevent any material competitive distortions, rather than the financial accounting standard used in the consolidated financial statements.

(…)

Part 2

Modifications to Rules in Part 1 of this Schedule

1. The rules in Part 1 of this Schedule are modified as specified in this Part.

2. Article 2.4.1 in Part 1 of this Schedule is to be read as—

"2.4.1. Constituent entities of an MNE Group located in Hong Kong (***HK constituent entities***) are subject to an adjustment that is equivalent to a denial of a deduction in an amount resulting in those constituent entities having an additional cash tax expense equal to the UTPR top-up tax amount allocated to Hong Kong for the fiscal year.

The adjustment must be made in the form of an additional tax imposed for the fiscal year directly on the HK constituent entities of the MNE group in an amount equal to the UTPR top-up tax amount allocated to Hong Kong for the fiscal year.".

3. The UTPR top-up tax amount for an MNE group allocated to a HK constituent entity, to which Article 2.4.1 in Part 1 (as modified by section 2 of this Part) applies (***specified HK constituent entity***), of the MNE group must be determined for a fiscal year by multiplying—

(a) the UTPR top-up tax amount for the MNE group allocated to Hong Kong, under Article 2.6.1 in Part 1 of this Schedule, for the fiscal year; by

(b) the specified HK constituent entity's UTPR percentage for the group for the fiscal year.

The UTPR percentage of a specified HK constituent entity (***CE1***) for an MNE group must be determined for each fiscal year as follows—

$$50\% \times \frac{\textit{Number of employees of CE1}}{\textit{Number of employees of all specified HK constituent entities of the MNE group}} + 50\% \times \frac{\textit{Total value of tangible assets of CE1}}{\textit{Total value of tangible assets of all specified HK constituent entities of the MNE group}}$$

4. In Article 6.5.1(f) in Part 1 of this Schedule, "Article 2.4 to Article 2.6" is to be read as "Article 2.4 to Article 2.6, read with Part 2 of this Schedule".

5. In Article 6.5.1(g) in Part 1 of this Schedule, "Article 8.1" is to be read as "Part 2 of Schedule ~~62~~63".

6. In Article 10.1.1 in Part 1 of this Schedule, the definitions of ***designated filing entity*** and ***designated local entity*** are to be read as—

"***Designated filing entity*** (指定交表實體) has the meaning given by section 2 of Schedule ~~62~~63.

Designated local entity (指定本地實體) has the meaning given by section 2 of Schedule ~~62~~63.".

7. In Article 10.1.1 in Part 1 of this Schedule, in the definition of ***filing constituent entity***, "Article 8.1" is to be read as "Part 2 of Schedule ~~62~~63".

8. In Article 10.1.1 in Part 1 of this Schedule, in the definition of ***GloBE information return***, "Article 8.1.4" is to be read as "section 10 of Schedule ~~62~~63".

9. In Article 10.1.1 in Part 1 of this Schedule, in the definition of ***UTPR***, "Article 2.4 to Article 2.6" is to be read as "Article 2.4 to Article 2.6, read with Part 2 of this Schedule".

Part 3

Safe Harbours for Top-up Taxes under GloBE Rules

Division 1—Preliminary

1. Interpretation of Part 3 of Schedule ~~60~~61

(1) In this Part—

country-by-country report (國別報告) has the meaning given by section 58B(2);

Jan-2025 AG version (《2025 年 1 月行政指引》版本)—see subsection (4)

Jun-2024 AG version (《2024 年 6 月行政指引》版本)—see subsection (5)

standalone JV (獨立合資企業) means a joint venture that has no JV subsidiary.

(2) Unless the contrary intention appears, an expression used in this Part, and defined or otherwise explained in any provision of Part 4AA or Part 1 of this Schedule ~~(***definition provisions***), has the same meaning as in the definition provisions~~ (***definition provision***), has the same meaning as in the definition provision.

(3) In this Part—

(a) a reference to a joint venture of an MNE group is a reference to an entity that falls within the definition of ***joint venture*** in Article 10.1.1 of the GloBE rules, with the UPE of the MNE group as the UPE referred to in the definition;

(b) if a joint venture of an MNE group has no JV subsidiary, the joint venture is a standalone JV of the MNE group; and

(c) if a joint venture of an MNE group has one or more JV subsidiaries, the joint venture and the JV subsidiaries are collectively a JV group of the MNE group and are members of the JV group.

(4) A reference in this Part to a paragraph of the Commentary to Article 9.1.2 (Jan-2025 AG version) is a reference to that paragraph stipulated, in paragraph 11 of the Third Jan-2025 Administrative Guidance, to be

incorporated into the Commentary to that Article of the OECD GloBE model rules.

(5) A reference in this Part to a paragraph of the Commentary to Article 10.1 (Jun-2024 AG version) is a reference to that paragraph stipulated, in paragraph 24 of Chapter 6 of the Jun-2024 Administrative Guidance, to be incorporated into the Commentary to that Article of the OECD GloBE model rules.

Division 2—Transitional CbCR Safe Harbour

Subdivision 1—Preliminary

2. Interpretation of Division 2 of Part 3 of Schedule ~~60~~61

(1) In this Division—

profit or loss before income tax (扣除入息稅前利潤或虧損), in relation to an MNE group for a jurisdiction for a fiscal year, means the profit or loss of the MNE group before income tax for the jurisdiction for the fiscal year as reported in the group's qualified CbC report for the fiscal year;

qualified CbC report (合資格國別報告) means, subject to subsection (3), a country-by-country report prepared and filed using qualified financial statements;

qualified financial statements (合資格財務報表)—see section 3 of this Part;

simplified ETR (簡化有效稅率)—see section 7(2) of this Part;

total revenue (總收入), in relation to an MNE group in a jurisdiction for a fiscal year, means the MNE group's total revenue for the jurisdiction as reported in the group's qualified CbC report for the fiscal year;

transition period (過渡期) means a period that covers all the fiscal years beginning on or before 31 December 2026 but does not include a fiscal year ending after 30 June 2028;

transitional CbCR safe harbour (過渡性國別報告安全港) means the treatment of an MNE group for a jurisdiction for a fiscal year in accordance with section 4 of this Part.

(2) Subsection (3) applies if—

(a) an MNE group is in the scope of the GloBE rules but is not required to file a country-by-country report; and

(b) the MNE group completes section 2.2.1.3(a) of the GloBE information return, using the data from qualified financial statements that would have been reported as total revenue, and profit or loss before income tax, in a qualified CbC report had the MNE group been required to file a country-by-country report.

(3) In relation to an MNE group referred to in subsection (2)—

(a) a reference in this Division to an amount as reported in a qualified CbC report is to be read as including—

(i) the amounts that would have been reported in a qualified CbC report if the MNE group were required to file a country-by-country report in accordance with the CbC requirements in the UPE jurisdiction; or

(ii) if the UPE jurisdiction does not have CbC requirements, the amounts that would have been reported in accordance with the CbCR documents (as defined by section 58B(2));

(b) a reference in this Division to having submitted a qualified CbC report is to be read as a reference to having prepared qualified financial statements containing the data that would have been reported as mentioned in subsection (2)(b); and

(c) a reference in this Division to a qualified CbC report is to be read as a reference to the qualified financial statements referred to in paragraph (b).

3. Meaning of *qualified financial statements*

(1) In this Division—

qualified financial statements (合資格財務報表), in relation to an MNE group, means—

(a) the accounts used to prepare the consolidated financial statements of the UPE of the MNE group (***reporting package***);

(b) separate financial statements of each constituent entity of the MNE group if—

(i) they are prepared in accordance with either an acceptable financial accounting standard or an authorised financial accounting standard; and

(ii) the information contained in such statements is maintained based on that accounting standard and is reliable;

(c) in the case of a constituent entity of the MNE group that is not included in the MNE group's consolidated financial statements on a line-by-line basis solely due to size or materiality grounds—the financial accounts of the constituent entity that are used for preparation of the MNE group's country-by-country report; or

(d) in the case of a constituent entity of the MNE group that is a permanent establishment having neither separate financial accounts described in paragraph (a), nor separate financial statements described in paragraph (b)—the separate financial statements prepared by the main entity of the permanent establishment for financial reporting, regulatory, tax reporting or internal management control purposes.

(2) However, a constituent entity's reporting package, or any separate financial statements described in paragraph (b) of the definition of ***qualified financial statements*** in subsection (1), incorporating the purchase price accounting adjustment allocated by the MNE group, are not qualified financial statements, unless the consistent reporting condition is met, and the goodwill impairment adjustment is made.

(3) The consistent reporting condition is met ~~where the qualified CbC report was based on the constituent entity's reporting package, or separate financial statements, incorporating the purchase price accounting adjustment~~ if—

(a) the MNE group has not submitted a ~~qualified~~ CbC report, for a fiscal year beginning after 31 December 2022, that was based on the constituent entity's reporting package, or separate financial statements, without the purchase price accounting adjustment; or

(b) the constituent entity was required by law or regulation to change its reporting package, or separate financial statements, to incorporate the purchase price accounting adjustment.

(4) The goodwill impairment adjustment is made if any reduction to the constituent entity's income attributable to an impairment of goodwill related to transactions entered into after 30 November 2021 is added back to the MNE group's profit or loss before income tax for the jurisdiction for the fiscal year—

(a) for applying the routine profit test under section 8 of this Part; and

(b) for applying the simplified ETR test under section 7 of this Part, but only if the financial accounts do not also have a reversal of deferred tax liability, or recognition or increase of deferred tax asset, in respect of the impairment of goodwill.

(…)

6. De minimis test

(1) An MNE group meets the de minimis test for a jurisdiction for a fiscal year if—

(a) the MNE group's total revenue for the jurisdiction for the fiscal year is less than EUR 10 million; and

~~(b) the MNE group's profit or loss before income tax for the jurisdiction for the fiscal year is less than EUR 1 million.~~

(b) the MNE group's profit before income tax for the jurisdiction for the fiscal year is less than EUR 1 million or the MNE group has a loss for the jurisdiction for the fiscal year.

(2) For the purposes of subsection (1)(a), if a constituent entity of the MNE group is held for sale and its revenue are not already included in the total revenue, the revenue of the entity must be added back to the total revenue.

7. Simplified ETR test

(1) An MNE group meets the simplified ETR test for a jurisdiction for a fiscal year if the MNE group's simplified ETR for the jurisdiction for the fiscal year is equal to or greater than—

(a) if the fiscal year starts in the 2025 calendar year—16%; or

(b) if the fiscal year starts in the 2026 calendar year—17%.

(2) In this section—

simplified ETR (簡化有效稅率), for a jurisdiction for a fiscal year, is the amount equal to—

A/B x 100%

where: A means the MNE group's simplified covered taxes for the jurisdiction for the fiscal year;

B means the MNE group's profit or loss before income tax for the jurisdiction for the fiscal year.

(3) In this section—

excluded deferred tax expenses (被豁除遞延稅項開支***)***—

(a) means any deferred tax expenses attributable to the reversal of deferred tax assets and deferred tax liabilities described in subparagraph (a), (b) or (c) of paragraph 8.5 of the Commentary to Article 9.1.2 (Jan-2025 AG version) in a tested fiscal year; but

(b) for determining the simplified covered taxes within the grace period, described in paragraph 8.8 of the Commentary to Article 9.1.2 (Jan-2025 AG version), may exclude the deferred tax expenses attributable to the reversal of such deferred tax assets up to the maximum amount allowed under paragraphs 8.9, 8.10 and 8.11 of the Commentary to Article 9.1.2 (Jan-2025 AG version).

simplified covered taxes (簡化涵蓋稅), in relation to an MNE group for a jurisdiction for a fiscal year, means the income tax expense for the jurisdiction for the fiscal year as reported in its qualified financial statements for the fiscal year, excluding—

(a) any tax that is not a covered tax because of Article 4.2.2 of the GloBE rules; ~~and~~

(b) uncertain tax positions reported in the MNE group's qualified financial statements~~.~~; and

(c) excluded deferred tax expenses.

(…)

13. Special rules for hybrid arbitrage arrangements

(1) This section provides for the treatment of the following (each a ***hybrid arbitrage arrangement***)—

(a) a deduction/non-inclusion arrangement;

(b) a duplicate loss arrangement;

(c) a duplicate tax recognition arrangement.

(2) For the purpose of applying sections 6, 7 and 8 of this Part to an MNE group for a jurisdiction for a fiscal year—

(a) the profit or loss before income tax of the MNE group for the jurisdiction for the fiscal year is to exclude any expense or loss as a result of—

(i) a deduction/non-inclusion arrangement; or

(ii) a duplicate loss arrangement; and

(b) the simplified covered taxes of a constituent entity of the MNE group that is located in the jurisdiction for the fiscal year are to exclude any income tax expense arising as a result of a duplicate tax recognition arrangement.

(3) An adjustment under subsection (2)(a) does not need to be made with respect to the expense or loss in the financial statements of one of the constituent entities if—

(a) the duplicate loss arrangement is such arrangement because of paragraph (a) of the definition of ***duplicate loss arrangement*** in subsection (6); and

(b) all constituent entities including the relevant expense or loss in their financial statements are located in the same jurisdiction.

(4) In this section—

(a) ***deduction/non-inclusion arrangement*** (扣除/不計入安排) means an arrangement entered into after 15 December 2022 under which one constituent entity of an MNE group directly or indirectly provides credit to, or otherwise makes an investment in, another constituent entity of the MNE group that results in an expense or loss in the financial statements of any constituent entity of the MNE group to the extent that—

(i) there is no commensurate increase in the revenue or gain in the financial statements of the constituent entity counterparty; or

(ii) the constituent entity counterparty is not reasonably expected over the life of the arrangement to have a commensurate increase in its taxable income; but

(b) an arrangement is not a deduction/non-inclusion arrangement to the extent that the expenses or loss ~~results from the arrangement~~ is solely with respect to additional tier one capital.

(5) For the purposes of subsection (4), a constituent entity is not to be regarded to have a commensurate increase in its taxable income to the extent that—

~~(a) the amount included in taxable income is offset by a tax attribute (such as a loss carryforward or an unused interest carryforward) and, with respect to the tax attribute, a valuation adjustment or accounting recognition adjustment —~~

~~(i) has been made; or~~

~~(ii) would have been made, had the adjustment determination been made without regard to the ability of a constituent entity to use the tax attribute,~~

~~with respect to any hybrid arbitrage arrangement entered into after 15 December 2022; or~~

~~(b) the payment that gives rise to the expense or loss —~~

~~(i) also gives rise to a taxable deduction or loss of a constituent entity that is located in the same jurisdiction as the constituent entity counterparty (***counterparty jurisdiction***); but~~

~~(ii) is not included as an expense or loss in determining the profit or loss before income tax for the counterparty jurisdiction (including as a result of being an expense or loss in the financial statements of a flow through entity that is owned by a constituent entity in the counterparty jurisdiction).~~

(a) the amount included in taxable income is offset by a tax attribute, such as a loss carryforward or an unused interest carryforward, with respect to which a valuation adjustment or accounting recognition adjustment has been made or would have been made if the adjustment determination were made without regard to the ability of a constituent entity to use the tax attribute with respect to any hybrid arbitrage arrangement entered into after 15 December 2022; or

(b) the payment that gives rise to the expense or loss also gives rise to a taxable deduction or loss of a constituent entity that is located in the same jurisdiction as the constituent entity counterparty (***counterparty jurisdiction***), without being included as an expense or loss in determining the profit or loss before income tax for the counterparty jurisdiction, including as a result of being an expense or loss in the financial statements of a flow-through entity that is owned by a constituent entity in the counterparty jurisdiction.

(6) In this section—

duplicate loss arrangement (重複虧損安排) means an arrangement entered into after 15 December 2022 that results in an expense or loss being included in the financial statements of a constituent entity of an MNE group—

(a) subject to subsection (7)(a), to the extent that the expense or loss is also being included as an expense or loss in the financial statements of another constituent entity of the MNE group; or

(b) subject to subsection (7)(b), to the extent that the arrangement also gives rise to a duplicate amount that is deductible for determining the taxable income of another constituent entity of the MNE group in another jurisdiction.

(7) However, an arrangement is not to be regarded as a duplicate loss arrangement under subsection (6) to the extent that—

(a) in the case of paragraph (a) of the definition of ***duplicate loss arrangement*** in that subsection—the amount of the relevant expense or loss is offset against the revenue that is included in the financial statements of both constituent entities; or

(b) in the case of paragraph (b) of the definition of ***duplicate loss arrangement*** in that subsection—the amount of the relevant expense or loss is offset against the revenue or income that is included in both—

(i) the financial statements of the constituent entity including the relevant expense or loss in the financial statements; and

(ii) the taxable income of the constituent entity claiming the deduction for the relevant expense or loss.

~~(8) In this section—~~

~~***duplicate tax recognition arrangement*** (重複稅項確認安排) means an arrangement entered into after 15 December 2022 that results in each of 2 or more constituent entities of an MNE group including all (or any portion of) the same income tax expense in its adjusted covered taxes or in applying the simplified ETR test under section 7 of this Part, but excludes an arrangement—~~

~~(a) that also results in the income subject to tax being included in the relevant financial statements of each such constituent entity; or~~

~~(b) that would, in the absence of this paragraph, be a duplicate tax recognition arrangement solely because, in computing the simplified ETR of a constituent entity of the MNE group (***first constituent entity***), no adjustments are required for income tax expenses that would otherwise be allocated to another constituent entity of the MNE group in determining the first constituent entity's adjusted covered taxes.~~

(8) In this section—

duplicate tax recognition arrangement (重複稅項確認安排) means an arrangement entered into after 15 December 2022 that results in each of 2 or more constituent entities of an MNE group including part or all of the same income tax expense in—

(a) its adjusted covered taxes; or

(b) its simplified ETR for the purpose of applying the transitional CbCR safe harbour,

but does not include an arrangement that also results in the income subject to tax being included in the relevant financial statements of each such constituent entity.

(8A) Despite subsection (8), an arrangement is not a duplicate tax recognition arrangement if it arises solely because the simplified ETR of a constituent entity of the MNE group (***first constituent entity***) does not require adjustments for income tax expenses that would otherwise be allocated to another constituent entity of the MNE group in determining the first constituent entity's adjusted covered taxes.

(9) For the purposes of this section—

(a) a reference to a constituent entity of an MNE group includes—

(i) any entity treated as a constituent entity of the group under the GloBE rules, such as a joint venture of the group; and

(ii) any entity with its qualified financial statements taken into account for the purposes of section 6, 7 or 8 of this Part,

regardless of whether such entities are in the same jurisdiction;

(b) a reference to financial statements of a constituent entity means the financial statements used to calculate that constituent entity's GloBE income or the qualified financial statements taken into account for the purposes of section 6, 7 or 8 of this Part;

(c) a constituent entity is to be regarded as having entered into a hybrid arbitrage arrangement after 15 December 2022 if after that date—

(i) the arrangement is amended or transferred;

(ii) the performance of any rights or obligations under the arrangement differs from the performance of such rights or obligations prior to 15 December 2022 (including where payments are reduced or cease with the effect of increasing the balance of a liability); or

(iii) there is a change in the accounting treatment with respect to the arrangement; and

(d) an expense or loss is not to be regarded as being in the financial statement of a tax transparent entity to the extent that the expense or loss is included in the financial statements of its constituent entity-owners.

14. Exclusions

(1) The transitional CbCR safe harbour does not apply to a stateless constituent entity.

(2) The transitional CbCR safe harbour does not apply to a multi-parented MNE group if there is no single qualified CbC report that includes the information of the combined groups.

(3) The transitional CbCR safe harbour does not apply to an MNE group for a jurisdiction for a fiscal year if an election under Article 7.3.1 of the GloBE rules has been made by the filing constituent entity of the MNE group for the jurisdiction for the fiscal year.

(4) The transitional CbCR safe harbour does not apply to an MNE group for a jurisdiction for a fiscal year if—

~~(a) the filing constituent entity of the MNE group has not made an election to apply the transitional CbCR safe harbour in respect of the jurisdiction for a previous fiscal year; and~~

(a) the transitional CbCR safe harbour did not apply to the MNE group for the jurisdiction for a previous fiscal year; and

(b) there was a constituent entity of the MNE group located in that jurisdiction in the previous fiscal year.

(…)

Division 3—Transitional UTPR Safe Harbour

16. Interpretation of Division 3 of Part 3 of Schedule ~~60~~61

In this Division—

corporate income tax rate (公司入息稅稅率), in relation to a jurisdiction, means the nominal rate of corporate income tax (including any sub-national corporate income taxes) generally imposed on income in the jurisdiction;

transition period fiscal year (過渡期財政年度) means a fiscal year not exceeding 12 months that begins on or before 31 December 2025 and ends before 31 December 2026;

transitional UTPR safe harbour (過渡性低稅利潤規則安全港) means the treatment of an MNE group for a jurisdiction for a fiscal year in accordance with section 17 of this Part.

(…)

Division 4—QDMTT Safe Harbour

Subdivision 1—Preliminary

19. Interpretation of Division 4 of Part 3 of Schedule ~~60~~61

In this Division—

OECD peer review process (經合組織成員互評程序) means the review process developed, and undertaken, under the OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting, in respect of the domestic minimum top-up tax of a jurisdiction;

QDMTT safe harbour (合資格當地最低補足稅安全港) means the treatment of an MNE group for a jurisdiction for a fiscal year in accordance with section 20 of this Part;

QDMTT safe harbour standards (合資格當地最低補足稅安全港準則) means the standards referred to as "standards for a QDMTT safe harbour" set out in the document referred to in item 3 of Part 1 of Schedule ~~63~~64.

Subdivision 2—Application to Constituent Entities

20. QDMTT safe harbour

An MNE group's jurisdictional top-up tax under the GloBE rules for a jurisdiction for a fiscal year, for constituent entities located in the jurisdiction, is taken to be zero if—

(a) the MNE group is subject to a qualified domestic minimum top-up tax of the jurisdiction for the fiscal year;

(b) that jurisdiction is determined to have met the QDMTT safe harbour standards under an OECD peer review process for that fiscal year;

(c) a filing constituent entity of the MNE group has made an election under section 21 of this Part for the jurisdiction for the fiscal year; and

(d) none of the disqualifying conditions provided in section 22, ~~23 or 24~~23, 24, 24A or 24B of this Part applies.

(…)

24. Disqualifying condition—qualified domestic minimum top-up tax challenged

The QDMTT safe harbour does not apply to an MNE group's jurisdictional top-up tax under the GloBE rules for a fiscal year, for constituent entities of the group located in a jurisdiction, if a qualified domestic minimum top-up tax—

(a) is subject, directly or indirectly, to a challenge by the MNE group in judicial or administrative proceedings; or

(b) has been determined as not assessable or collectible by the tax authority of the jurisdiction administering the qualified domestic minimum top-up tax, based on—

(i) constitutional law;

(ii) other superior law; or

(iii) a specific agreement with the government of the jurisdiction limiting the MNE group's tax liability.

24A. Disqualifying condition—no charge for securitization entity

(1) The QDMTT safe harbour does not apply to an MNE group's jurisdictional top-up tax under the GloBE rules for a fiscal year, for constituent entities of the group located in a jurisdiction, if—

(a) a member of the MNE group is a securitization entity participating in a securitization arrangement and is located in the jurisdiction; and

(b) the qualified domestic minimum top-up tax in the jurisdiction does not impose a charge in any circumstances on a securitization entity.

(2) In subsection (1)—

securitization arrangement (證券化安排) has the meaning given by paragraph 148.4 of the Commentary to Article 10.1 (Jun-2024 AG version);

securitization entity (證券化實體) has the meaning given by paragraphs 148.2 and 148.3 of the Commentary to Article 10.1 (Jun-2024 AG version).

24B. Disqualifying condition—non-exclusion of tax attributes from total deferred tax adjustment amount or from simplified covered taxes

The QDMTT safe harbour does not apply to an MNE group's jurisdictional top-up tax under the GloBE rules for a fiscal year, for constituent entities of the group located in a jurisdiction, if—

(a) the general government of the jurisdiction provided the tax attributes described in paragraph 8.5 of the Commentary to Article 9.1.2 (Jan-2025 AG version); and

(b) the jurisdiction does not exclude those tax attributes from Article 9.1.1 computations in determining the total deferred tax adjustment amount or from the simplified covered taxes under the transitional CbCR safe harbour.

Subdivision 3—Application to Other Entities and Permanent Establishments

25. Application to standalone JV and members of JV group

(1) Sections 20, 21, ~~23 and 24~~23, 24, 24A and 24B of this Part apply to a standalone JV of an MNE group, or a member of a JV group of an MNE group, that is located in a jurisdiction or otherwise subject to a qualified domestic minimum top-up tax of the jurisdiction as those sections apply to a constituent entity of the MNE group located in the jurisdiction.

(2) The QDMTT safe harbour does not apply to an MNE group's jurisdictional top-up tax under the GloBE rules for a fiscal year for—

(a) a standalone JV of an MNE group; or

(b) a member of a JV group of an MNE group,

if the qualified domestic minimum top-up tax of the jurisdiction does not impose a charge in any circumstances on a standalone JV or a member referred to in paragraph (a) or (b) (as the case requires).

26. Application to investment-related entities

(1) Sections 20, 21, 22(1), ~~23 and 24~~23, 24, 24A and 24B of this Part apply to an investment-related entity of an MNE group located in a jurisdiction as those sections apply to a constituent entity of the MNE group located in the jurisdiction.

(2) The QDMTT safe harbour does not apply to an MNE group's jurisdictional top-up tax under the GloBE rules for a fiscal year, for an investment-related entity, if the qualified domestic minimum top-up tax of the jurisdiction does not impose a charge in any circumstances on an investment-related entity.

27. Application to stateless constituent entities

Sections 20, 21, 22(1), ~~23 and 24~~23, 24, 24A and 24B of this Part apply to a stateless constituent entity of an MNE group that is subject to a qualified domestic minimum top-up tax of a jurisdiction as those sections apply to a constituent entity of the MNE group located in the jurisdiction.

(…)

Division 5—Simplified Calculations Safe Harbour

Subdivision 1—Preliminary

29. Interpretation of Division 5 of Part 3 of Schedule ~~60~~61

In this Division—

simplified calculations safe harbour (簡化計算安全港) means the treatment of an MNE group for a jurisdiction for a fiscal year in accordance with section 30 of this Part.

(…)

32. SC de minimis test

An MNE group meets the SC de minimis test for a jurisdiction for a fiscal year if—

~~(a) the MNE group's average GloBE revenue for the jurisdiction, as determined under the simplified income calculation, is less than EUR 10 million; and~~

~~(b) the MNE group's average GloBE income for the jurisdiction, as determined under the simplified income calculation, is less than EUR 1 million or the MNE group has a loss determined in accordance with Article 5.5 of the GloBE rules.~~

(a) the MNE group's average GloBE revenue for the jurisdiction, as determined under the simplified income calculation in accordance with Article 5.5 of the GloBE rules, is less than EUR 10 million; and

(b) the MNE group's average GloBE income for the jurisdiction, as determined under the simplified income calculation in accordance with Article 5.5 of the GloBE rules, is less than EUR 1 million or the MNE group has a loss for the jurisdiction.

(…)

Subdivision 3—Non-material Constituent Entity

35. Interpretation of Subdivision 3 of Division 5 of Part 3 of Schedule ~~60~~61

In this Subdivision—

NMCE means a non-material constituent entity;

non-material constituent entity (非重大成員實體) means a constituent entity of an MNE group for a fiscal year if—

(a) where it is not a permanent establishment—

(i) the constituent entity is not consolidated on a line-by-line basis in the consolidated financial statements of the UPE of the MNE group for the fiscal year solely on size or materiality grounds;

(ii) those consolidated financial statements falls within paragraphs (a) or (c) of the definition of ***consolidated financial statements*** in Article 10.1.1 of the GloBE rules and those consolidated financial statements are externally audited; and

(iii) if the constituent entity's total revenue for the fiscal year exceeds EUR 50 million—its financial accounts that are used to complete the country-by-country report are prepared in accordance with an acceptable financial accounting standard or an authorised financial accounting standard;

(b) where it is a permanent establishment—the main entity of the permanent establishment is an NMCE for the fiscal year under paragraph (a);

relevant CbC regulations (相關國別規例) means—

(a) the country-by-country reporting regulations—

(i) of the UPE jurisdiction; or

(ii) of the surrogate parent entity jurisdiction if a country-by-country report is not filed in the UPE jurisdiction; or

(b) if the UPE jurisdiction does not have country-by-country reporting requirements, and an MNE group is not required to file a country-by-country report in any jurisdiction—the CbCR documents as defined by section 58B(2);

total revenue (總收入), in relation to a fiscal year, means the constituent entity's total revenue for the fiscal year as determined in accordance with the MNE group's relevant CbC regulations.

36. NMCE simplified calculations

(1) This section applies to any NMCEs (***SC NMCEs***) of an MNE group located in a jurisdiction (***jurisdiction***) for a fiscal year (***year***) if an election under section 37 of this Part is made for the NMCEs for the jurisdiction for the year.

(2) For the purpose of determining whether an MNE group meets the tests under sections 32, 33 and 34 of this Part for the SC NMCEs for the jurisdiction for the year, the simplified income calculation, the simplified revenue calculation and the simplified tax calculation, as described in subsections (3), (4) and (5) respectively, apply.

(3) Under the simplified income calculation, the GloBE income or loss of the SC NMCEs of the MNE group for the jurisdiction for the year is equal to the ~~portion of the total revenue of the MNE group for the jurisdiction, as determined in accordance with the relevant CbC regulations, that is attributable to the SC NMCEs for the year.~~total revenue of the SC NMCEs for the jurisdiction for the year as determined in accordance with the relevant CbC regulations.

(4) Under the simplified revenue calculation, the GloBE revenue of the SC NMCEs of the MNE group for the jurisdiction for the year is equal to the ~~portion of the total revenue of the MNE group for the jurisdiction, as determined in accordance with the relevant CbC regulations, that is attributable to the SC NMCEs for the year.~~ total revenue of the SC NMCEs for the jurisdiction for the year as determined in accordance with the relevant CbC regulations.

(5) Under the simplified tax calculation, the adjusted covered taxes of the SC NMCEs of the MNE group for the jurisdiction for the year is equal to the ~~portion of the income tax accrued (current year) of the MNE group for the jurisdiction, as determined in accordance with the relevant CbC regulations, that is attributable to the SC NMCEs for the year.~~ income tax accrued (current year) of the SC NMCEs for the jurisdiction for the year as determined in accordance with the relevant CbC regulations.

(…)

Schedule ~~61~~62

[ss. 26AD, 26AE, 26AF, 26AG~~, 26AH & 79A & Sch. 62~~] & 79A & Sch. 63]

HKMTT

Part 1

Preliminary

1. Purpose of Schedule ~~61~~62

(1) The purpose of this Schedule is to make provision for a qualified domestic minimum top-up tax that has qualified domestic minimum top-up tax safe harbour status (including transitional qualified status).

(2) The tax is to be known as the Hong Kong minimum top-up tax (HKMTT).

2. Interpretation, and application, of Schedule ~~61~~62

(1) In this Schedule—

HK constituent entity (香港成員實體), in relation to an MNE group, means a constituent entity of the MNE group that is located in Hong Kong;

HK member (香港成員), in relation to a JV group of an MNE group, means the joint venture or another member of the JV group that—

(a) is located in Hong Kong; or

(b) would have been a Part 4AA stateless constituent entity, had it been a constituent entity;

HK standalone JV (香港獨立合資企業) means a standalone JV that—

(a) is located in Hong Kong; or

(b) would have been a Part 4AA stateless constituent entity, had it been a constituent entity;

in-scope MNE group (受涵蓋跨國企業集團), in relation to a fiscal year, means an MNE group that meets the consolidated revenue threshold in at least 2 of the 4 fiscal years immediately preceding the fiscal year under Article 1.1 of the GloBE rules (as modified by Article 6.1 of those rules, if applicable);

Part 4AA stateless constituent entity (第 4AA 部無國籍成員實體), in relation to an MNE group, means a stateless constituent entity of the MNE group—

(a) that is created in Hong Kong; or

(b) that is a place of business in Hong Kong, and is a permanent establishment in accordance with paragraph (d) of the definition of ***permanent establishment*** in Article 10.1.1 of the GloBE rules;

specified GloBE rules provisions (指明《全球反侵蝕稅基規則》條文)—see section 4(1) of this Schedule;

standalone JV (獨立合資企業) means a joint venture that has no JV subsidiary.

(2) Unless the contrary intention appears, an expression used in this Schedule, and defined or otherwise explained in any provision of Part 4AA or Part 1 of Schedule ~~60 (***definition provisions***), has the same meaning as in the definition provisions~~61 (***definition provision***), has the same meaning as in the definition provision.

(3) In this Schedule—

(a) a reference to a joint venture of an MNE group is a reference to an entity that falls within the definition of ***joint venture*** in Article 10.1.1 of the GloBE rules, with the UPE of the MNE group as the UPE referred to in the definition;

(b) if a joint venture of an MNE group has no JV subsidiary, the joint venture is a standalone JV of the MNE group; and

(c) if a joint venture of an MNE group has one or more JV subsidiaries, the joint venture and the JV subsidiaries are collectively a JV group of the MNE group and are members of the JV group.

(4) This Schedule applies to an MNE group that is an in-scope MNE group.

(…)

5. Modifications—use of local accounting standard

(1) For determining, under section 4 of this Schedule, the HKMTT to which a HK constituent entity of an MNE group is chargeable for a fiscal year—

(a) Articles 3.1.2 and 3.1.3 of the GloBE rules are to be read subject to subsections (2), (3) and (4); and

(b) the definition of ***financial accounting net income or loss*** in Article 10.1.1 of the GloBE rules is to be construed in accordance with Article 3.1.2 of those rules so read.

(2) The financial accounting net income or loss of a HK constituent entity of an MNE group for a fiscal year must be determined in accordance with a local accounting standard if—

(a) each HK constituent entity of the MNE group has financial accounts (***each entity's accounts***) prepared in accordance with the local accounting standard;

(b) the accounting period of each entity's accounts is the same as the fiscal year of the consolidated financial statements of the UPE of the MNE group; and

(c) for the fiscal year—

(i) each HK constituent entity of the MNE group is required to prepare or use the entity's accounts for determining its liability to tax in Hong Kong or to comply with any other law of Hong Kong; or

(ii) each entity's accounts are subject to external financial audit.

(3) For the purposes of subsection (2), a permanent establishment of a main entity is to be treated as having the financial accounts of the main entity for a fiscal year if—

(a) the financial accounts for the fiscal year contain the information required for computing the HKMTT to which the permanent establishment is chargeable for the fiscal year; and

(b) the permanent establishment does not have separate financial accounts for the fiscal year.

(4) In relation to a HK constituent entity of an MNE group to which subsection (2) applies for a fiscal year, a reference to the financial accounting net income or loss for the fiscal year means the financial accounting net income or loss determined for the HK constituent entity, in preparing accounts for the fiscal year in accordance with a local accounting standard used under subsection (2).

(5) In this section—

~~***local accounting standard*** (本地會計準則) means the International Financial Reporting Standards or the Hong Kong Financial Reporting Standards.~~

local accounting standard (本地會計準則) means—

(a) the International Financial Reporting Standards; or

(b) accounting standards as defined by section 357(1) of the Companies Ordinance (Cap. 622).

6. Modifications—specified GloBE rules provisions

For determining, under section 4 of this Schedule, the HKMTT to which a HK constituent entity of an MNE group is chargeable—

(a) Articles 4.2.1(b) and 7.3 of the GloBE rules are to be disregarded;

(b) any covered tax of a main entity that is allocable to a permanent establishment under Article 4.3.2(a) of the GloBE rules is not to be allocated to the permanent establishment if it is such a HK constituent entity;

(c) subject to paragraph (ca), Articles 4.3.2(c) and (d) and 4.3.3 of the GloBE rules are to be disregarded;

(ca) if the HK constituent entity is a hybrid entity or reverse hybrid entity, covered taxes accrued in the financial accounts of a constituent entity-owner of the HK constituent entity are to be included in the adjusted covered taxes of the HK constituent entity if the taxes—

(i) are allocated to the HK constituent entity under Article 4.3.2(d) of the GloBE rules;

(ii) are imposed by the jurisdiction of the HK constituent entity; and

(iii) relate to the income of the HK constituent entity;

(d) a reference in Article 4.3.2(e) of the GloBE rules to covered taxes is to be read as including only withholding taxes imposed in Hong Kong;

(e) the references in the formula in Article 5.2.3 of the GloBE rules to domestic top-up tax is to be disregarded;

(f) Article 6.4.1(b) and (c) of the GloBE rules is to be disregarded; and

(g) Article 6.5.1(e), (f) and (g) of the GloBE rules is to be disregarded.

~~**7. Modification—Article 9.3 of the GloBE rules**~~

~~For determining, under section 4 of this Schedule, the HKMTT to which a HK constituent entity of an MNE group is chargeable for a fiscal year, Article 9.3 of the GloBE rules only applies to the MNE group if none of the ownership interests in a HK constituent entity of the group is held, directly or indirectly, by a parent entity subject to a qualified IIR for the fiscal year.~~

7. Modification—Article 9.3 of the GloBE rules

(1) This section applies for determining, under section 4 of this Schedule, the HKMTT to which a HK constituent entity of an MNE group is chargeable for a fiscal year.

(2) Article 9.3 of the GloBE rules only applies to an MNE group for a fiscal year if none of the ownership interests in a HK constituent entity of the group is held, directly or indirectly, by a parent entity subject to a qualified IIR for the fiscal year.

(3) Article 9.3 of the GloBE rules has effect as if—

(a) its Article 9.3.1 read—

"9.3.1. Subject to Article 9.3.4 the top-up tax for each constituent entity of an MNE group shall be reduced to zero during the initial phase of the MNE group's international activity,

notwithstanding the requirements otherwise provided in Chapter 5."; and

(b) its Article 9.3.5 were omitted.

(…)

Schedule ~~62~~63

[ss. 2, 25A, 26AD, 26AE, 26AF, 26AG, ~~26AH, 79A, 80O, 80P, 82 & 82A & Sch. 60~~]79A, 80O, 80P, 82 & 82A & Sch. 61]

Administration of Top-up Taxes

Part 1

Preliminary

1. Interpretation, and application, of Schedule ~~62~~63

(1) In this Schedule—

HK constituent entity (香港成員實體), in relation to an MNE group, means a constituent entity of the MNE group that is located in Hong Kong;

HK member (香港成員), in relation to a JV group of an MNE group, means the joint venture or another member of the JV group that—

(a) is located in Hong Kong; or

(b) would have been a Part 4AA stateless constituent entity, had it been a constituent entity;

HK standalone JV (香港獨立合資企業) means a standalone JV that—

(a) is located in Hong Kong; or

(b) would have been a Part 4AA stateless constituent entity, had it been a constituent entity;

in-scope MNE group (受涵蓋跨國企業集團), in relation to a fiscal year, means an MNE group that meets the consolidated revenue threshold in at least 2 of the 4 fiscal years immediately preceding the fiscal year under Article 1.1 of the GloBE rules (as modified by Article 6.1 of those rules, if applicable);

Part 4AA entity (第 4AA 部實體), in relation to an MNE group, means—

(a) a HK constituent entity of the MNE group;

(b) a HK standalone JV of the MNE group;

(c) a HK member of a JV group of the MNE group; or

(d) a Part 4AA stateless constituent entity of the MNE group;

Part 4AA stateless constituent entity (第 4AA 部無國籍成員實體), in relation to an MNE group, means a stateless constituent entity of the MNE group—

(a) that is created in Hong Kong; or

(b) that is a place of business in Hong Kong, and is a permanent establishment in accordance with paragraph (d) of the definition of ***permanent establishment*** in Article 10.1.1 of the GloBE rules;

standalone JV (獨立合資企業) means a joint venture that has no JV subsidiary;

top-up tax return (補足稅報稅表), in relation to a Part 4AA entity of an MNE group, means a return for top-up taxes for the Part 4AA entity for a fiscal year.

(2) Unless the contrary intention appears, an expression used in this Schedule, and defined or otherwise explained in any provision of Part 4AA or Part 1 of Schedule ~~60 (***definition provisions***), has the same meaning as in the definition provisions~~61 (***definition provision***), has the same meaning as in the definition provision.

(3) In this Schedule—

(a) a reference to a joint venture of an MNE group is a reference to an entity that falls within the definition of ***joint venture*** in Article 10.1.1 of the GloBE rules, with the UPE of the MNE group as the UPE referred to in the definition;

(b) if a joint venture of an MNE group has no JV subsidiary, the joint venture is a standalone JV of the MNE group; and

(c) if a joint venture of an MNE group has one or more JV subsidiaries, the joint venture and the JV subsidiaries are collectively a JV group of the MNE group and are members of the JV group.

(4) Subject to section 4(3) of this Schedule, this Schedule applies to an MNE group that is an in-scope MNE group.

Part 2

HK Constituent Entity's Obligations to File Top-up Tax Return and Notice

2. Interpretation of Part 2 of Schedule ~~62~~63

In this Part—

designated filing entity (指定交表實體)—see section 6(4) of this Schedule;

designated local entity (指定本地實體)—see section 8(3) of this Schedule;

filing deadline (提交期限) has the meaning given by section 9 of this Schedule;

GloBE jurisdiction (全球反侵蝕稅基轄區) means—

(a) Hong Kong; or

(b) another jurisdiction with a qualified IIR, qualified UTPR or qualified domestic minimum top-up tax;

service provider (服務提供者) means a service provider engaged for or on behalf of a HK constituent entity of an MNE group as referred to in section 13(1) of this Schedule.

3. HK constituent entity must file top-up tax return for fiscal year

(1) Each HK constituent entity of an MNE group must file a top-up tax return for each fiscal year with the Commissioner by the filing deadline where the top-up tax return—

(a) must contain a GloBE information return that complies with section 10 of this Schedule; and

(b) must comply with section 11 of this Schedule.

(2) Subsection (1) does not apply to a HK constituent entity of an MNE group for a fiscal year if—

(a) group GloBE filing has been effected in Hong Kong within the meaning of section 6 of this Schedule for the MNE group for the fiscal year; or

(b) group local filing has been effected within the meaning of section 8 of this Schedule for the MNE group for the fiscal year.

(3) Subsection (1)(a) does not apply to a HK constituent entity of an MNE group in respect of a fiscal year if group GloBE filing has been effected outside Hong Kong within the meaning of section 6 of this Schedule for the MNE group for the fiscal year.

(4) Despite subsection (1)(b), a HK constituent entity of an MNE group is not required to comply with section 11(1)(a) and (1A) of this Schedule for a fiscal year if—

(a) the HK constituent entity is neither the UPE, nor the designated filing entity, nor the designated local entity, of the MNE group; and

(b) both of the following apply—

(i) another HK constituent entity of the MNE group has complied with this section for the fiscal year, including complying with section 11(1)(a) and (1A) of this Schedule; and

(ii) that other HK constituent entity's top-up tax return for the fiscal year contains a statement, for the purpose of section 11(1A) of this Schedule, that the assessment triggering information concerned is provided in the return with the consent of all HK constituent entities, or the UPE, of the MNE group.

(…)

5. HK constituent entity must file notice

(1) Each HK constituent entity of an MNE group must file a written notice with the Commissioner by the notification deadline, informing the Commissioner of the following in respect of a fiscal year beginning on or after 1 January 2025—

(a) the name, address and business registration number of each of the group's HK constituent entities, identifying among them (as applicable)—

(i) the group's UPE;

(ii) the group's designated filing entity;

(iii) the group's designated local entity; and

(iv) a HK constituent entity that does not fall within subparagraph (i), (ii) or (iii);

(b) if the group's UPE is located in a jurisdiction other than Hong Kong—

(i) the jurisdiction in which the UPE is located; and

(ii) the name, address and business registration number (or equivalent particulars) of the UPE;

(c) whether group GloBE filing is intended to be effected in Hong Kong, within the meaning of section 6 of this Schedule, for the fiscal year and, if so, the name, address and business registration number (or equivalent particulars) of the designated filing entity located in Hong Kong;

(d) whether group GloBE filing is intended to be effected outside Hong Kong, within the meaning of section 6 of this Schedule, for the fiscal year and, if so—

(i) the GloBE jurisdiction in which the GloBE information return is to be filed (***non-HK jurisdiction***); and

(ii) the name, address and business registration number (or equivalent particulars) of the designated filing entity located in the non-HK jurisdiction;

(e) unless group GloBE filing is intended to be effected in Hong Kong—whether group local filing is intended to be effected within the meaning of section 8 of this Schedule for the fiscal year and, if so, the name, address and business registration number (or equivalent particulars) of the designated local entity;

(f) any other information relevant for determining a HK constituent entity's obligation to file a top-up tax return under this Part.

(2) A HK constituent entity of an MNE group (***subject entity***) is not required to comply with subsection (1) if, by the notification deadline, another HK constituent entity of the group (***notifying entity***) has filed a notice in accordance with subsection (1) which—

(a) identifies the notifying entity as—

(i) the UPE of the group;

(ii) the designated filing entity of the group; or

(iii) the designated local entity of the group; and

(b) states that the notifying entity is to file the top-up tax return, with the Commissioner, on behalf of the subject entity and all other HK constituent entities of the group.

(3) In this section—

notification deadline (通知期限), in relation to a notice for a fiscal year, means the time of expiry of 6 months after the end of the fiscal year.

(…)

7. Requirement for filing GloBE information return if exchange mechanisms fail

(1) If—

(a) notice has been filed under section 5 of this Schedule for an MNE group for a fiscal year that—

(i) group GloBE filing is intended to be effected outside Hong Kong within the meaning of section 6 of this Schedule; and

(ii) a GloBE information return is to be filed in a GloBE jurisdiction other than Hong Kong (***non-HK jurisdiction***); but

(b) by the return exchange date for the fiscal year, the competent authority of the non-HK jurisdiction has failed to provide to the Commissioner the GloBE information return,

the Commissioner may, by notice (***Commissioner's notice***) to one or more than one HK constituent entity of the MNE group, require each of them to file with the Commissioner, ~~within 30 days after the date of the Commissioner's notice~~by the specified deadline, a GloBE information return for the MNE group for the fiscal year that complies with section 10 of this Schedule.

(2) Each HK constituent entity of an MNE group to whom a Commissioner's notice is sent must comply with the notice.

(2A) A HK constituent entity of an MNE group (***subject entity***) is not required to comply with a Commissioner's notice if, by the specified deadline, another HK constituent entity of the group (***specified entity***)—

(a) has complied with the Commissioner's notice; and

(b) has informed the Commissioner in writing that the specified entity—

(i) is the UPE or designated local entity of the group; and

(ii) has complied with the Commissioner's notice on behalf of the subject entity and all other HK constituent entities of the group.

(3) In this section—

return exchange date (報表交換日期), in relation to a fiscal year, means the date on which exchanges of GloBE information returns for the fiscal year

are due to occur under the exchange arrangements requiring the automatic exchange of GloBE information returns between Hong Kong and the non-HK jurisdiction concerned~~.~~;

specified deadline (指明期限) means the later of the following—

(a) the expiry of 60 days after the date of the Commissioner's notice under subsection (1);

(b) a date specified in the Commissioner's notice.

(…)

11. Further requirements concerning top-up tax return and notice

(1) Without affecting section 3(1)(a) of this Schedule, a top-up tax return for an MNE group must ~~contain any information specified by the Board of Inland Revenue.~~contain—

(a) information specified by the Board of Inland Revenue as assessment triggering information (***assessment triggering information***); and

(b) other information specified by the Board of Inland Revenue.

(1A) A top-up tax return, filed by a HK constituent entity of an MNE group, that contains assessment triggering information must contain a statement as to whether the assessment triggering information is provided in the return with the consent of all HK constituent entities, or the UPE, of the MNE group.

(2) A top-up tax return filed for the purposes of this Part for an MNE group—

(a) must be filed in the form of an electronic record that—

(i) is sent by using a system designated by the Commissioner; and

(ii) contains the required information arranged in a form specified by the Commissioner; and

(b) if the return is filed because of a notice given under section 4 of this Schedule—must be filed in the way specified in the notice.

(3) A notice for the purposes of section 5 of this Schedule for an MNE group must be filed—

(a) in the form of an electronic record that is sent by using a system designated by the Commissioner; and

(b) in the way that the Commissioner specifies.

(4) The Commissioner may designate a system for communication with the Commissioner for the purposes of subsections (2) and (3).

(5) The Commissioner may, by notice published in the Gazette, specify requirement as to—

(a) the way of generating or sending an electronic record for the purposes of this section or any attachment required to be given with such electronic record;

(b) how a digital signature is to be affixed to a top-up tax return or to a notice filed under section 5 of this Schedule; and

(c) the software and communication in relation to any attachment required to be given with an electronic record.

(6) The Commissioner may, either generally or in a particular case, accept a top-up tax return for the purposes of this Part, despite a requirement under subsection (2) or (5) not being complied with in respect of the return.

(7) The Commissioner may, either generally or in a particular case, accept a notice for the purposes of section 5 of this Schedule, despite a requirement under subsection (3) or (5) not being complied with in respect of the notice.

(8) The Commissioner may, by a means that the Commissioner considers appropriate, specify the circumstances or conditions in or under which a top-up tax return or a notice for the purposes of section 5 of this Schedule is to be accepted under subsection (6) or (7).

(9) Any notice or other thing that specifies any matter for the purposes of this section is not subsidiary legislation.

(…)

Part 3

Modifications to Ordinance for Administration of Top-up Taxes in relation to HK Constituent Entity

Division 1—General Provisions

14. Part 6C, sections 51B, 51C, 57 and 58, and Parts 10 to 13 apply subject to modifications by Part 3 of Schedule ~~62~~63

For the purpose of administering top-up taxes—

(a) the modifications specified in this Part to Part 6C, sections 51B, 51C, 57 and 58, Part 10 (except sections 61~~, 61A~~ and 61B) and Parts 11, 12 and 13 apply in relation to a HK constituent entity of an MNE group;

(b) Part 9 (except sections 51B, 51C, 57 and 58) does not apply; and

(c) sections 61~~, 61A~~ and 61B do not apply.

(…)

Division 2—Modifications to Sections

16. Modifications to section 51B (power to issue search warrant)

(1) For the purposes of section 14 of this Schedule, paragraphs (a) and (b) of section 51B(1) are to be read as—

"(a) that there are reasonable grounds for suspecting that a HK constituent entity of an MNE group—

(i) has made an incorrect top-up tax return or supplied false information that, if accepted as correct, would result in the HK constituent entity being assessed at an amount of top-up tax less than the proper amount; and

(ii) has done so without reasonable excuse and not through an innocent oversight or omission; or

(b) that a HK constituent entity of an MNE group has failed to comply with an order of a court made under section 80O(6) directing it to comply with section 3(1) or 5(1) of Schedule ~~62~~63 or the requirements of a notice given to it under section 12(1) of Schedule ~~62~~63,".

(2) For the purposes of section 14 of this Schedule, section 51B(1AAAA) is to be read as—

"(1AAAA)For the purposes of subsection (1)(a), engaging a service provider under section 13 of Schedule ~~62~~63 does not in itself constitute a reasonable excuse.".

17. Modifications to section 51C (business records to be kept)

(1) For the purposes of section 14 of this Schedule, section 51C(1) is to be read as requiring that a HK constituent entity of an MNE group must—

(a) keep sufficient records of transactions, acts or operations relevant to the computation of top-up tax liability of the MNE group to enable the correctness and accuracy of the top-up tax return filed under this Schedule to be readily ascertained; and

(b) retain the records at least until the expiry of ~~12~~9 years after the completion of the transactions, acts or operations to which they relate.

(2) For the purposes of section 14 of this Schedule, records required to be kept and retained, under section 51C(1) read with subsection (1), by a HK constituent entity of an MNE group (***subject entity***) include records in respect of any trade, profession or business carried on by any Part 4AA entity of the MNE group that are relevant to the ETR computations on the basis of which the top-up tax of the subject entity is to be computed.

(3) Section 80 applies to a failure to comply with section 51C as modified by subsections (1) and (2) in the same way as section 80 applies to a failure to comply with section 51C.

18. Modification to section 57 (principal officer to act on behalf of a corporation or body of persons)

For the purposes of section 14 of this Schedule, a reference in section 57 to a corporation or body of persons is to be read as a reference to a HK constituent entity of an MNE group that is a corporation or body of persons.

19. Modifications to section 59 (assessor to make assessments)

(1) This section applies for the purposes of section 14 of this Schedule.

(2) The reference in section 59(1) to "the notice requiring him to furnish a return under section 51(1)" is to be read as a reference to "the notice requiring the HK constituent entity to furnish a top-up tax return under section 3 of Schedule ~~62~~63".

(3) A reference in section 59(2)(b) or (3) to "estimate the sum in respect of which such person is chargeable to tax" is to be read as a reference to "estimate the amount of top-up tax payable by the HK constituent entity".

20. Modifications to section 60 (additional assessments)

(1) This section applies for the purposes of section 14 of this Schedule.

(2) Section 60 applies subject to this Schedule and Schedules ~~60 and 61~~61 and 62.

(3) Section 60(1) is to be read as—

"(1) Where it appears to an assessor that, for any fiscal year, a HK constituent entity chargeable with any top-up tax has not been assessed for that top-up tax or has been assessed for that top-up tax at less than the proper amount, the assessor—

(a) may assess the entity at the amount or additional amount of top-up tax at which, according to the assessor's judgment, the entity ought to have been assessed; but

(b) may only do so within 8 years or, if the non-assessment or under-assessment is due to fraud or wilful evasion, within 12 years, after—

(i) the end of the fiscal year of the MNE group to which the non-assessment or under-assessment relates (if the fiscal year ends on 31 March); or

(ii) the end of 31 March of the year next following the end of the fiscal year of the MNE group to which the non-assessment or under-assessment relates (if the fiscal year ends on a day other than 31 March), ~~6 years after the later of the following—~~

~~(i) the end of the fiscal year;~~

~~(ii) the time when the non-assessment or under-assessment of the HK constituent entity for the fiscal year has come to the assessor's knowledge,~~

and the provisions of this Ordinance as to notice of assessment, appeal and other proceedings apply to the assessment or additional assessment and to the top-up tax charged under it.".

(4) In relation to a HK constituent entity to which the whole or part of any top-up tax repaid has been repaid by mistake, the reference to "6 years after the expiration thereof" in section 60(2) is to be read as a reference to the period of 8 years after—

(a) the end of the fiscal year of the MNE group to which the repayment relates (if the fiscal year ends on 31 March); or

(b) the end of 31 March of the year next following the end of the fiscal year of the MNE group to which the repayment relates (if the fiscal year ends on a day other than 31 March).

~~6 years after the later of the following —~~

~~(a) the end of the fiscal year to which the repayment relates;~~

~~(b) the time when the repayment by mistake has come to the assessor's knowledge.~~

20A. Modification to section 61A (transactions designed to avoid liability for tax)

For the purposes of section 14 of this Schedule, section 61A has effect as if section 61A(1)(ca) and (cb) were enacted and read—

"(ca) any change in the top-up tax liability of any Part 4AA entity of an MNE group, or the overall top-up tax liability of an MNE group, that has resulted, will result or may reasonably be expected to result from the transaction;

(cb) whether the result that has been achieved, will be achieved or may reasonably be expected to be achieved by the transaction is inconsistent with the outcomes provided under the OECD GloBE model rules, as construed in accordance with the OECD GloBE rules guidance;".

(…)

25. Modifications to section 70A (powers of assessor to correct errors)

For the purposes of section 14 of this Schedule—

(a) section 70A applies subject to this Schedule and Schedules ~~60 and 61~~61 and 62; and

(ab) the reference in section 70A(1) to 6 years after the end of a year of assessment is to be read as 8 years after—

(i) the end of the fiscal year of the MNE group (if the fiscal year ends on 31 March); or

(ii) the end of 31 March of the year next following the end of the fiscal year of the MNE group (if the fiscal year ends on a day other than 31 March); and

(b) the reference in section 70A(1) to "in the calculation of the amount of the net assessable value (within the meaning of section 5(1A)), assessable income or profits assessed or in the amount of the tax charged" is to be read as "in the calculation of the amount of top-up tax charged".

~~**26. Modification to section 79 (tax paid in excess to be refunded)**~~

~~For the purposes of section 14 of this Schedule, section 79 applies subject to this Schedule and Schedules 60 and 61.~~

26. Modification to section 79 (tax paid in excess to be refunded)

For the purposes of section 14 of this Schedule—

(a) section 79 applies subject to this Schedule and Schedules 61 and 62; and

(b) the reference in section 79(1) to 6 years of the end of a year of assessment is to be read as 8 years of—

(i) the end of the fiscal year of the MNE group (if the fiscal year ends on 31 March); or

(ii) the end of 31 March of the year next following the end of the fiscal year of the MNE group (if the fiscal year ends on a day other than 31 March).

Division 3—Modifications to Parts

27. Interpretation of Division 3 of Part 3 of Schedule ~~62~~63

In this Division—

~~***assessed group*** (被評稅集團), in relation to an MNE group—~~

~~(a) for UTPR top-up tax, means HK constituent entities of the MNE group;~~

~~(b) for HKMTT, means—~~

~~(i) HK constituent entities of the MNE group, other than those that are minority-owned constituent entities;~~

~~(ii) HK constituent entities that are minority-owned constituent entities of a minority-owned subgroup of the MNE group; or~~

~~(iii) a HK constituent entity that is a minority-owned constituent entity but not of a minority-owned subgroup of the MNE group;~~

assessed subgroup (被評稅子集團), in relation to an MNE group—

(a) for UTPR top-up tax, means HK constituent entities of the MNE group other than those that are investment-related entities;

(b) for HKMTT, means—

(i) HK constituent entities of the MNE group, other than the following—

(A) those that are investment-related entities;

(B) those that are minority-owned constituent entities;

(ii) HK constituent entities that—

(A) are minority-owned constituent entities of the same minority-owned subgroup of the MNE group; and

(B) are not investment-related entities; or

(iii) a HK constituent entity that—

(A) is a minority-owned constituent entity but not of a minority-owned subgroup of the MNE group; and

(B) is not an investment-related entity;

specified assessment (指明評稅) means an assessment, additional assessment or re-assessment made in respect of any top-up tax.

28. Parts 10 to 13 apply subject to Division 3 of Schedule ~~62~~63

For the purpose of administering top-up taxes, Parts 10, 11, 12 and 13 apply in relation to a HK constituent entity of an MNE group, subject to the provisions of this Division.

29. Combined specified assessment in relation to 2 or more HK constituent entities etc.

(1) A combined specified assessment may be made in respect of the UTPR top-up tax allocated to Hong Kong and payable by HK constituent entities of an ~~assessed group~~ assessed subgroup of an MNE group.

(2) Subject to section 31 of this Schedule, a combined specified assessment under subsection (1) for an ~~assessed group~~assessed subgroup of an MNE group must state the UTPR top-up tax payable by each HK constituent entity of the ~~assessed group~~assessed subgroup.

(3) A combined specified assessment may be made in respect of the HKMTT payable by HK constituent entities of an ~~assessed group~~ assessed subgroup of an MNE group.

(4) Subject to section 31 of this Schedule, a combined specified assessment under subsection (3) for an ~~assessed group~~ assessed subgroup of an MNE group must state the HKMTT payable by each HK constituent entity of the ~~assessed group~~assessed subgroup.

(5) This section applies—

(a) whether or not group local filing is effected within the meaning of section 8 of this Schedule; and

(b) whether or not an election is made for the payment by designated paying entities under section 31 of this Schedule.

30. Allocation of UTPR top-up tax or HKMTT in special circumstances

(1) Subsection (2) applies if—

(a) a HK constituent entity of an ~~assessed group~~ assessed subgroup of an MNE group is chargeable to UTPR top-up tax or HKMTT (***top-up tax***) under the GloBE rules or Schedule ~~61~~62 for a fiscal year; and

(b) the HK constituent entity no longer exists on the date of filing of the top-up tax return for the fiscal year (***return-filing date***).

(2) The top-up tax chargeable on the HK constituent entity is to be allocated among the remaining HK constituent entities of the ~~assessed group~~assessed subgroup, as at the return-filing date—

(a) in the case of UTPR top-up tax, in proportion to the remaining HK constituent entities' number of employees and value of tangible assets in Hong Kong for the fiscal year; or

(b) in the case of HKMTT, in proportion to the remaining HK constituent entities' GloBE income for the fiscal year.

(3) If the Commissioner is satisfied that it is impracticable to apply the GloBE rules or Schedule ~~61~~ 62 with respect to the allocation of top-up tax in a particular case, the Commissioner may allocate the top-up tax in a manner that the Commissioner considers reasonable in the circumstances.

(4) This section does not apply to the HK constituent entities of an ~~assessed group~~ assessed subgroup of an MNE group for a fiscal year if the filing constituent entity has made an election for the ~~assessed group~~assessed subgroup for payment by designated paying entities under section 31 of this Schedule in the top-up tax return.

31. UTPR top-up tax or HKMTT of ~~assessed group~~ assessed subgroup may be paid by designated paying entities

(1) If—

(a) either—

(i) group GloBE filing is effected in Hong Kong (within the meaning of section 6 of this Schedule) for an MNE group for a fiscal year, and the UPE or the designated filing entity (within the meaning of section 6(4) of this Schedule) of the MNE group makes an election in writing; or

(ii) group local filing is effected within the meaning of section 8 of this Schedule for an MNE group for a fiscal year, and the designated local entity (within the meaning of section 8(3) of this Schedule) of the MNE group makes an election in writing;

(b) one or more than one HK constituent entity is designated for payment of any UPTR top-up tax or HKMTT (***top-up tax***) of an ~~assessed group~~ assessed subgroup of the MNE group (each a ***designated paying entity***); and

(c) if there are 2 or more designated paying entities—the amount of top-up tax that each designated paying entity is to pay is specified in the election,

an assessor may make an assessment or assessments on the designated paying entity or entities, instead of making assessments on all HK constituent entities of the ~~assessed group~~ assessed subgroup on whom the top-up tax would have been chargeable had this section not been enacted.

(2) If any assessment or assessments is or are made under subsection (1) on the designated paying entity or entities, top-up tax of the ~~assessed group~~assessed subgroup of the MNE group for the fiscal year is payable by the designated paying entity or entities as directed in the assessment or assessments.

(3) A HK constituent entity (***entity P***) of an MNE group may be a designated paying entity in an election under subsection (1) for a fiscal year, if—

(a) entity P was a HK constituent entity of the ~~assessed group~~ assessed subgroup of the MNE group for the fiscal year, and remains a HK constituent entity of the ~~assessed group~~ assessed subgroup as at the date of filing of the top-up tax return for the fiscal year;

(b) entity P has consented to its being the designated paying entity for the amount of the UTPR top-up tax or HKMTT (as the case requires) specified, in relation to it, in the election; and

(c) all the HK constituent entities of the ~~assessed group~~ assessed subgroup have consented to the designated payment arrangements specified in the election.

(4) However, a HK constituent entity of an ~~assessed group~~ assessed subgroup of an MNE group may not be a designated paying entity, for any top-up tax of an ~~assessed group~~ assessed subgroup of an MNE group for a fiscal year, in an election under subsection (1) if—

(a) where it is a partnership—

(i) the constituent entity has been dissolved; or

(ii) any of its partners has become bankrupt, or has entered into a voluntary arrangement within the meaning of the Bankruptcy Ordinance (Cap. 6) with his or her creditors; or

(b) where it is a corporation—winding up proceedings have been commenced in relation to the constituent entity or the constituent entity has been dissolved.

(5) An election under subsection (1)(a)(i) or (ii) is an annual election and is irrevocable.

(6) A consent given for the purposes of subsection (3)(b) or (c) is irrevocable.

32. Objection to specified assessment or combined specified assessment

(1) A specified assessment of any top-up tax payable by a HK constituent entity (***assessed entity***) of an MNE group may only be objected to under section 64 by—

~~(a) the HK constituent entity that has filed a top-up tax return required under this Schedule; or~~

(a) the HK constituent entity—

(i) that has filed a top-up tax return required under this Schedule; and

(ii) that—

(A) is the UPE, designated filing entity, or designated local entity, of the MNE group; or

(B) has complied with section 11(1)(a) and (1A) of this Schedule; or

(b) the assessed entity.

(2) No objection may be made under section 64 to a combined specified assessment, with respect to the allocation of any UTPR top-up tax or HKMTT (***top-up tax***) among the HK constituent entities of an ~~assessed group~~ assessed subgroup of an MNE group if—

(a) the top-up tax of the ~~assessed group~~ assessed subgroup under the combined specified assessment is payable by designated paying entities under section 31 of this Schedule; and

(b) the acceptance of the objection would not result in a change in the total amount of top-up tax payable under the combined specified assessment.

(3) An objection made to a combined specified assessment by any of the HK constituent entities of an ~~assessed group~~ assessed subgroup of an MNE group under section 64, as modified by this Part—

(a) is to be regarded as made, under that section as so modified, by all the other HK constituent entities of the ~~assessed group~~ assessed subgroup; and

(b) may be disposed of accordingly.

(4) In this section—

combined specified assessment (合併指明評稅) means a combined specified assessment made under section 29(1) or (3) of this Schedule on HK constituent entities of an ~~assessed group~~ assessed subgroup of an MNE group.

32A. UTPR top-up tax or HKMTT : overpayment by constituent entity may be applied to offset its assessed subgroup's liability

(1) This section applies if—

(a) a combined specified assessment (***1st-mentioned assessment***) of a UTPR top-up tax or HKMTT (***subject top-up tax***) for a fiscal year is made on HK constituent entities of an assessed subgroup and one or more than one such HK constituent entity has paid a sum for settling its liability for the subject top-up tax; and

(b) subsequently, any reassessment or additional assessment that is a combined specified assessment (***2nd-mentioned assessment***) is made for the subject top-up tax for that fiscal year for those constituent entities under which—

(i) one or more than one HK constituent entity has its liability for the subject top-up tax reduced (each a ***liability-reduced entity***) and would, but for this section, become entitled to a refund of any sum as tax overpaid (***overpaid sum***); and

(ii) one or more than one other HK constituent entity has its liability for the subject top-up tax increased (each a ***liability-increased entity***).

(2) The Commissioner may apply a liability-reduced entity's overpaid sum to offset any subject top-up tax of a liability-increased entity.

(3) Subsection (2) applies even if section 31 of this Schedule does not apply to the assessed subgroup.

(4) This section does not affect the right and liabilities of a HK constituent entity of an assessed subgroup in relation to any other HK constituent entities of the assessed subgroup.

33. Joint and several liability if designated paying entity defaults

(1) If any amount of the UTPR top-up tax or HKMTT (***top-up tax***) of an ~~assessed group~~assessed subgroup of an MNE group for a fiscal year is payable by a designated paying entity under section 31 of this Schedule, but the amount is not paid in the manner directed in the notice of assessment concerned by the date specified in the notice—

(a) the amount of the top-up tax is taken to be in default;

(b) the designated paying entity is taken to be a defaulter of the amount of the top-up tax for the purposes of this Ordinance; and

(c) without affecting paragraphs (a) and (b)—

(i) all linked entities become jointly and severally liable for the total amount of the top-up tax of the ~~assessed group~~ assessed subgroup that is not paid; and

(ii) the Commissioner may issue a notice to any linked entity (***recipient***) requiring the recipient to pay, by a date and to an extent specified in the notice, the amount of the top-up tax not paid, referred to in subparagraph (i).

(2) In relation to a notice under subsection (1)(c)(ii) in respect of the top-up tax of an ~~assessed group~~ assessed subgroup of an MNE group for a fiscal year (***taxable year***), a linked entity is each entity or permanent establishment that was at any time in the taxable year a HK constituent entity of the assessed subgroup.~~—~~

~~(a) is a HK constituent entity of the assessed group when the notice is issued; and~~

~~(b) was at any time in the taxable year a HK constituent entity of the assessed group.~~

(3) If the total amount of the top-up tax not paid referred to in subsection (1)(c) is not fully recovered by payment in the manner directed in the notice under subsection (1)(c)(ii) by the date specified in the notice, the recipient of the notice (or, if 2 or more notices are issued under subsection (1)(c)(ii), the recipient of each notice) is taken to be a defaulter of the top-up tax for the purposes of this Ordinance.

(4) For a notice under subsection (1)(c)(ii) in respect of any liability for top-up tax based on any assessment, determination or other decision—

(a) the recipient of the notice has no right to object to, or appeal against, the assessment, determination or decision; and

(b) the notice is not a specified assessment on the recipient and is not to be objected to, or appealed against, as such.

(5) Subsection (4)—

(a) does not affect any right to appeal against any assessment, determination or decision that the recipient may have without regard to the notice under subsection (1)(c)(ii); and

(b) does not prevent the recipient from disputing liability under the notice on the ground that—

(i) the recipient is not a linked entity within the meaning of subsection (2); or

(ii) the amount specified in the notice exceeds the extent to which the recipient is jointly and severally liable under subsection (1)(c).

(6) The top-up tax payable under a notice under subsection (1)(c)(ii) by its recipient is recoverable by all means provided in this Ordinance against the recipient as tax payable under an assessment made against a person is recoverable against the person.

Division 4—Miscellaneous

34. Application of obligations if HK constituent entity is not corporation or is permanent establishment

(1) In relation to a HK constituent entity of an MNE group that is not a corporation, ~~Parts 6C, 9, 10, 11, 12 and 13, as modified by this Part,~~ the CE-related provisions apply to a person who acts for the HK constituent entity or is responsible for the management of the HK constituent entity as if the obligations imposed on the HK constituent entity by ~~those Parts, as so modified,~~ the CE-related provisions were imposed on the person.

(2) In relation to a HK constituent entity of an MNE group that is a permanent establishment of a main entity, ~~Parts 6C, 9, 10, 11, 12 and 13, as modified by this Part,~~ the CE-related provisions apply to the main entity as if the obligations imposed on the HK constituent entity by ~~those Parts, as so modified,~~ the CE-related provisions were imposed on the main entity.

(3) In this section—

CE-related provisions (成員實體相關條文) means the following—

(a) Parts 6C, 9, 10, 11, 12 and 13, as modified by this Part;

(b) Part 2 of this Schedule.

Part 4

Application of this Schedule to MNE Group Entities other than HK Constituent Entities

35. Application to HK standalone JV and HK member of JV group

(1) This Schedule applies to a HK standalone JV of an MNE group in the same way as it applies to a HK constituent entity of an MNE group.

(2) This Schedule applies to HK members of a JV group of an MNE group in the same way as it applies to HK constituent entities of an MNE group.

(3) For the purposes of Division 3 of Part 3 of this Schedule as applied under this section, the definition of ~~***assessed group*** in~~ ***assessed subgroup*** in section 27 of this Schedule is to read as—

"~~***assessed group*** (被評稅集團)~~***assessed subgroup*** (被評稅子集團), in relation to HKMTT, means—

(a) HK members of a JV group of an MNE group; or

(b) a HK standalone JV;".

36. Application to Part 4AA stateless constituent entity

(1) This Schedule applies to a Part 4AA stateless constituent entity of an MNE group in the same way as it applies to a HK constituent entity of an MNE group.

(2) For the purposes of Division 3 of Part 3 of this Schedule as applied under this section, the definition of ~~***assessed group*** in~~ ***assessed subgroup*** in section 27 of this Schedule is to read as—

"~~***assessed group*** (被評稅集團)~~ ***assessed subgroup*** (被評稅子集團), in relation to HKMTT, means a Part 4AA stateless constituent entity;".

Schedule ~~63~~64

[ss. 26AD~~, 26AG & 26AH & Sch. 60~~] & 26 AG & Sch. 61]

OECD GloBE Rules Guidance

Part 1

OECD GloBE Rules Documents

Column 1	Column 2	Column 3	Column 4	Column 5
Item	Title of the document	Date of publication	Abbreviation used in this Ordinance	The document applies to the fiscal year that begins on or after
1.	OECD/G20 Base Erosion and Profit Shifting Project: Tax Challenges Arising from the Digitalisation of the Economy—Consolidated Commentary to the Global Anti-Base Erosion Model Rules (2023)	25 April 2024	2023 Commentary	1 January 2025
2.	OECD/G20 Base Erosion and Profit Shifting Project: Tax Challenges Arising from the Digitalisation of the Economy—Administrative Guidance on the Global Anti-Base Erosion Model Rules (Pillar Two)	2 February 2023	Feb-2023 Administrative Guidance	1 January 2025
3.	OECD/G20 Base Erosion and Profit Shifting Project: Tax Challenges Arising from the Digitalisation of the Economy—Administrative Guidance on the Global Anti-Base Erosion Model Rules (Pillar Two)	17 July 2023	Jul-2023 Administrative Guidance	1 January 2025

Column 1	Column 2	Column 3	Column 4	Column 5
Item	Title of the document	Date of publication	Abbreviation used in this Ordinance	The document applies to the fiscal year that begins on or after
4.	OECD/G20 Base Erosion and Profit Shifting Project: Tax Challenges Arising from the Digitalisation of the Economy—Administrative Guidance on the Global Anti-Base Erosion Model Rules (Pillar Two)	18 December 2023	Dec-2023 Administrative Guidance	1 January 2025
5.	OECD/G20 Base Erosion and Profit Shifting Project: Tax Challenges Arising from the Digitalisation of the Economy—Administrative Guidance on the Global Anti-Base Erosion Model Rules (Pillar Two)	17 June 2024	Jun-2024 Administrative Guidance	1 January 2025
6.	OECD/G20 Base Erosion and Profit Shifting Project: Tax Challenges Arising from the Digitalisation of the Economy—Global Anti-Base Erosion Model Rules (Pillar Two) Examples	25 April 2024	Apr-2024 Illustrative Examples	1 January 2025

Column 1	Column 2	Column 3	Column 4	Column 5
Item	Title of the document	Date of publication	Abbreviation used in this Ordinance	The document applies to the fiscal year that begins on or after
7.	OECD/G20 Base Erosion and Profit Shifting Project: Tax Challenges Arising from the Digitalisation of the Economy—Administrative Guidance on the Global Anti-Base Erosion Model Rules (Pillar Two), Central Record of Legislation with Transitional Qualified Status (January 2025)	15 January 2025	First Jan-2025 Administrative Guidance	1 January 2025
8.	OECD/G20 Base Erosion and Profit Shifting Project: Tax Challenges Arising from the Digitalisation of the Economy—Administrative Guidance on Article 8.1.4 and 8.1.5 of the Global Anti-Base Erosion Model Rules	15 January 2025	Second Jan-2025 Administrative Guidance	1 January 2025
9.	OECD/G20 Base Erosion and Profit Shifting Project: Tax Challenges Arising from the Digitalisation of	15 January 2025	Third Jan-2025 Administrative Guidance	1 January 2025

Column 1	Column 2	Column 3	Column 4	Column 5
Item	Title of the document	Date of publication	Abbreviation used in this Ordinance	The document applies to the fiscal year that begins on or after
	the Economy—Administrative Guidance on Article 9.1 of the Global Anti-Base Erosion Model Rules			
10.	OECD/G20 Base Erosion and Profit Shifting Project: Tax Challenges Arising from the Digitalisation of the Economy—GloBE Information Return (January 2025)	15 January 2025	Jan-2025 GloBE Information Return	1 January 2025
11.	OECD/G20 Base Erosion and Profit Shifting Project: Tax Challenges Arising from the Digitalisation of the Economy—Administrative Guidance on the Global Anti-Base Erosion Model Rules (Pillar Two), Central Record of Legislation with Transitional Qualified Status	31 March 2025	Mar-2025 Administrative Guidance	1 January 2025

Part 2

Specified OECD GloBE Rules Guidance

Column 1	Column 2	Column 3	Column 4
Item	Corresponding provision of the GloBE rules	Corresponding provision of the OECD GloBE model rules	Guidance in the OECD GloBE rules document
1.	Article 1.4.1	Article 1.4.1	(1) Paragraphs 36.1 to 36.4 of Chapter 1 of the 2023 Commentary (2) Section 1.4 of the Feb-2023 Administrative Guidance
2.	Article 1.5.2	Article 1.5.2	(1) Paragraph 43.1 of Chapter 1 of the 2023 Commentary (2) Section 1.5 of the Feb-2023 Administrative Guidance
3.	Article 1.5.2(a)	Article 1.5.2(a)	Paragraph 45 of Chapter 1 of the 2023 Commentary
4.	Article 1.5.2(a)i	Article 1.5.2(a)i	(1) Paragraph 54.1 of Chapter 1 of the 2023 Commentary (2) Section 1.5 of the Feb-2023 Administrative Guidance
5.	Article 1.5.2(a)ii	Article 1.5.2(a)ii	(1) Paragraphs 54.2 to 54.5 of Chapter 1 of the 2023 Commentary (2) Section 1.6 of the Feb-2023 Administrative Guidance
6.	Article 3.1.2	Article 3.1.2	Paragraphs 3 and 4 of Chapter 3 of the 2023 Commentary
7.	Article 3.1.2	Article 3.1.2	(1) Paragraphs 5 to 5.6 of Chapter 3 of the 2023 Commentary (2) Section 1 of the Jul-2023 Administrative Guidance

Column 1	Column 2	Column 3	Column 4
Item	Corresponding provision of the GloBE rules	Corresponding provision of the OECD GloBE model rules	Guidance in the OECD GloBE rules document
8.	Article 3.1.3	Article 3.1.3	Paragraph 13 of Chapter 3 of the 2023 Commentary
9.	Article 3.1.3	Article 3.1.3	(1) Paragraph 16.1 of Chapter 3 of the 2023 Commentary (2) Section 1 of the Jul-2023 Administrative Guidance
10.	Article 3.2.1	Article 3.2.1	(1) Paragraphs 86.1 to 86.7 of Chapter 3 of the 2023 Commentary (2) Section 2.4 of the Feb-2023 Administrative Guidance
11.	Article 3.2.1(b)	Article 3.2.1(b)	(1) Paragraphs 36 and 45 of Chapter 3 of the 2023 Commentary (2) Sections 3.4 and 3.5 of the Feb-2023 Administrative Guidance
12.	Article 3.2.1(b)	Article 3.2.1(b)	(1) Paragraph 45 of Chapter 3 of the 2023 Commentary (2) Section 3.5 of the Feb-2023 Administrative Guidance
13.	Article 3.2.1(c)	Article 3.2.1(c)	(1) Paragraphs 57 to 57.3 of Chapter 3 of the 2023 Commentary (2) Section 2.2 of the Feb-2023 Administrative Guidance
14.	Article 3.2.1(c)	Article 3.2.1(c)	(1) Paragraphs 57.4 and 57.5 of Chapter 3 of the 2023 Commentary (2) Section 2.9 of the Feb-2023 Administrative Guidance

Column 1	Column 2	Column 3	Column 4
Item	Corresponding provision of the GloBE rules	Corresponding provision of the OECD GloBE model rules	Guidance in the OECD GloBE rules document
15.	Article 3.2.1(c)	Article 3.2.1(c)	(1) Paragraph 54 of Chapter 3 of the 2023 Commentary (2) Section 3.4 of the Feb-2023 Administrative Guidance
16.	Article 3.2.1(f)	Article 3.2.1(f)	(1) Paragraphs 66 to 74.1 of Chapter 3 of the 2023 Commentary (2) Section 1 of the Jul-2023 Administrative Guidance
17.	Article 3.2.1(i)	Article 3.2.1(i)	(1) Paragraph 85 of Chapter 3 of the 2023 Commentary (2) Section 2.5 of the Feb-2023 Administrative Guidance
18.	Article 3.2.1(i)	Article 3.2.1(i)	(1) Paragraph 86 of Chapter 3 of the 2023 Commentary (2) Section 2.5 of the Feb-2023 Administrative Guidance
19.	Article 3.2.3	Article 3.2.3	Paragraphs 100 to 103 of Chapter 3 of the 2023 Commentary
20.	Article 3.2.4	Article 3.2.4	(1) Paragraphs 112.1 to 114.1 of Chapter 3 of the 2023 Commentary (2) Section 2 of the Jul-2023 Administrative Guidance
21.	Article 3.2.4	Article 3.2.4	(1) Paragraphs 57.6 to 57.12 of Chapter 3 of the 2023 Commentary (2) Section 2.9 of the Feb-2023 Administrative Guidance

Column 1	Column 2	Column 3	Column 4
Item	Corresponding provision of the GloBE rules	Corresponding provision of the OECD GloBE model rules	Guidance in the OECD GloBE rules document
			(3) Section 2 of the Jul-2023 Administrative Guidance
22.	Article 3.2.4	Article 3.2.4	(1) Paragraphs 57.10.1 to 57.10.3 of Chapter 3 of the 2023 Commentary (2) Section 2 of the Jul-2023 Administrative Guidance
23.	Article 3.5.3	Article 3.5.3	Paragraph 37 of Chapter 2 of the 2023 Commentary
24.	Article 4.1.5	Article 4.1.5	(1) Paragraphs 21.1 to 21.8 of Chapter 4 of the 2023 Commentary (2) Section 2.7 of the Feb-2023 Administrative Guidance
25.	Article 4.3.2(c)	Article 4.3.2(c)	(1) Paragraphs 58.1 to 58.7 of Chapter 4 of the 2023 Commentary (2) Section 2.10 of the Feb-2023 Administrative Guidance (3) Section 4 of the Dec-2023 Administrative Guidance
26.	Article 4.3.2(e)	Article 4.3.2(e)	(1) Paragraph 60.1 of Chapter 4 of the 2023 Commentary (2) Section 2.6 of the Feb-2023 Administrative Guidance
27.	Article 4.4.1	Article 4.4.1	(1) Paragraphs 71.1 to 71.3 of Chapter 4 of the 2023 Commentary (2) Section 1.3 of the Feb-2023 Administrative Guidance

Column 1	Column 2	Column 3	Column 4
Item	Corresponding provision of the GloBE rules	Corresponding provision of the OECD GloBE model rules	Guidance in the OECD GloBE rules document
28.	Article 4.4.1(e)	Article 4.4.1(e)	(1) Paragraphs 82.1 to 82.4 of Chapter 4 of the 2023 Commentary (2) Section 2.8 of the Feb-2023 Administrative Guidance
29.	Article 4.6.1	Article 4.6.1	Paragraph 124 of Chapter 4 of the 2023 Commentary
30.	Article 5.1.1	Article 5.1.1	Paragraphs 6 and 7 of Chapter 5 of the 2023 Commentary
31.	Article 5.2.1	Article 5.2.1	(1) Paragraphs 15.1 to 15.5 of Chapter 5 of the 2023 Commentary (2) Section 2.7 of the Feb-2023 Administrative Guidance
32.	Article 5.3.1	Article 5.3.1	(1) Paragraph 29.1 of Chapter 5 of the 2023 Commentary (2) Section 3 of the Jul-2023 Administrative Guidance
33.	Article 5.3.3	Article 5.3.3	(1) Paragraph 36.1 of Chapter 5 of the 2023 Commentary (2) Section 3 of the Jul-2023 Administrative Guidance
34.	Article 5.3.3	Article 5.3.3	(1) Paragraphs 33 and 33.1 of Chapter 5 of the 2023 Commentary (2) Section 3 of the Jul-2023 Administrative Guidance
35.	Article 5.3.4	Article 5.3.4	(1) Paragraph 48.1 of Chapter 5 of the 2023 Commentary

Column 1	Column 2	Column 3	Column 4
Item	Corresponding provision of the GloBE rules	Corresponding provision of the OECD GloBE model rules	Guidance in the OECD GloBE rules document
			(2) Section 3 of the Jul-2023 Administrative Guidance
36.	Article 5.3.4	Article 5.3.4	(1) Paragraphs 38 and 38.1 of Chapter 5 of the 2023 Commentary (2) Section 3 of the Jul-2023 Administrative Guidance
37.	Article 5.3.4	Article 5.3.4	(1) Paragraphs 43 to 43.7 of Chapter 5 of the 2023 Commentary (2) Section 3 of the Jul-2023 Administrative Guidance
38.	Article 5.3.5	Article 5.3.5	Paragraph 52 of Chapter 5 of the 2023 Commentary
39.	Article 5.3.5	Article 5.3.5	Paragraph 49 of Chapter 5 of the 2023 Commentary
40.	Article 5.5.1(a)	Article 5.5.1(a)	(1) Paragraph 83 of Chapter 5 of the 2023 Commentary (2) Section 1 of the Jul-2023 Administrative Guidance
41.	Article 5.5.3	Article 5.5.3	Paragraph 92 of Chapter 5 of the 2023 Commentary
42.	Article 5.5.3	Article 5.5.3	Paragraph 82 of Chapter 5 of the 2023 Commentary
43.	Article 6.3.1	Article 6.3.1	(1) Paragraph 73.1 of Chapter 6 of the 2023 Commentary (2) Section 2.1 of the Feb-2023 Administrative Guidance
44.	Article 7.1.1(a)(i)	Article 7.1.1(a)(i)	Paragraph 12 of Chapter 7 of the 2023 Commentary
45.	Article 7.1.1(b)(ii)	Article 7.1.1(b)(ii)	Paragraph 18 of Chapter 7 of the 2023 Commentary

Column 1	Column 2	Column 3	Column 4
Item	Corresponding provision of the GloBE rules	Corresponding provision of the OECD GloBE model rules	Guidance in the OECD GloBE rules document
46.	Article 7.2.2	Article 7.2.2	Paragraph 46 of Chapter 7 of the 2023 Commentary
47.	Article 7.2.4	Article 7.2.4	Paragraph 50 of Chapter 7 of the 2023 Commentary
48.	Article 7.3.7(b)	Article 7.3.7(b)	Paragraph 71 of Chapter 7 of the 2023 Commentary
49.	Article 7.5.1	Article 7.5.1	(1) Paragraphs 91 and 91.1 of Chapter 7 of the 2023 Commentary (2) Section 3.6 of the Feb-2023 Administrative Guidance
50.	Article 9.1.1	Article 9.1.1	(1) Paragraph 6.4 of Chapter 9 of the 2023 Commentary (2) Section 4.1 of the Feb-2023 Administrative Guidance
51.	Article 9.1.1	Article 9.1.1	(1) Paragraph 6.1 of Chapter 9 of the 2023 Commentary (2) Section 4.1 of the Feb-2023 Administrative Guidance
52.	Article 9.1.2	Article 9.1.2	Paragraphs 8 and 9 of Chapter 9 of the 2023 Commentary
53.	Article 9.1.3	Article 9.1.3	(1) Paragraphs 10.2 to 10.6 of Chapter 9 of the 2023 Commentary (2) Sections 4.2 and 4.3 of the Feb-2023 Administrative Guidance
54.	Article 9.1.3	Article 9.1.3	(1) Paragraph 10.1.1 of Chapter 9 of the 2023 Commentary

Column 1	Column 2	Column 3	Column 4
Item	Corresponding provision of the GloBE rules	Corresponding provision of the OECD GloBE model rules	Guidance in the OECD GloBE rules document
			(2) Section 4 of the Jul-2023 Administrative Guidance
55.	Article 9.1.3	Article 9.1.3	(1) Paragraph 10 of Chapter 9 of the 2023 Commentary (2) Section 4.3 of the Feb-2023 Administrative Guidance
56.	Article 9.1.3	Article 9.1.3	(1) Paragraph 10.9 of Chapter 9 of the 2023 Commentary (2) Section 4.3 of the Feb-2023 Administrative Guidance
57.	Article 9.1.3	Article 9.1.3	(1) Paragraph 10.8 of Chapter 9 of the 2023 Commentary (2) Section 4.3 of the Feb-2023 Administrative Guidance
58.	Article 10.1.1 (definition of ***consolidated financial statement***)	Article 10.1.1 (definition of ***consolidated financial statement***)	(1) Paragraphs 8.1 to 8.4 of Chapter 10 of the 2023 Commentary (2) Section 1.2 of the Feb-2023 Administrative Guidance
59.	Article 10.1.1 (definition of ***controlling interest***)	Article 10.1.1 (definition of ***controlling interest***)	(1) Paragraph 8.5 of Chapter 10 of the 2023 Commentary (2) Example 10.1-4 of the Apr-2024 Illustrative Examples (3) Section 1.2 of the Feb-2023 Administrative Guidance
60.	Article 10.1.1 (definition of ***disqualified***	Article 10.1.1 (definition of ***disqualified***	Paragraph 11 of Chapter 10 of the 2023 Commentary

Column 1	Column 2	Column 3	Column 4
Item	Corresponding provision of the GloBE rules	Corresponding provision of the OECD GloBE model rules	Guidance in the OECD GloBE rules document
	refundable imputation tax)	***refundable imputation tax***)	
61.	Article 10.1.1 (definition of ***eligible distribution tax system***)	Article 10.1.1 (definition of ***eligible distribution tax system***)	Paragraph 14 of Chapter 10 of the 2023 Commentary
62.	Article 10.1.1 (definition of ***eligible distribution tax system***)	Article 10.1.1 (definition of ***eligible distribution tax system***)	Paragraph 16 of Chapter 10 of the 2023 Commentary
63.	Article 10.1.1 (definition of ***entity***)	Article 10.1.1 (definition of ***entity***)	(1) Paragraph 17.1 of Chapter 10 of the 2023 Commentary (2) Section 1.2 of the Feb-2023 Administrative Guidance
64.	Article 10.1.1 (definition of ***GloBE reorganisation***)	Article 10.1.1 (definition of ***GloBE reorganisation***)	Paragraph 22 of Chapter 10 of the 2023 Commentary
65.	Article 10.1.1 (definition of ***insurance investment entity***)	Article 10.1.1 (definition of ***insurance investment entity***)	Paragraph 90 of Chapter 7 of the 2023 Commentary
66.	Article 10.1.1 (definition of ***ownership interest***)	Article 10.1.1 (definition of ***ownership interest***)	Paragraph 85 of Chapter 10 of the 2023 Commentary
67.	Article 10.1.1 (definition of ***ownership interest***)	Article 10.1.1 (definition of ***ownership interest***)	Paragraph 81 of Chapter 10 of the 2023 Commentary
68.	Article 10.1.1 (definition of ***ownership interest***)	Article 10.1.1 (definition of ***ownership interest***)	Paragraph 83 of Chapter 10 of the 2023 Commentary

Column 1	Column 2	Column 3	Column 4
Item	Corresponding provision of the GloBE rules	Corresponding provision of the OECD GloBE model rules	Guidance in the OECD GloBE rules document
69.	Article 10.1.1 (definition of ***real estate investment vehicle***)	Article 10.1.1 (definition of ***real estate investment vehicle***)	Paragraph 147 of Chapter 10 of the 2023 Commentary
70.	Article 10.3.4	Article 10.3.4	Paragraphs 198 and 207 of Chapter 10 of the 2023 Commentary

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Schedule 65

[s. 51AAB]

Specified Person, Specified Return and Specified Year of Assessment for Purposes of Section 51AAB

Part 1

Specified Person, Specified Return and Specified Year of Assessment

Column 1	Column 2	Column 3	Column 4
Item	Specified person	Specified return	Specified year of assessment
1.	Phase 1 applicable entity	Return for profits tax under Part 4, of either of the following types— (a) Profits Tax Return—Corporations;	Year of assessment beginning on or after 1 April 2025

(b) Profits Tax Return—Persons Other than Corporations

Part 2

Interpretation

1. In this Schedule—

fiscal year (財政年度) has the meaning given by Article 10.1.1 of the GloBE rules;

GloBE rules (《全球反侵蝕稅基規則》) has the meaning given by section 26AD(1);

in-scope MNE group (受涵蓋跨國企業集團) has the meaning given by section 1(1) of Schedule 63;

MNE group (跨國企業集團) has the meaning given by Article 1.2.1 of the GloBE rules;

Part 4AA entity (第 4AA 部實體) has the meaning given by section 1(1) of Schedule 63;

phase 1 applicable entity (第 1 階段適用實體) is to be construed in accordance with sections 2 and 3 of this Part.

2. An entity or permanent establishment (***subject entity***) is a phase 1 applicable entity for a year of assessment (***subject year of assessment***) if—

(a) the subject entity is a Part 4AA entity of an MNE group for the corresponding fiscal year of the group for the subject year of assessment; and

(b) any of the following applies—

(i) the MNE group is an in-scope MNE group for the corresponding fiscal year of the group (beginning on or after 1 January 2025) for the subject year of assessment;

(ii) the MNE group was an in-scope MNE group for a fiscal year of the group (beginning on or after 1 January 2025) preceding the fiscal mentioned in subparagraph (i).

3. An entity or permanent establishment that is, under section 2 of this Part, a phase 1 applicable entity for a year of assessment remains to be a phase 1 applicable entity for every subsequent year of assessment, whether or not it meets any of the conditions in section 2(a) and (b) of this Part for any such subsequent year of assessment.

4. For the purposes of this Part and in relation to an entity or permanent establishment of an MNE group, the corresponding fiscal year of the MNE group for a year of assessment is the fiscal year of the MNE group within which the basis period of the year of assessment of the entity or permanent establishment ends.".