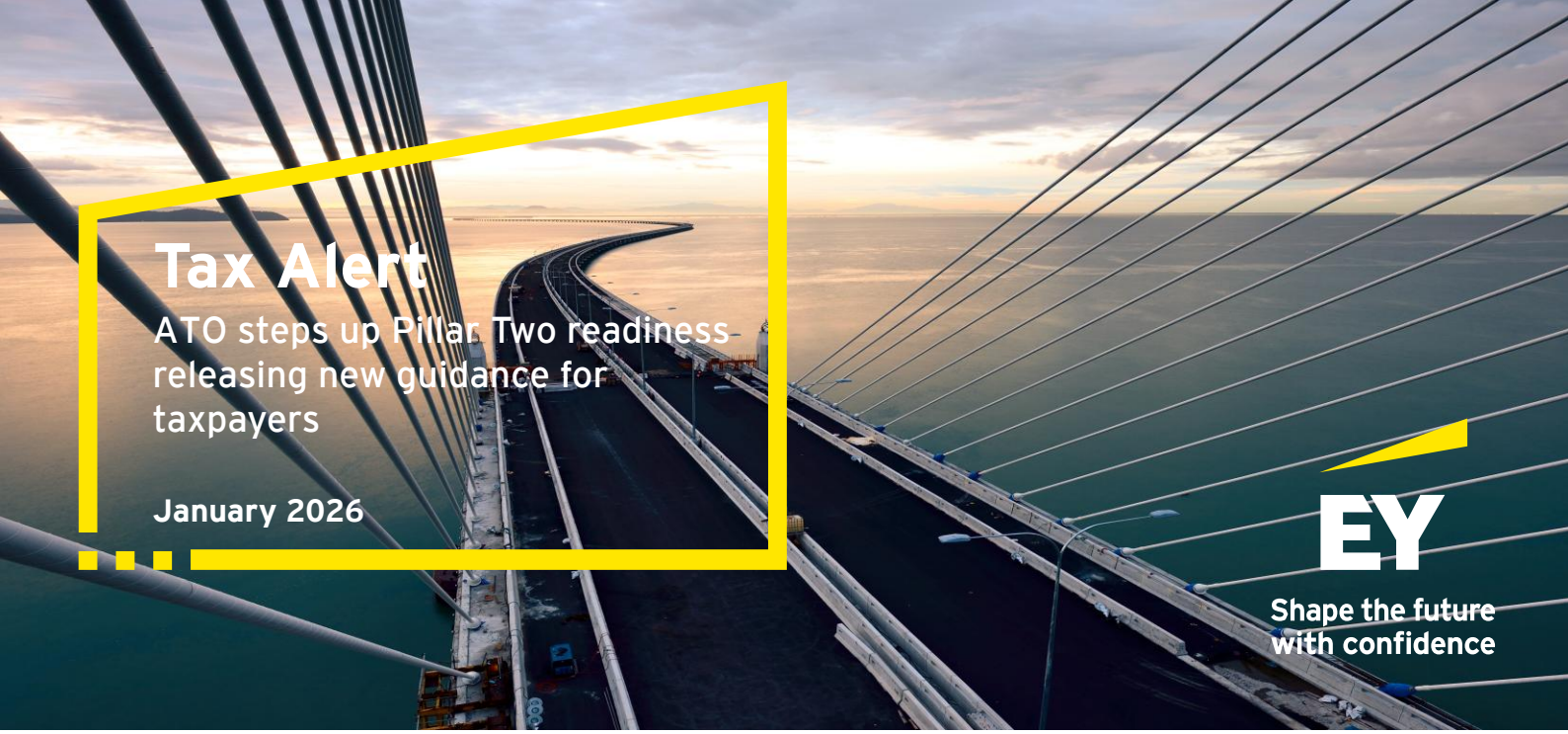

Tax Alert

ATO steps up Pillar Two readiness releasing new guidance for taxpayers

January 2026

EY

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At a glance

- The Australian Tax Office (ATO) has updated its guidance to provide detailed information and instructions for Australian Tax Consolidated Groups and Multiple Entity Consolidated (MEC) Groups.
- The ATO has also released guidance on specific issues including misaligned fiscal years, prior period adjustments and joint arrangements.
- Although the OECD Side-by-Side Package may simplify future compliance, Australian groups and foreign multinationals must still prepare for reporting obligations starting 30 June 2026.
- The introduction of Australia's Pillar Two rules creates an opportunity beyond compliance.
- EY can support you in building a future-ready tax function with scalable technology platforms.
- EY can assist you with integrated analytics, and streamlined processes, transforming Pillar Two compliance into a driver of efficiency, resilience, and strategic insight.

On 18 December 2025, the Australian Taxation Office (ATO) released updated guidance detailing the application of Australia's Pillar Two rules to Tax Consolidated Groups (TCGs) and Multiple Entry Consolidated (MEC) groups, as well as addressing specific issues relevant to their Pillar Two obligations.

The *Taxation (Multinational – Global and Domestic Minimum Tax) Rules 2024* (the Rules) are in force and have retrospective application to fiscal years starting on or after 1 January 2024. The Rules include a Domestic Minimum Tax (DMT) and Income Inclusion Rule (IIR) which apply to fiscal years starting on or after 1 January 2024 and an Undertaxed Profits Rule (UTPR) which applies to fiscal years starting on or after 1 January 2025.

The new ATO guidance assists TCGs and MEC groups to understand the interaction between the Rules and Australia's tax consolidation regime, while clarifying key compliance requirements such as lodgment obligations, reporting simplifications and the processes for calculating and allocating top-up tax.

The ATO also provides additional information on specific issues, including:

- The process and rules for nominating a Designated Local Entity (DLE)
- The treatment of misaligned fiscal years which is relevant for Constituent Entities whose local financial accounts are based on a different accounting period than the Ultimate Parent Entity (UPE)
- Prior period adjustments in respect of covered tax liabilities for previous fiscal years
- Expanded guidance on how Australian global and DMT rules may apply to joint operations and joint ventures

Following our previous Tax Alert the final Legislative Instrument (LI) which provides certain exemptions from requirements to lodge Australian IIR/ UTPR tax returns and DMT tax returns was registered on 22 December 2025 and amendments to the Rules were registered on 5 January 2026.

Implications for taxpayers

Under Australia's Pillar Two rules, the first Pillar Two returns for in-scope multinational enterprise groups (MNE groups) with a December year-end are due by 30 June 2026, which is 18 months after the end of the FY2024 fiscal year. MNE groups should take immediate action to assess exemption eligibility, review compliance frameworks, and prepare for the new reporting and compliance requirements which start from 30 June 2026, including consideration of this new ATO guidance.

Additional guidance for Australian Tax Consolidated Groups and MEC groups

The Australian Pillar Two framework contains specific provisions which can affect how the Rules apply to TCGs and MEC groups. For example, where Australian Constituent Entities are part of a TCG or MEC Group in Australia, their DMT or UTPR top-up tax liability may be allocated to the Head Company.

The Rules also contain elections that simplify compliance for certain prescribed groups, including for TCGs and MEC groups. These include:

- An election to apply consolidated accounting treatment which allows certain intra-group transactions that occur between entities in the same jurisdiction to be excluded from the calculation of top-up tax, consistent with the OECD Model Rules.
- The Aggregated Reporting Election (ARE) which allows groups to report top-up tax information for entities within a TCG as if they were a single Constituent Entity in the GloBE Information Return (GIR). This election works in conjunction with the reallocation of the DMT and UTPR top-up tax liability within TCGs so that reporting and payment are centralised at the head company level.
- The Transitional Simplified Reporting election (TSRE) which provides temporary relief during a transition period by allowing MNE groups to report top-up tax information through jurisdictional-level data rather than detailed entity-by-entity disclosures in the GIR.

There are also other special, transitional and integrity rules for TCGs and MEC Groups included in the Rules, particularly in the context of mergers, acquisitions or restructures. In this regard, the ATO guidance highlights that there are integrity rules that may apply to prevent the manipulation of group structures or tax attributes to reduce or avoid top-up tax, including rules governing intra-group transfers of assets during the transition period.

Calculation of top-up tax for Australian Tax Consolidated Groups

The Rules contain provisions that may affect the way in which members of a TCG and MEC group calculate top-up tax liabilities. These include an election which allows a filing Constituent Entity of an MNE Group to elect to follow the consolidated accounting treatment. This allows elimination of intragroup transactions between members of the TCG or MEC group when determining their GloBE income or loss. The election can also apply to transactions between members of a TCG which are a Pillar Two subgroup, including between minority owned constituent entities (MOCEs), investment entities, insurance investment entities and GloBE Joint Venture group entities.

This election must be made in the GIR, even if this is being filed in a foreign jurisdiction. Therefore, it is essential to inform the Designated Filing Entity (DFE) whether this election needs to be made for Australia where GIR is being filed in a foreign jurisdiction.

If the election is not made, each Constituent Entity is required to individually calculate its GloBE income or loss prior to making any consolidation adjustments. This may put downward pressure on the effective tax rate (ETR), as intragroup transactions which are included in the GloBE income or loss calculation are excluded for local tax purposes.

Allocation of top-up tax for Australian Tax Consolidated Groups and MEC groups

In addition to the primary rule for allocating a top-up tax liability across Constituent Entities in the OECD Model Rules, the Australian Rules also include a secondary allocation rule to assign any DMT and UTPR top-up tax owed by a subsidiary member of a TCG or MEC group to the Head Company. This means the Head Company will be liable for that top-up tax. This reallocation does not affect the computation of top-up tax but shifts the liability and payment obligations for such amounts to the Head Company. However, this reallocation rule does not apply to IIR top-up tax amounts. To the extent a subsidiary member has an IIR top-up tax amount (for example, because the Head Company of the TCG or MEC group is an Excluded Entity), the subsidiary member will be liable to pay that amount.

The ATO acknowledges that some MNE groups have systems that may not allocate DMT top-up tax within a TCG on an entity-by-entity basis. Instead, these systems may only determine relevant items on a 'net' basis using a 'top-down' approach for the TCG, resulting in a single amount of DMT top-up tax for the entire TCG. The guidance states that the ATO does not intend to devote compliance resources to reviewing allocations of jurisdictional DMT top-up tax where one or more entities to which top-up tax is allocated are subsidiary members of a TCG, irrespective of whether the MNE group uses a 'top-down' or 'bottom up' approach. This administrative concession is available where the total DMT top-up tax amount for Australian Constituent Entity is correct and consistent with the result under the 'bottom-up' approach, which is the approach required by law.

The ATO considers that its practical approach complements the OECD's guidance on the GIR, where certain elections, such as the ARE and TSRE outlined above, are available to reduce the compliance burden.

New lodgment requirements for Australian Tax Consolidated Groups and MEC groups

There are four new lodgment requirements under the Rules, which also apply to Australian TCGs:

- GIR
- Foreign lodgment notification
- Australian IIR/UTPR Tax Return (AIUTR)
- Australian DMT Tax Return (DMTR).

Each group entity located in Australia has an obligation to lodge either a GIR or foreign lodgment notification where the GIR is lodged overseas. This includes subsidiary members of a TCG or MEC group.

Each group entity must also lodge an AIUTR or DMTR, unless their circumstances qualify for a lodgment exemption. Under the final legislative instrument, subsidiary members of a TCG or MEC group may be exempt from lodging the AIUTR or the DMTR, or both the AIUTR and DMTR, depending on their circumstances.

The ATO guidance confirms that if an entity leaves an applicable MNE Group and joins another applicable MNE group part way through the fiscal year, the entity has separate lodgment obligations as a group entity of both MNE groups at different times during the fiscal year. However, where the entity joins or leaves a TCG in either applicable MNE Group, it may be exempt from one or both of its DMTR and AIUTR lodgment obligations under the final legislative instrument.

As an additional compliance simplification, a DLE can be appointed to lodge the GIR (if lodged in Australia) or foreign lodgment notification (where the GIR is lodged overseas), along with the AIUTR and DMTR. The process and rules for appointing a DLE are set out in further detail below.

GIR reporting simplifications

The ARE allows MNE groups to report information at the TCG level, effectively treating the group as a single constituent entity for reporting purposes. The ARE is only available to TCGs and not MEC groups. Furthermore, the ARE is not available to entities that join or leave the MNE Group during the reporting fiscal year, regardless of whether they were, or are, part of a TCG.

The TSRE allows MNE groups to report GloBE computations information for entities located in the same jurisdiction on an aggregated jurisdictional basis, rather than reporting information for each constituent entity separately. However, the TSRE is a reporting simplification only and does not change the obligation to calculate an ETR on an entity-by-entity basis under the Rules. The TSRE is a transitional election that only applies to fiscal years beginning on or before 31 December 2028 but not including any fiscal year that ends after 30 June 2030. Unlike the ARE, this election is not limited to TCGs and can be made for MEC groups.

Both elections are reporting simplifications and do not impact the actual calculations of top-up tax. Both elections are available to the filing Constituent Entity. They are not mutually exclusive and can apply irrespective of the other. If neither election is made, the MNE group must provide top-up tax calculations information for each separate Constituent Entity in the MNE group.

Nominating a Designated Local Entity

As set out above, a MNE Group can nominate a DLE to lodge a GIR or foreign lodgment notification on behalf of Australian group entities. If they do so, they can also choose to nominate that same DLE to lodge AIUTRs and DMTRs on behalf of Australian group entities.

A DLE must:

- Be a group entity that is GloBE located in Australia for the fiscal year;
- Be nominated by every other group entity that is GloBE located in Australia for the fiscal year to lodge the GIR or foreign lodgment notification;
- Be nominated by every group entity with an AIUTR and DMTR lodgment obligation to lodge those returns, if the MNE group also wishes to nominate the DLE to lodge the AIUTR and DMTR;
- Not be an Excluded Entity or a Permanent Establishment.

If an MNE Group does not nominate a DLE or only nominates one for the GIR and not the Combined Global and Domestic Minimum Tax Return (CGDMTR) (which includes the AIUTR and DMTR), each individual entity with those lodgment obligations must lodge its own return or notice.

The guidance confirms that there is no specific form that an MNE group must lodge or use to nominate a group entity as a DLE. MNE groups must identify the DLE in the relevant section of the GIR and the CGDMTR for the fiscal year. The DLE must complete relevant declarations in those returns as the filing entity. A MNE group must keep appropriate internal written records of each group entity nominating the DLE. The ATO may request a copy of the nomination records for compliance and engagement purposes.

Treatment of misaligned fiscal years

For global and DMT purposes, the term 'fiscal year' generally refers to the accounting period for which the UPE of a MNE group prepares its Consolidated Financial Statements (CFS). If the UPE does not prepare CFS, the fiscal year of the UPE and the group entities will be the calendar year instead. As such, a Constituent Entity's own accounting period does not determine its fiscal year for Pillar Two purposes.

The ATO guidance recognises that some Constituent Entities may maintain financial accounts based on a different accounting period to that of the UPE. If this is the case, there are generally two different accounting conventions used to reconcile such differences, depending on the accounting standard adopted in the preparation of the CFS.

Some MNE groups will include the Constituent Entity's financial accounting results for the accounting period that ends within the UPE's fiscal year. This may result in some income or expenses being attributed to a period before the UPE's fiscal year begins. For example, the UPE's CFS for the fiscal year ended 31 December 2025 may include an Australian Constituent Entity's accounting results for the full accounting period ended 30 June 2025.

Other MNE groups will split the Constituent Entity's results to match the UPE's fiscal year, combining the parts of the Constituent Entity's two accounting periods that align with the UPE's reporting period. Under this method, using a similar example, the UPE's consolidated financial statements for the fiscal year ended 31 December 2025 may include the Australian Constituent Entity's accounting results from two different accounting periods, being 1 January to 30 June 2025 and 1 July to 31 December 2025.

The ATO guidance confirms that the top-up tax calculations for a Constituent Entity with a different accounting period to its UPE will be based on whichever method has been used to include the Constituent Entity's results in the UPE's CFS. The revenue of the Constituent Entity will also be included on this basis in determining whether the MNE group has met the revenue threshold for the purposes of the global and DMT.

In line with ordinary record keeping requirements, taxpayers are required to keep records supporting the accounting method used.

Prior period adjustments in respect of covered tax liabilities

Consistent with the OECD Model Rules, certain adjustments are required to a Constituent Entity's top-up tax calculations when there are changes to its covered tax liability in a previous fiscal year.

In accordance with the ATO guidance, the treatment of such adjustments under the Rules will depend on whether the total adjustments to covered tax liabilities for that prior year for all Constituent Entities located in the same jurisdiction are:

- An increase or decrease
- A material or immaterial decrease, or
- A decrease that relates to a pre or post-GloBE fiscal year.

Increase in covered tax liabilities

When there is an increase in total adjustments to a prior fiscal year's covered tax liabilities of all Constituent Entities located in the same jurisdiction as the relevant Constituent Entity, that increase is treated as an adjustment to the relevant Constituent Entity's adjusted covered taxes in the current year.

Immaterial decrease in covered tax liabilities

When the total adjustments for the prior year is an immaterial decrease (less than EUR 1 million), the filing Constituent Entity may make an annual election to treat those adjustments as an adjustment to the relevant Constituent Entity's adjusted covered taxes in the current year.

If an election is not made, then the general treatment for decreases applies. This election must be made in the GIR, even if this is being lodged in a foreign jurisdiction.

Material decrease in covered tax liabilities

When the total adjustments for the prior year is a decrease which is not an immaterial decrease (or where the above election is not made in respect of an immaterial decrease), the relevant Constituent Entities are required to reduce their adjusted covered taxes for the prior year by the amount of the decrease and recalculate the ETR and jurisdictional top-up tax for that prior year.

However, the MNE group is not required to amend its GIR, or any Pillar Two returns filed in association with the GloBE Rules for the prior year. Rather, the adjustment will be reflected in the current year GIR and Pillar Two returns. Any resulting increase in jurisdictional top-up tax for the prior year is treated as an addition to top-up tax in the current year.

There should also be a corresponding increasing adjustment for the purposes of calculating the current year's adjusted covered tax.

Decreases that relate to a pre-GloBE period

Where a decrease in covered taxes relates to a fiscal year prior to the application of the global and DMT, the ATO guidance confirms that no adjustments in the prior year are required. This means that there should not be any additional current top-up tax arising from recalculations of effective tax rates of pre-GloBE fiscal years.

The ATO guidance confirms that relevant adjustments must still be made to the current year adjusted covered taxes. For instance, where the sum of the adjustments to the liability for covered taxes for the prior year is a decrease, other than an immaterial decrease covered by an election, the relevant constituent entities are not required to recalculate the prior year adjusted covered taxes. However, they should still include a corresponding increasing adjustment in calculating the current year's adjusted covered taxes where there has been a decrease to the income tax expense of the current fiscal year.

Importantly, the ATO guidance states that where the prior year adjustment relates to deferred tax expense, resulting in a decrease in income tax expense relating to a pre-GloBE fiscal year, an increasing adjustment should be included in calculating the current fiscal year's adjusted covered taxes. However, this prior period adjustment and its impact on the reversal of a deferred tax liability or deferred tax asset should be taken into account when determining the amount of the deferred tax liability or asset to be recognised in the transition year and any subsequent fiscal year.

Expanded guidance on joint operations and joint ventures

The Rules may apply to certain types of joint arrangements as classified under accounting standards.

The initial consideration is whether the arrangement meets the criteria for classification as an "Entity" under the *Taxation (Multinational—Global and Domestic Minimum Tax) Act 2024 (*Assessment Act), which is "(a) any legal person (other than a natural person) or (b) an arrangement that is required to prepare separate financial accounts, such as a partnership or trust". It is important to note that this definition is slightly different than the definition of Entity under the OECD Model Rules.

This definition means that unincorporated joint arrangements must be required to prepare separate financial accounts to be an "Entity". The ATO guidance confirms that an unincorporated arrangement that is not a legal person and which is not required to prepare separate financial accounts, should not be an Entity for the purposes of the Rules.

If the arrangement meets the definition of an "Entity", its treatment depends on how the arrangement is classified under the Pillar Two framework, including whether it is a GloBE Joint Venture (JV) or a Constituent Entity. If an arrangement does not meet either applicable classifications, it is not directly recognised under the Pillar Two framework and will not be subject to separate top-up tax or reporting or compliance obligations, although the relevant share of its financial results may still be considered in the calculations for its Constituent Entity-owner.

Equity accounted joint ventures

Joint ventures that are equity accounted will not ordinarily be Constituent Entities of an MNE group, as their accounting results are equity accounted, rather than consolidated, in the CFS of the UPE. However, they may still be brought into scope of the rules as a GloBE JV or GloBE JV subsidiary of an MNE group, depending on the facts and circumstances.

An entity is classified as a GloBE JV if its financial results are reported under the equity method in the CFS of the UPE of the MNE group for the fiscal year and the UPE's ownership interest percentage in the entity is at least 50%. Subsidiaries of a GloBE JV which are, or would be, consolidated by the GloBE JV on a line-by-line basis under applicable accounting standards may also be in scope and are referred to as GloBE JV subsidiaries.

However, an entity is not a GloBE JV if one or more of the following exceptions apply:

- It is the UPE of an applicable MNE Group
- It is an Excluded Entity that is a governmental entity, international organisation, non-profit organisation, pension fund, or an investment fund or real estate investment vehicle that is a UPE
- The entities in the MNE group that hold direct ownership interests in it are Excluded Entities of the type referred to above, provided certain asset or activities tests are satisfied or
- The MNE Group is comprised exclusively of Excluded Entities.

The GloBE JV and its GloBE JV subsidiaries are treated as Constituent Entities of a separate deemed group, and the GloBE JV as the UPE of the deemed separate MNE group.

The ATO guidance clarifies that if the GloBE JV is considered a Flow-through Entity, then the special rules in Part 7-1 of the Rules treat the GloBE JV as a deemed UPE. The principle underlying this rule is the top-up tax exposure of a Flow-through UPE (or deemed UPE in the case of a GloBE JV) is reduced to the extent that the tax neutrality regime imposes tax on the direct owners of the UPE (e.g. partners, beneficiaries, or shareholders) at or above the Minimum Rate on the UPE's income contemporaneously or within a short time. This a positive development given that many joint ventures in Australia are held through Trusts, including Managed Investment Trusts, which are fiscally transparent and would have a low or nil ETR in the absence of this special rule. However, the application of Part 7-1 continues to be problematic for certain trust and MIT structures and requires further attention.

The GloBE JV and GloBE JV subsidiaries are liable to pay any applicable DMT top-up tax, but not for IIR or UTPR top-up tax. Any liability for IIR or UTPR top-up tax in respect of a GloBE JV or GloBE JV subsidiary is imposed on members of the MNE Group in proportion to the MNE group's share of the top-up tax.

There are additional joint and several liability rules that apply to GloBE JVs. Broadly, where GloBE JVs and GloBE JV subsidiaries are liable to pay top-up tax, each of these entities and the group entities of the MNE group that have direct ownership interests in the JV are jointly and severally liable to pay the amount, although certain exceptions may apply.

Joint operations

Joint operations are generally consolidated on a line-by-line basis using proportional consolidation method by the parent entity. Accordingly, they may be Constituent Entities. However, to be considered a Constituent Entity, a joint operation must first qualify as an "Entity", either as a separate legal person, or as an arrangement required to prepare separate financial accounts. A joint operation that does not meet that condition may still be treated as a Constituent Entity if it gives rise to a Permanent Establishment (as specifically defined for Pillar Two purposes) of another Constituent Entity or GloBE JV.

The ATO guidance confirms that every arrangement must be evaluated based on their particular facts and circumstances. If a joint operation is a Constituent Entity, then the MNE Group could have separate calculations, reporting and liability requirements in relation to it.

The ATO guidance confirms that joint operations classified as Constituent Entities are not required to lodge a GIR if they are not GloBE located in Australia. This includes Flow-through Entities created in Australia that are treated as Stateless Constituent Entities.

However, MNE groups must still report information about each Constituent Entity in the GIR. The ATO guidance confirms that it will apply an administrative approach and accept GIRs that do not list joint operations as separate Constituent Entities, but only where specific circumstances are met.

LI 2025/28 Taxation Administration (Exemptions from Requirement to Lodge Australian IIR/UTPR Tax Return and Australian DMT Tax Return) Determination 2025 finalised

The final LI regarding exemptions from lodging Australian Pillar Two tax returns was registered on 22 December 2025.

The LI provides exemptions for certain types of entities from lodging the DMTR and AIUTR, specifically aimed at reducing unnecessary compliance for entities that would only ever report a nil liability under Australia's rules. However, the LI does not exempt such entities from the lodgment of the GIR where local lodgment is required, nor the foreign lodgment notification where the GIR is lodged in a foreign jurisdiction.

The final LI includes some minor changes from the draft LI. Please refer to our previous Tax Alert for further details in relation to the LI.

Taxation (Multinational – Global and) Amendment (2025 Measures No. 1) Rules 2025 (Amending Rules) registered

On 5 January 2026, the Australian Government registered the Amending Rules on the Federal Register of Legislation.

The Amending Rules include minor changes relating to the release of OECD Administrative Guidance and as noted in the Explanatory Statement (ES) are necessary to maintain consistency with the OECD Model Rules and to ensure Australia achieves and preserves "qualified" status under the OECD/GloBE framework.

The Amending Rules provide clarification as to the limited circumstances under which securitisation entities may be subject to UTPR top-up tax, minor technical corrections to the DMT rules, such as replacing references to "final Australian withholding tax" with simply "withholding tax," and clarification that regulated mutual insurance companies may elect to be treated as tax transparent, provided they meet specific requirements.

Please refer to our previous Tax Alert for further details in relation to Amending Rules.

How EY can help

Our EY team of BEPS Pillar Two advisors can support you with:

- Preparing for the upcoming compliance obligations, including the preparation and filing of the GIR and the Australian CGDMTR, which covers the Australian DMT Return, the Australian IIR/UTPR Return and the Foreign Notification Form.
- Development and maintenance of a compliance calendar to track your global Pillar Two compliance requirements.
- Conducting a current-state assessment of your data availability, systems and processes, assisting with software implementation and redesign of tax processes to meet Pillar Two compliance needs.
- Understanding the financial reporting implications for both local and group financial statements, to ensure that your reporting aligns with the latest regulatory requirements.
- Providing technical advice on Australia's Pillar Two Rules, as well as guidance on how these rules interact with Australia's local tax legislation.
- Considering the impact of Pillar Two on your commercial arrangements, transactions and M&A activity to help you manage potential risks and opportunities.
- Assisting with the process of obtaining Private Binding Rulings from the ATO on specific Pillar Two matters relevant to your organisation.
- Developing tax funding agreements to facilitate the recharge of Pillar Two taxes across your group entities.
- Delivering tailored training sessions for your internal tax teams and other key stakeholders to ensure readiness and understanding of the new requirements.
- Supporting you with early and direct engagement with the ATO to address any compliance or administrative challenges.

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