



ATOZ ALERT

United Arab Emirates publishes a Frequently Asked Questions (FAQs) providing further clarity on the new UAE's Top-Up Tax

7 March 2025

The Ministry of Finance of the United Arab Emirates (“UAE”) recently released a [Frequently Asked Questions](#) (the “FAQs”) that provide clarifications on the [Cabinet Decision No. 142 of 2024](#) (the “Decision”) on the imposition of top-up tax on Multinational Enterprises (“MNE”) to implement a Domestic Minimum Top-up Tax in the UAE (the “UAE DMTT”). The Decision implements Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses, as amended [by Federal Decree-Law No. 60 of 2023](#).

In this article, we describe the key takeaways, provided by the FAQs, in relation to the UAE DMTT applicable to fiscal years beginning on or after 1 January 2025.

Qualifying status of the UAE DMTT

The FAQs confirm, as mentioned in our [previous Alert](#), that even if the Decision appears to be in line with the Global Anti-Base Erosion (“GloBE”) Model Rules (“Pillar Two”), it remains to be seen whether the OECD grants the UAE the transitional qualified status, which would confirm that the UAE DMTT qualifies as a Qualified Domestic Top-Up Tax (“QDMTT”) for purposes of the application of Pillar Two by other jurisdictions. As of today, this qualified status has not yet been recognised by the OECD in the latest version available of the [Central record of legislation with transitional qualified status for purposes of the Global Minimum Tax](#) dated 13 January 2025.

To achieve ‘Qualified’ status, the UAE DMTT rules will go through a common peer review process by the members of the OECD Inclusive Framework. Based on the process agreed upon by the Inclusive Framework members, the transitional qualified status is expected to be established within 12 months after the effective date of the legislation (i.e., before 1 January 2026) once the self-certification has been submitted within the agreed timelines.

The UAE is expected to achieve the ‘Qualified’ status given that the UAE DMTT rules are closely aligned with the GloBE Model Rules. Once confirmed, the qualified status is expected to apply as from the effective date of the legislation.

The Decision implements a DMTT, but not an Income Inclusion Rule (“IIR”)

The Decision establishes detailed rules ensuring that MNEs with low-taxed income in the UAE are subject to a minimum effective tax rate (“ETR”) of 15%. This ensures that the UAE’s domestic tax base is protected by preventing foreign jurisdictions from collecting top-up tax on UAE profits earned by UAE Constituent Entities that fall under Pillar Two. Recognition of the transitional qualified status for the UAE DMTT is therefore crucial to preventing other jurisdictions from imposing a top-up tax under the GloBE rules if the UAE DMTT were not recognized as a QDMTT.

As the UAE corporate tax regime does not include a Controlled Foreign Company (“CFC”) regime, the decision has been taken to not implement an IIR at this stage. An IIR would have enabled the UAE to collect a top-up tax on the profits of foreign subsidiaries that are not subject to an ETR of 15%. However, the UAE will monitor the implementation and effectiveness of the UAE DMTT to assess whether an IIR should be introduced in the future.

The Decision departs from the GloBE Rules, but this should not result in compromising the ‘Qualified’ status of the UAE DMTT

The OECD GloBE Model Rules Administrative Guidance and Commentary (“**OECD Administrative Guidance**”) allow jurisdictions to deviate from the GloBE Rules on certain aspects. While such deviations do not necessarily compromise its ‘Qualified’ status, some may prevent the DMTT from benefiting from the Safe Harbour rules under the OECD Administrative Guidance. For example, a QDMTT that excludes non-wholly owned Constituent Entities would not comply with the QDMTT Safe Harbour requirements.

The Decision includes certain deviations from the GloBE Model Rules, such as:

- Constituent Entities classified as investment entities are not subject to the UAE DMTT.
- MNE Groups in the initial phase of international expansion are excluded from the scope of the UAE DMTT if no IIR is applied by a foreign jurisdiction to any UAE-based Constituent Entity in the group.

However, according to the FAQs, the Decision only includes deviations that do not compromise the application of Safe Harbour rules under Pillar Two. On the contrary, according to the FAQs, these deviations ensure that the UAE DMTT does not prevent the application of OECD Safe Harbour rules while minimizing the administration compliance burden for businesses.

Relevance of OECD Administrative Guidance

Under the Decision, a ministerial decision will be issued to adopt relevant provisions of the current OECD Administrative Guidance for the purposes of implementing a QDMTT. The Decision thus provides a mechanism to incorporate the OECD Administrative Guidance, ensuring that the UAE DMTT achieves ‘Qualified’ status and benefits from OECD Safe Harbour rules. Any future amendments to the OECD Administrative Guidance will be considered by the Ministry of Finance in due course.

Reference to the Local Financial Accounting Standard Rule

According to the OECD Administrative Guidance in relation to the QDMTT definition of the GloBE Model Rules, the GloBE net income or loss may be computed using either:

- an Acceptable Financial Accounting Standard; or
- an Authorized Financial Accounting Standard, adjusted to prevent Material Competitive Distortions, instead of using the financial accounting standard applied in the Consolidated Financial Statements.

To meet the QDMTT Accounting Standard, a QDMTT must be computed in accordance with the Financial Accounting Standard of the Consolidated Financial Statements or must comply with the Local Financial Accounting Standard Rule.

The FAQs confirm that the Decision has been drafted to ensure that the UAE DMTT meets the Local Financial Accounting Standard Rule, thereby complying with the requirements of the QDMTT Safe Harbour.

Status of an entity exempt from UAE Corporate Tax or eligible for the 0% rate due to being a Qualified Free Zone Person under the Decision

According to the FAQs, all UAE taxpayers, including Exempt Persons or Qualifying Free Zone Persons under the UAE Corporate Tax Law, must assess whether they fall within the scope of the Decision. There is no specific exclusion of entities that are exempt from UAE Corporate Tax or eligible for the 0% rate due as Qualified Free Zone Persons.

If an entity falls within the scope of the Decision, it must comply with its requirements, including:

- calculating and paying any DMTT due; and
- Submitting the required filings and notifications.

Next Steps for MNE Groups with UAE Constituent Entities

MNE Groups with UAE Constituent Entities should start preparing for the introduction of the DMTT by:

- Assessing their exposure under the Decision; and
- Reviewing their compliance obligations in light of the rules taking effect from 1 January 2025

Do you have any questions?



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