

Frequently Asked Questions on the implementation of the Global Minimum Tax (GMT) in Malaysia

No.	Question	Answer
General Issues		
1.	The (GMT) in Malaysia will take effect on 1 January 2025. What does it really mean when we say 1 January 2025 is the implementation date?	<p>The GMT will take effect for MNE groups with a financial year beginning on or after 1 January 2025. Therefore, the first financial year for the MNE group in scope with 12-months accounting period will end on 31 December 2025.</p> <p>The initial submission of GIR and TTR (Top-up Tax Return) will be 18 months from the last day of financial year, i.e., 30 June 2027 (transition year).</p> <p>[The submission deadline for Form C remains the same, i.e., 31 July (with a grace period 1 month)]</p>
2.	What should businesses do to get ready for the implementation of GMT?	<p>We would advise businesses to:</p> <ul style="list-style-type: none"> • Determine if your businesses or companies are members of an MNE Group within the scope of GMT. • Businesses or companies subject to the CbCR Rules may be liable under the GMT framework if they meet the threshold of EUR 750 million. The CbCR threshold in Malaysia can be found in paragraph 3 of the IRBM Country-by-Country Reporting Guidelines 2019. • Perform an impact assessment to evaluate whether your businesses or companies on the entity and jurisdictional level are expected to be liable for the top-up tax under GMT. • If the businesses or companies are subject to GMT, particularly if they are part of a foreign MNE Group, they have to inform their parent entity of the implementation of Pillar Two in Malaysia beginning in 2025. Calculating the top-up tax requires information at the group and jurisdictional levels that the businesses or companies may not have access to.

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		<p>Be alert and equipped with the latest information on the mechanism of Pillar Two. As a start, HASiL has a dedicated page on the GloBE Rules on our official website, which compiles the relevant documents for reference. The link to the page is: https://www.hasil.gov.my/antarabangsa/global-minimum-tax-gmt/</p>
3.	Are there any guidelines on GMT published by HASIL?	<p>Two guidelines have been published by HASIL:</p> <ul style="list-style-type: none"> I) Guidelines on the Implementation of the GMT in Malaysia II) Guidelines on the Implementation of Domestic Top-up Tax in Malaysia <p>Both documents are available on HASIL's official website. The link to the page is provided below: https://www.hasil.gov.my/antarabangsa/global-minimum-tax-gmt/gmt-guidelines/</p>
4. New!	Whether future guidance issued by OECD after the enactment of Part XI of the Income Tax Act 1967 is considered automatically enacted under the Malaysian GloBE Rules?	<p>In order to ensure consistent outcomes with other jurisdictions implementing the GloBE Rules, our GMT legislation was designed to anticipate future Agreed Administrative Guidance published by the Inclusive Framework. Accordingly, any Agreed Administrative Guidance issued by the OECD is automatically incorporated under Malaysian GMT rules. Any clarification on the application of such Agreed Administrative Guidance in the Malaysian context will be provided, where necessary, through the GMT Guidelines issued by the Inland Revenue Board of Malaysia.</p>
5. New!	Which source prevails in case of inconsistency between Malaysian GloBE rules and OECD guidance.	<p>Part XI of the Income Tax Act 1967 is based on GloBE Model Rules. As such, there should not be any inconsistency between the two.</p> <p>In cases of inconsistency between IRBM guidelines and the Agreed Administrative Guidance, the OECD Agreed Administrative Guidance shall take precedence. This is necessary in order to maintain the qualified status of both Domestic Top-up Tax (Qualified Domestic Minimum Top-up Tax) and Multinational Top-</p>

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		up Tax (Income Inclusion Rule). Kindly notify us via email at tf2p@hasil.gov.my of any inconsistencies you may observe. This is to safeguard the qualified status of GMT legislation in Malaysia.
Chapter 2 of Part XI of the ITA – Scope of application		
6.	MNE Groups with consolidated revenues of at least EUR 750 million in at least two of the four preceding Financial Year will be in scope of GloBE Rules. Must the Group be an MNE Group or can it be a purely domestic group within these two out of four preceding Financial Years?	<p>The Group must be an MNE Group in the tested year and it is not necessary to have MNE status for two out of four preceding Financial Years.</p> <p>When testing the revenue threshold for two out of four financial years, the Group can be a purely domestic group.</p>
7. New!	If a JV is owned 50-50 by one UPE with a December year-end and another UPE with a March year-end, and the JV had a March year-end, would the JV's deadlines for Domestic Top-up Tax (DTT) filing and payment are to be determined using the JV year-end or the UPE year-end?	<p>The JV deadlines for Top-up Tax Return filing should be based on the UPE year-end, not the JV itself financial year-end. Based on the OECD Consolidated Commentary, the GloBE computations for the JV Financial Year must be made based on the financial accounting period that ends during the UPE's Financial Year (FY).</p> <p>When two UPEs have different financial years, the JV will be subject to the scope of Domestic Top-up Tax (DTT) in respect of the earliest financial year on or after 1st January 2025. In this scenario, one MNE has a financial year beginning on 1 January 2025, while the other has a financial year beginning on 1 April 2025. The earlier of the two financial years is the one beginning on 1 January 2025. Therefore, the DTT filing and payment due for the JV will be 30 June 2027.</p>
Chapter 6 of Part XI of the ITA – Computation of Adjusted Covered Taxes		

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8.	Would the zakat on business in Malaysia be considered a Covered Tax?	Zakat on business in Malaysia is not covered by the GloBE Rules, as giving zakat is a religious duty for Muslims and is not a compulsory payment to the general government.
9.	Please clarify whether Real Property Gains Tax in Malaysia would be considered as part of Covered Taxes?	Real Property Gain Tax (RPGT) is part of the covered taxes, as this tax is related to GloBE Income and is a tax expense included in the Consolidated Financial Statement.
Chapter 7 of Part XI of the ITA – Computation of Effective Tax Rate and Top-up Tax		
10.	Whether a Constituent Entity (CE) is allowed to claim substance-based income exclusion (SBIE) on its tangible assets that are not put in use during the financial year?	A CE is allowed to claim SBIE for its tangible assets which are reflected in the Balance Sheet under PPE but not put in use during the financial year.”
11.	Can a CE claim the “work-in-progress” as part of its SBIE claims?	Tangible assets under construction (work-in-progress) that are capitalised and reported as Property, Plant and Equipment (PPE) in the consolidated financial statements can be included as part of the SBIE claims.
12.	Are reimbursements to employees for housing or transportation expenses included in Eligible Payroll Costs?	Yes. Reimbursements to employees for housing or transportation expenses are included in Eligible Payroll Costs.
Chapter 10 of Part XI of the ITA – Safe Harbour		
13.	What are the adjustments required under the Transitional CbCR Safe Harbour	A safe harbour served as transitional relief for MNE groups in the initial years, during which the GloBE rules came into effect. When applying the Transitional Country-by-Country Reporting (CbCR) Safe Harbour (TCSH), the group must ensure that its CbC report is

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	to prepare a Qualified CbC Report?	based on the group's Qualified Financial Statement (QFS). This requirement is necessary for the report to be considered a qualified CbC report under the GloBE Rules. The financial information in the QFS shall not be adjusted to align with the GloBE Rules, except for adjustments made to the Purchase Price Allocation (PPA) to meet the consistent reporting condition, as well as adjustments concerning goodwill impairment.
14.	Is an MNE Group eligible for the Transitional CbCR Safe Harbour if it fails to submit its CbC Report?	When applying for TCSH, the submission of a CbC Report is a prerequisite. MNE groups that are subject to CbC reporting and fail to do so will not be eligible for the TCSH.
Chapter 11 of Part XI of the ITA – Transition Rules		
15.	To elect for Simplified ETR calculations for the first 3 years, we understand that we can use the Qualified CbCR for GMT. However, does Qualified CbCR means we have to match consolidation package figures against the final Audited Financial Statements with qualified Accounting Standard?	<p>A CbCR that is prepared and filed using Qualified Financial Statements is a Qualified CbCR for GMT. Under the Transitional CbCR Safe Harbour, all data used to perform the safe harbours computations for entities in a Jurisdiction just need to ensure come from the same type of Qualified Financial Statements (or the accounts used to prepare those Qualified Financial Statements).</p> <p>Qualified Financial Statements means:</p> <ol style="list-style-type: none"> a. the accounts used to prepare the Consolidated Financial Statements of the UPE; b. separate financial statements of each Constituent Entity provided they are prepared in accordance with either an Acceptable Financial Accounting Standard or an Authorised Financial Accounting Standard if the information contained in such statements is maintained based on that accounting standard and it is reliable; or c. in the case of a Constituent Entity that is not included in an MNE Group's Consolidated Financial Statements on a line-by-line basis solely due to size or materiality grounds, the financial accounts of that Constituent Entity that

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		<p>are used for preparation of the MNE Group's CbC Report.</p> <p>In order words, the MNE Group use either the following for Simplified ETR computation:</p> <ol style="list-style-type: none"> 1) the accounts used to prepare the CFS of the UPE for all Entities in the Tested Jurisdiction; or 2) separate financial statements of each Constituent Entity for all Entities in the same Tested Jurisdiction provided that they are prepared in accordance with an Acceptable Financial Accounting Standard or Authorised Financial Accounting Standard if the information contained in such statements is maintained based on that accounting standard and it is reliable.
16.	<p>Would the utilisation of tax losses which arises from unrecognized deferred tax asset be treated as an increase in Adjusted Covered Taxes under section 196(1) ITA?</p> <p>Section 196(1) ITA stated:</p> <p>"When determining the Effective Tax Rate for a jurisdiction in a Transition Year, and for each subsequent year, the Multinational Enterprise Group shall take into account all of the deferred tax assets and deferred tax liabilities reflected or disclosed in the financial accounts of all of the Constituent Entities in a</p>	<p>Yes. In the transition year when the entity first subject to GMT, the deferred tax attributes in the financial statements (including unrecognised deferred tax) to be used to compute Effective Tax Rate (ETR).</p> <p>The deferred tax asset must bring into account at the lower of the minimum rate (15%) or the applicable domestic tax rate.</p>

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	jurisdiction for the Transition Year.”	
17.	If an MNE Group has operations in other jurisdictions which implement Pillar Two a year earlier (i.e., for financial years beginning on or after 1 January 2024), will the MNE Group in Malaysia still be eligible for transitional filing relief for FY 2025 in Malaysia?	The MNE Group in Malaysia will still be eligible for transitional filing relief for FY 2025 even though the Group first comes in-scope of GMT in FY 2024. For the first transition year in Malaysia, the deadline to submit the Top-Up Tax Return and pay the amount due is 18-months after the end of the Reporting Financial Year.
Chapter 13 of Part XI of the ITA – Returns		
18.	<p>Constituent Entities (CE) of MNE groups are required to file two (2) separate returns for each Reporting Financial Year, namely:</p> <ol style="list-style-type: none"> a. The information return, and b. The Top-up Tax return (TTR) <p>What are the differences between the two. For example, whether:</p> <ul style="list-style-type: none"> • The information return is intended to be the implementation of the OECD’s GloBE 	<p>The information return is the GloBE Information Return (GIR). This information return should be filled by the UPE or designed filing entity to disclosed the details of the top-up tax calculation and is to be submitted to HASiL. HASiL will then exchange such information with relevant tax jurisdictions.</p> <p>Where else, the TTR needs to be submitted by each CE in Malaysia which discloses the tax liability of each CE. The top-up tax return is intended to be a simplified return as compared to the GIR.</p>

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	<p>Information Return (GIR); and</p> <ul style="list-style-type: none"> The TTR is intended to be a return with different or simplified reporting requirements, e.g. to specify tax liability to HASiL. 	
19.	When will HASiL release the template or guidance notes for GIR and TTR?	<p>The template and guidance for the GIR has been published by the OECD. The document can be access through HASiL's website. The link to the page:</p> <p>https://www.hasil.gov.my/media/q4ymeccf/11-oecd-globe-information-return-pillar-two-jan-2025.pdf</p> <p>The TTR is intended to be a simplified return as compared to the GIR. It functions to disclose the tax liability of each CE. As the very first TTR is only expected to be filed in 2027, guidance notes on this tax return will be issued in due time.</p>
20.	Is it possible for the MNE Group to appoint two (or more) Designated Local Entities that would file the GIR on behalf of different groups of Constituent Entities?	No, an MNE Group cannot appoint more than one Designated Local Entity to file GIR for different types of Constituent Entities within that MNE Group.
21.	Does the 15-month (or 18-month transitional) filing deadline for the top-up tax return refer to the financial year end of each Constituent Entity, or to that of the Ultimate Parent Entity (UPE)?	<p>The 15 month (18-month transitional) due date for submitting the top-up tax return is based on the financial year end of the UPE, not the respective Constituent Entity (CE).</p> <p>Similarly, in the scenario where a Joint Venture (JV) has different financial year end from its UPE, the Top-up Tax Return of the JV would be due 15 month (18-month transitional) from the financial year end of the UPE.</p>

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Chapter 17 of Part XI of the ITA – Offences and Penalties		
22.	In Malaysia, will HASiL provide some leeway in the initial years of implementation?	<p>With reference to the Finance (No. 2) Bill 2023, we can observe the types of offences and relevant penalties which will be imposed if MNE groups fail to comply with the GMT legislation such as penalties for late or non-compliance with the requirement for the submission of relevant returns. As for the current approach that HASiL took to promote tax compliance through its awareness, education and services (AES) initiative, HASiL will gladly follow the penalty relief provision proposed by OECD under a Transitional Penalty Relief.</p> <p>Under this Transitional Penalty Relief, no penalties or sanctions should apply in connection with filing a GloBE Information Return during the transition period (i.e. financial year beginning on or before 31/12/2026 but not including a financial year that ends after 30/6/2028) where a tax administration considers that an MNE has taken “reasonable measures” to ensure the correct application of the GloBE Rules. A tax administration may consider that an MNE has taken reasonable measures where the MNE can demonstrate that it has acted in good faith to understand and comply with the relevant domestic application of the GloBE Rules and the QDMTT.</p> <p>HASiL will concentrate more on the AES approach while implementing compliance activities on this new tax legislation. The penalty relief will be provided in a GMT guideline that HASiL will publish. Therefore, we can expect some leeway in the early phase of GMT implementation in Malaysia.</p>
23.	In your enforcement strategy, will there be any difference in your compliance strategy? How does HASiL plan to ensure compliance	<p>Our enforcement strategy will remain the same, using AES (Awareness, Education and Services) as our base approach. “HASiL mengajar bukan mengejar”.</p> <p>The taxpayers affected by GMT are typically large MNEs with high tax compliance rates, HASiL believes</p>

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	amongst the affected stakeholders?	<p>they will not encounter significant difficulties in fulfilling their obligations under GMT.</p> <p>However, HASiL will continue to organize engagement sessions with the affected taxpayers, assisting them in gaining a technical understanding of the GloBE Rules, as well as the operational aspects of GMT, including the preparation and submission of the Global Information Return (GIR)</p> <p>Part of our initiatives in ensuring a ‘soft landing’, HASiL will implement a transitional penalty relief regime, in accordance with OECD’s guidance during the initial years of the implementation of the GloBE rules. The penalty relief is designed to provide MNE groups with transitional support when the GloBE rules come into effect.</p> <p>In the meantime, HASiL will continue to organize engagement sessions with affected taxpayers, assisting them in gaining a technical understanding of the GloBE Rules Model and the operational aspects of the Global Minimum Tax (GMT), including the preparation and submission of the Global Information Return (GIR).</p> <p>Taxpayers can access documents related to GloBE Rules via a dedicated page on the HASiL official website and send in any queries related to GMT via email at tf2p@hasil.gov.my.</p>
Domestic Top-up Tax		
24.	If different entities within an MNE Group apply MFRS and MPERS respectively, are both sets of financial statements acceptable for DTT computations under the ITA 1967?	The Malaysian Financial Reporting Standards (MFRS) and the Malaysian Private Entities Reporting Standards (MPERS) are Malaysia’s local accounting standards. Therefore, financial statements prepared under these standards may be used to determine the FANIL for DTT computation purposes provided that all other conditions in Section 164(2) of the ITA 1967 are met.

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25.	Where CEs in Malaysia have a different financial year end (FYE) from the UPE due to mergers, acquisitions, or liquidation, will transitional relief be available to mitigate mismatched reporting periods when applying local accounting standards for DTT purposes?	<p>The condition set in Section 164(2)(a) of the ITA 1967 is intended to avoid mismatch in the financial years of the local accounts to that of the Consolidated Financial Statement (CFS) which could result in mismatches between the QDMTT computations and the computations that would have been required under the GloBE Rules.</p> <p>We do not foresee any omission issues will arise in the year where there is mergers, acquisitions or liquidation, where the financial year for that relevant CE differs from the rest of the entities in the MNE Group. Therefore, for these scenarios, all the CEs in Malaysia still be able to use local financial statements for DTT computation purposes if all other conditions in Section 164(2) of the ITA 1967 are met.</p>
26.	In the scenario where in-scope Constituent Entity in Malaysia prepare unaudited accounts, is it permissible to use such local financial statements for the determination of DTT?	Yes, local financial statements prepared in accordance with MASB or MPERS may be used by Constituent Entities for DTT purposes, as long as those accounts are also used for SSM submission or corporate income tax filing and all conditions under Section 164(2)(a) are met.

Please note that all the answer provided above are subject to changes if there is further guidance from the OECD.