

# GLOBAL MINIMUM TAX (PILLAR TWO): IMPLEMENTATION IN MALAYSIA

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The OECD/G20 Inclusive Framework's Two-Pillar Solution announced in October 2021 establishes Pillar Two as a 'common approach' intended to ensure that large multinational enterprise (MNE) groups pay a minimum level of tax in each jurisdiction where they operate.

The mechanism is the Global Anti-Base Erosion (GloBE) rules, which impose a 'top-up tax' where the jurisdictional effective tax rate (ETR) falls below 15%. This architecture is not framed as a harmonisation of statutory corporate tax rates, rather, it is a coordinated outcome rule, constructed through a jurisdiction-by-jurisdiction blending of profits and covered taxes and then a top-up to the minimum rate where required.<sup>15</sup>

For capital-importing jurisdictions such as Malaysia, the Global Minimum Tax (GMT) does not merely raise a floor. It reshapes the mechanics of fiscal sovereignty, neutralises core incentive techniques for in-scope MNEs, and redistributes the practical incidence of taxing rights through rule ordering. The reform is presented as coordination. In practice, it functions as conditional compulsion. The real policy question then shifts from "whether to participate" to "how to avoid structural disadvantage within participation."

From a domestic legal perspective, this reframes GMT not as an abstract international commitment, but as a concrete charging mechanism embedded within Malaysian income tax law. The implications are therefore not merely policy-oriented, they are operational and compliance-driven.

Malaysia's adoption of the GMT must be read against its broader international tax commitments. The Ministry of Finance has stated Malaysia's participation in OECD tax initiatives as an associate member with commitments that include transparency and substance expectations tied to tax incentives and preferential regimes. This is relevant context because Pillar Two alters the effective value of incentives that reduce covered taxes without reducing the GloBE income base and it therefore pressures incentive design toward refundable credits or non-tax instruments or toward incentives that more directly affect the profit base used for GloBE computations.<sup>16</sup>

Separately, for the purposes of administrative compliance, the Inland Revenue Board (IRB) has framed Malaysia's GMT as a dual-mechanism system, comprising of a Domestic Top-up Tax (DTT) to secure domestic taxing rights over low-taxed Malaysian profits and a Multinational Top-up Tax (MTT) that aligns with Pillar Two's income inclusion model. IRB's guideline explicitly positions these mechanisms as Malaysia's implementation of the GloBE rules within Part XI of the Income Tax Act 1967.<sup>17</sup>

<sup>15</sup> OECD/G20 Inclusive Framework on BEPS, 'Statement on a Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalisation of the Economy' (8 October 2021) <<https://www.oecd.org/content/dam/oecd/en/topics/policy-issues/beps/statement-on-a-two-pillar-solution-to-address-the-tax-challenges-arising-from-the-digitalisation-of-the-economy-october-2021.pdf>>; accessed 2 March 2026.

<sup>16</sup> Ministry of Finance Malaysia, 'Malaysia's Commitment in International Tax Standard'

<sup>17</sup> Guideline on the Implementation of Global Minimum Tax in Malaysia (12 September 2025)

## Malaysia Within The Pillar Two Rule <sup>18</sup>

Concept	What Pillar Two targets	Malaysia's implementation choice
<b>Minimum standard</b>	Jurisdictional ETR floor of 15%	A domestic charge (DTT) plus a multinational charge (MTT)
<b>Computation method</b>	Jurisdictional blending of profit and covered taxes	RB depicts an eight-step top-up I computation workflow
<b>Compliance instrument</b>	Standardised information return (GIR) and safe harbours	IRB adopts GIR filing/exchange approach and safe-harbour framework

### 1. Legal basis and scope

On paper, Pillar Two rests on a deceptively simple premise, where large MNE groups with consolidated revenues of at least 750 million Euros should pay a minimum effective tax rate of 15% in every jurisdiction in which they operate.

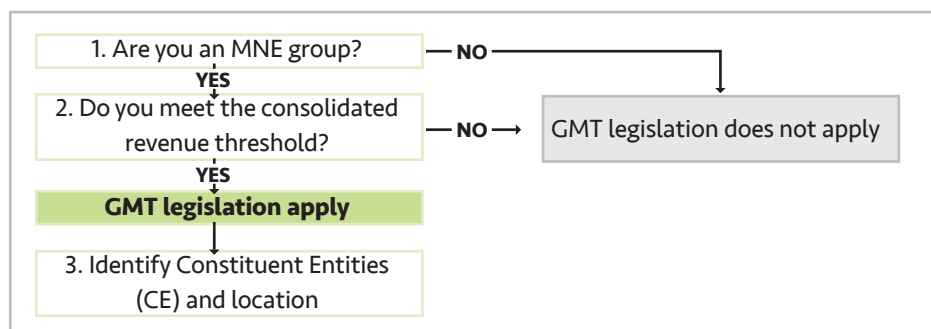
Yet the machinery through which this minimum is enforced is neither simple nor neutral. The regime is built around three interlocking mechanisms:

- a) The Income Inclusion Rule (IIR) which permits the jurisdiction of the Ultimate Parent Entity (UPE) to impose a top-up tax where low-taxed income arises elsewhere in the group.
- b) The Undertaxed Profits Rule (UTPR) which functions as a secondary rule reallocating taxing rights to other jurisdictions where the IIR is not applied.
- c) The Qualified Domestic Minimum Top-Up Tax (QDMTT) which allows the source jurisdiction to collect the top-up tax itself before it is ceded to others.

The legislative and operational framework for DTT and MTT sits in the new Part XI of the Income Tax Act 1967 (ITA 1967), introduced through the Finance (No 2) Act 2023. DTT and MTT take effect for financial years beginning on or after 1 January 2025.<sup>19</sup>

The Finance (No 2) Act 2023 text contains the insertion of the new Part XI under the heading 'Implementation of Domestic Top-up Tax and Multinational Top-up Tax', evidencing the statutory choice to place GMT within the core income tax statute rather than as an external levy.<sup>20</sup>

These inclusions are consistent with the GloBE model, where Malaysia applies the 750 million Euro consolidated revenue threshold and requires that the group be an MNE group in the tested year. IRB's flowchart below explains that a purely domestic group is not an MNE group and is therefore outside the regime even if it meets the revenue threshold because the definition of MNE group requires at least one entity or permanent establishment outside the jurisdiction of the ultimate parent entity.<sup>21</sup>



<sup>18</sup> <https://www.hasil.gov.my/en/international/global-minimum-tax-gmt/how-to-calculate-the-top-up-tax/>

<sup>19</sup> Guideline on the Implementation of Global Minimum Tax in Malaysia (12 September 2025)

<sup>20</sup> Finance (No 2) Act 2023 (Act 851)

<sup>21</sup> <https://www.hasil.gov.my/en/international/global-minimum-tax-gmt/flowchart-the-application-of-gmt/>

Excluded entities remain central in Malaysia because they determine whether a particular entity is treated as a 'Constituent Entity' for Pillar Two purposes. The excluded entities in the GMT application are governmental entities, international organisations, non-profits, pension funds and certain investment funds or real estate investment vehicles that are ultimate parent entities.<sup>22</sup>

However, the insertion of Part XI into the ITA raises a structural interpretive question: DTT and MTT are labelled as income tax, yet their computational base is not "statutory income" as understood under Sections 4, 5 and 33 of the ITA.

Instead, they are derived from GloBE income, a financial accounting construct subject to OECD-defined adjustments. This creates a dual-track income tax regime within a single statute, one based on source-derived statutory income and another based on jurisdictionally blended accounting profit. The coexistence of these bases may give rise to interpretive tension where definitions overlap or conflict.

## 2. Mechanics in Malaysia: Top-up computation and DTT circularity

It can be understood from the IRB's guidelines that the computation of top-up tax uses the jurisdictional blending mechanism in which income and covered taxes are aggregated for all constituent entities within the same jurisdiction. The jurisdictional ETR is then calculated and where it is below 15%, a top-up percentage is applied to arrive at the jurisdictional top-up amount.<sup>23</sup>

The critical Malaysia-specific design choice is that DTT is intended to operate domestically without creating circularity in the calculations. IRB states that, when computing DTT, a portion is removed 'to prevent a circular computation' and it summarises the result as:<sup>24</sup>

$$\text{DTT} = (\text{Top-up Tax Percentage} \times \text{Excess Profits}) + \text{Additional Current Top-up Tax}$$

Where:

$$\text{Top-up Tax Percentage} = 15\% - \text{Jurisdictional Effective Tax Rate}$$

$$\text{Jurisdictional Effective Tax Rate} = \frac{\text{Sum of the Adjusted Covered Taxes of each CE in Malaysia}}{\text{Net GloBE income of each CE in Malaysia}}$$

$$\text{Excess Profits} = \text{Net GloBE income} - \text{Substance-based income Exclusion}$$

These framing matters because it indicates that Malaysia's domestic minimum tax is not merely an accounting add-back but is structured to preserve the GloBE computation order.

The IRB's Domestic Top-up Tax guideline describes DTT as a charge derived from the jurisdictional top-up tax computed under the regime and then allocated to Malaysian constituent entities with positive GloBE income, proportionate to their share of total positive domestic GloBE income. The practical consequence is that

<sup>22</sup> Guideline on the Implementation of Global Minimum Tax in Malaysia (12 September 2025)

<sup>23</sup> <https://www.hasil.gov.my/en/international/global-minimum-tax-gmt/how-to-calculate-the-top-up-tax/>

<sup>24</sup> Guideline on the Implementation of Domestic Top-Up Tax in Malaysia (3 February 2026)

DTT is not an entity-specific minimum tax, rather it is a jurisdictional top-up that is subsequently assigned across profitable domestic entities.<sup>25</sup>

A further Malaysia-specific point is the institutional narrative around investment competitiveness. MIDA's public note on Malaysia's GMT recognises that global minimum tax may reshape investor choices and indicates an ongoing review of Malaysia's tax incentive framework with the stated aim of preserving competitiveness while aligning with the new international policy environment. This is significant because it anticipates that Malaysia's response may increasingly rely on non-tax incentives or Pillar Two-resilient instruments, rather than rate reductions that are neutralised by top-up tax.<sup>26</sup>

### 3. Administration in Malaysia

Malaysia's GMT compliance architecture has two reporting layers: the group-wide GloBE Information Return (GIR) and Malaysia-specific top-up tax returns required from constituent entities. The GIR is typically submitted to the tax authority in the ultimate parent entity's jurisdiction and it further recognises exchange-based compliance via Qualifying Competent Authority Agreements (QCAA) under which Malaysian constituent entities may not need to file the GIR locally where exchange mechanisms apply.<sup>27</sup>

A key 2025 clarification is IRB's requirement that the MNE group identify for each implementing jurisdiction or QDMTT-only jurisdiction, the relevant category and the GIR data points that should be provided to that jurisdiction. This pushes compliance beyond 'prepare one GIR' toward 'govern dissemination' and it will likely drive internal controls, audit trails and cross-jurisdictional sign-off processes especially for groups headquartered outside Malaysia with Malaysian constituent entities.<sup>28</sup>

On timing, IRB provides transitional filing relief, where filings may be made within 18 months after the end of the reporting year for the first filing transition year. The operation of that transitional approach for early years reinforces that Malaysia is intentionally pursuing a 'soft landing' compliance posture consistent with OECD transitional penalty relief concepts.<sup>29</sup>

Further, Malaysia also provides a transitional penalty relief during the defined transition period, under which no fines or penalties will be imposed where IRB considers that the taxpayer has taken 'reasonable measures' and acted in good faith to comply. The penalty relief is framed as administrative discretion anchored to a factual standard ('reasonable measures') which is capable of being contested, audited and evidenced in practice through governance documentation.

The phrase 'reasonable measures' is not statutorily defined. In practice, this places emphasis on demonstrable governance frameworks, documented tax control processes, internal review protocols and evidence of reliance on professional advice where appropriate. Absent such documentation, taxpayers may face difficulty substantiating good faith compliance in the event of audit.

### 4. Safe Harbours: Malaysia's practical exposure and strategic choices

Malaysia in general adopts the GloBE safe-harbour architecture including

<sup>25</sup> Guideline on the Implementation of Domestic Top-Up Tax in Malaysia (3 February 2026)

<sup>26</sup> Malaysian Investment Development Authority (MIDA), 'The Implementation of Global Minimum Tax (GMT) in Malaysia' &lt;<https://www.mida.gov.my/the-implementation-of-global-minimum-tax-gmt-in-malaysia/>&gt;

<sup>27</sup> Guideline on the Implementation of Global Minimum Tax in Malaysia (12 September 2025)

<sup>28</sup> Guideline on the Implementation of Global Minimum Tax in Malaysia (12 September 2025)

<sup>29</sup> IRB, Frequently Asked Questions on the Implementation of the Global Minimum Tax (GMT) in Malaysia (FAQs version 6.0, 3 February 2026)

the QDMTT safe harbour, transitional CbCR safe harbour and permanent safe harbour. Safe harbours are not simply concessions, but they operate as jurisdiction-level risk filters that can reduce compliance burdens while simultaneously narrowing dispute terrain by deeming top-up to be zero where the conditions are satisfied.<sup>30</sup>

Malaysia's introduction of a DTT must be understood within this framework. In the absence of a DTT, any effective tax rate below 15% would simply generate additional tax liabilities payable in the jurisdiction of the parent entity. The QDMTT therefore functions as a protective mechanism, ensuring that Malaysia retains taxing rights over income generated within its territory. The question that then, remains unanswered is whether this enhances Malaysia's competitive position or it prevents revenue displacement?

### **5. Malaysia-specific policy implications: Incentives, administrative law and dispute risk**

Malaysia's GMT implementation is likely to affect investment policy primarily through the incentive channel. Malaysia has historically managed competitiveness using targeted tax incentives, many of which have been reviewed in the OECD context for transparency, substance and harmful tax practice risks. Pillar Two adds a new dimension by reducing the effectiveness of incentives that depress covered taxes below a 15 per cent ETR outcome. In turn, this may accelerate Malaysia's incentive recalibration toward 'Pillar Two-resilient' instruments and non-tax support.

MIDA's commentary aligns with this direction, explicitly noting that GMT may reshape investor choices and that Malaysia is reviewing its incentive framework to keep it relevant and competitive. From a legal-policy perspective, this foreshadows a shift from 'rate competition' toward 'base and substance competition' where investors are attracted by operational ecosystems, grants and infrastructure rather than by low ETR outcomes susceptible to top-up.<sup>31</sup>

A further Malaysia-specific legal issue is the role of IRB's guidance in shaping compliance expectations. IRB's guideline expressly states that where inconsistencies arise, the GloBE rules should take precedence. This creates a layered interpretive environment, where there is primary law in Part XI ITA 1967, administrative guidelines and OECD commentary/administrative guidance being treated as interpretive anchors. In practice, dispute risk is likely to concentrate on classification questions, safe-harbour eligibility and evidence of 'reasonable measures' for penalty relief.

Finally, Malaysia's approach must be seen as part of a broader coordinated system, not as an isolated domestic minimum tax. The OECD model rules and accompanying examples emphasise that Pillar Two is built to produce coordinated outcomes and avoid double taxation through rule ordering, offsets and allocation mechanics. Where Malaysia's DTT matures into a 'qualified' domestic minimum tax, its practical significance extends beyond Malaysian collections. It becomes a shielding mechanism that can reduce top-up exposure elsewhere.

<sup>30</sup> *Guideline on the Implementation of Global Minimum Tax in Malaysia* (12 September 2025)

<sup>31</sup> *Malaysian Investment Development Authority (MIDA), 'The Implementation of Global Minimum Tax (GMT) in Malaysia'* &lt;<https://www.mida.gov.my/the-implementation-of-global-minimum-tax-gmt-in-malaysia/>&gt;

## Conclusion

If rate-based incentives are neutralised for large MNEs, Malaysia must then reconsider the design of its investment promotion regime. The strategic shift must move toward instruments that remain effective within Pillar Two framework, including:

- Properly structured refundable tax credits that are recognised favourably under the GloBE rules.
- Direct grants and subsidies.
- Enhanced allowances linked to substantive economic activity regulatory and infrastructural facilitation.

Replacing implicit tax competition with explicit fiscal support shifts the policy debate from technical tax design to broader questions of public finance and accountability. The GMT therefore compels not merely technical adjustment, but institutional recalibration.

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