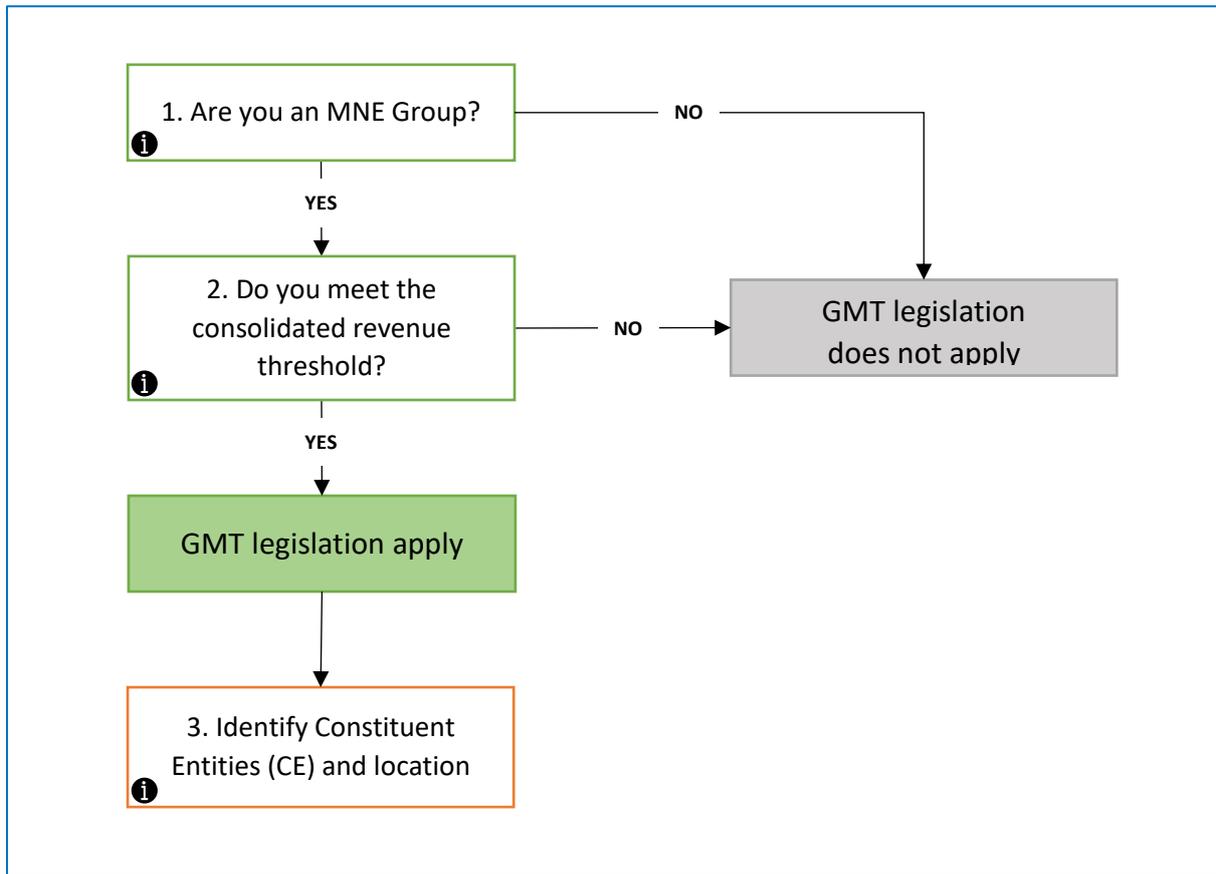


**Applicability of Part XI of the Income Tax Act 1967 (Global Minimum Tax)
– Multinational Top-up Tax and Domestic Top-up Tax –**



1. Multinational Enterprise Group (MNE Group)

- 1.1 Section 157 of the Income Tax Act 1967 (ITA 1967) defines a Multinational Enterprise Group (MNE Group) as “any Group that includes at least one Entity or Permanent Establishment that is not located in the jurisdiction of the Ultimate Parent Entity”.
- 1.2 Therefore, for any group of companies in Malaysia to be considered an MNE Group and subject to GloBE Rules, it must have at least one Entity, such as a subsidiary, branch, or Permanent Establishment (PE) located outside Malaysia. A purely domestic group is not an MNE Group and is not subject to the GloBE Rules.
- 1.3 An MNE Group generally includes:
- (a) Entities under the common control of an Ultimate Parent Entity (UPE) and required to be included in the Consolidated Financial Statement of the UPE; or
 - (b) If a Consolidated Financial Statement do not exist, entities that would have been consolidated had the UPE been required to prepare financial statements under the Authorised Financial Accounting Standard. For Malaysia, Malaysian Financial Reporting Standards (MFRS) is an authorised financial accounting standard which is issued by the Malaysian Accounting Standards Board (MASB); or
 - (c) A standalone Entity that has one or more PE located in another jurisdiction.

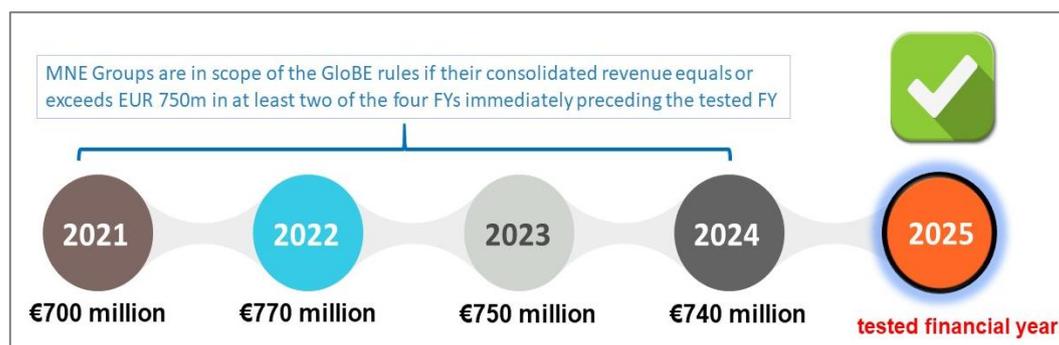
Related terms

The full definition of the related terms on this topic can be found in Section 157, ITA 1967.

- Consolidated Financial Statement
- Domestic Top-up Tax (DTT)
- Entity
- GloBE Rules
- Group
- Multinational Enterprise Group (MNE Group)
- Multinational Top-up Tax (MTT)
- Permanent Establishment (PE)
- Ultimate Parent Entity (UPE)

2. Consolidated Revenue Threshold Test

- 2.1 The GloBE Rules apply to the Constituent Entities (CEs) of an MNE Group with annual consolidated revenue of €750 million or more in the Consolidated Financial Statement of the MNE Group in at least two of the four previous Financial Years (not including the tested financial year).
- 2.2 Where one or more of those Financial Years is of a period other than 12 months, for each of those Financial Years, the €750 million annual revenue threshold is adjusted proportionally to correspond with the length of the relevant Financial Year.
- 2.3 Although an Excluded Entity is not subject to the GloBE Rules, it will qualify as a Group Entity to determine the revenue threshold to the extent its income is consolidated with the rest of the Group. In this case, the Excluded Entity's revenue must be considered when applying the consolidated revenue threshold.
- 2.4 The revenue threshold applies to the revenue reported in the Consolidated Financial Statements of the MNE Group; the threshold amount is the same as the one used for Country-by-Country Reporting (CbCR), which is €750 million. However, unlike CbCR, which is based on an annual calculation, the revenue threshold for the GloBE Rules is based on a four-year test.
- 2.5 This ensures that an MNE Group knows, at or soon after the beginning of the tested financial year, whether it will be within the scope of the GloBE Rules that year. The four-year test is illustrated in the figure below:



2.6 The following figure shows another example of how to apply the scoping criteria to identify whether an MNE Group is subject to GloBE Rules or not:

Scenario	MNE Group <i>Does business operate in more than one jurisdiction?</i>	Revenue \geq € 750 M <i>In at least 2 out of 4 previous FY</i>	In scope of GloBE Rules?
#1	✓	✓	✓
#2	✓	✗	✗
#3	✗	✓	✗
#4	✗	✗	✗

EXAMPLE	EXAMPLE
FY2025: ✓ FY2024 – €750M, FY2023 – €740M, FY2022 – €760M, FY2021 – €730M	FY2025: ✗ FY2024 – €745M, FY2023 – €740M, FY2022 – €760M, FY2021 – €730M

Related terms

The full definition of the related terms on this topic can be found in Section 157, ITA 1967.

- Constituent Entities (CEs)
- Excluded Entity
- Financial Year (FY)
- Group Entity

3. Identify the Constituent Entities (CE) and its location

CONSTITUENT ENTITIES (CEs)

3.1 Section 157 of the ITA 1967 defines CEs that are subject to the GloBE Rules, including:

- (a) Any Entity included in a Group, except for Excluded Entity; and
- (b) Any PE of a Main Entity (included in a Group), which is treated as a separate CE from the Main Entity and any other PE.

3.2 Excluded Entity refers to an Entity which is not subject to GloBE Rules and is defined under section 157 of the ITA 1967 as follows:

- (a) **Governmental Entity:** Entities controlled by a government undertaking governmental functions.
- (b) **International Organisation:** Entities established by multiple governments with a public purpose.
- (c) **Non-profit Organisation:** Entities established for charitable or other non-commercial purposes, which may also include wholly-owned subsidiaries performing ancillary activities for the Non-profit Organisation.
- (d) **Pension Fund:** Entities that manage and administer pension plans.
- (e) **Investment Funds that are UPE:** These are investment vehicles that typically pool funds from various investors and invest them to generate returns. They are structured to remain neutral for tax purposes.
- (f) **Real Estate Investment Vehicles that are UPE:** These are entities primarily involved in owning, managing, or investing in real estate assets, designed to operate on a tax-neutral basis.

(g) Entity owned by Excluded Entity:

- Entities that are at least 95% owned by one or more Excluded Entities and operate primarily to hold assets or invest funds for the benefit of the Excluded Entity or Entities (the ownership test).
- Entities where one or more Excluded Entities own at least 85% of their value, and their income is substantially derived from Excluded Dividends or Excluded Equity Gains or Losses (the activities test).

These entities are exempt from the GloBE Rules due to their direct engagement in activities that serve the public interest or their structure that ensures tax neutrality for their investors, providing a clear understanding of the regulatory framework.

Related terms

The full definition of the related terms on this topic can be found in Section 157, ITA 1967.

- Excluded Dividends
- Excluded Equity Gains or Losses
- Governmental Entity
- International Organisation
- Investment Funds
- Main Entity
- Non-profit Organisation
- Pension Fund
- Real Estate Investment Vehicles