

# **BEPS 2.0 Implementation in Hong Kong: Proposed Roadmap and Strategies**



**Inland Revenue Department**  
**The Government of the Hong Kong Special Administrative Region**

**January 2024**

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**Recap of the  
GloBE Rules and  
Domestic Minimum  
Top-up Tax**

# Key elements of the GloBE Rules

## Principal Rules – GloBE Rules

- Income Inclusion Rule (IIR) and Undertaxed Profits Rule (UTPR), collectively known as the Global Anti-Base Erosion (GloBE) Rules

## Scope

- Multinational enterprise (MNE) groups with annual consolidated revenue of or above EUR 750 million

## Minimum Tax Rate

- 15%

## Effective Tax Rate (ETR) Calculation

- By reference to financial accounting net income or loss
- Agreed adjustments to address permanent difference and timing difference
- ETR calculated on jurisdictional basis

## Common approach

- Implementing jurisdictions are required to implement and administer the GloBE rules in a way that is consistent with the agreed outcomes

# Qualified Domestic Minimum Top-up Tax (QDMTT)

- To **forestall the ceding of taxing rights** to other jurisdictions by virtue of the GloBE rules, many jurisdictions adopt QDMTT, i.e. application of top-up tax to domestic low-taxed constituent entities
- QDMTT **will not increase the tax liability of the MNE group as a whole** (as other constituent entities of the MNE group will otherwise be liable to top-up tax elsewhere under the GloBE rules)
- QDMTT can **reduce** compliance burden if it is implemented in a way which is consistent with the outcome of the GloBE rules and the Commentary
- **Conditions** for QDMTT
  - implemented in a way that is **consistent with the outcomes of the GloBE rules and the commentary**
  - does **not provide any benefits** that are related to such rules
- GloBE top-up tax will be **reduced** by QDMTT
  - $\text{GloBE rules top-up tax} = (\text{net GloBE income} - \text{SBIE}) \times (\text{min tax rate} - \text{ETR}) - \text{QDMTT}$
- DMTT **not qualified as QDMTT** will be treated as covered tax only and **cannot be directly credited against the GloBE top-up tax**

# Core provisions of the GloBE Rules

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Step 1

## **Determine whether the MNE group is within scope**

Identify groups within scope

Step 2

## **Allocate income of constituent entities on a jurisdictional basis**

Identify the location of each constituent entity within the group and allocate the income to these constituent entities

Step 3

## **Calculate the GloBE income**

Determine GloBE income of each constituent entity

Step 4

## **Determine adjusted covered taxes**

Determine taxes attributable to GloBE income of a constituent entity

Step 5

## **Compute the effective tax rate and calculate the top-up tax**

Calculate the effective tax rate for all constituent entities located in the same jurisdiction and determine resulting top-up tax

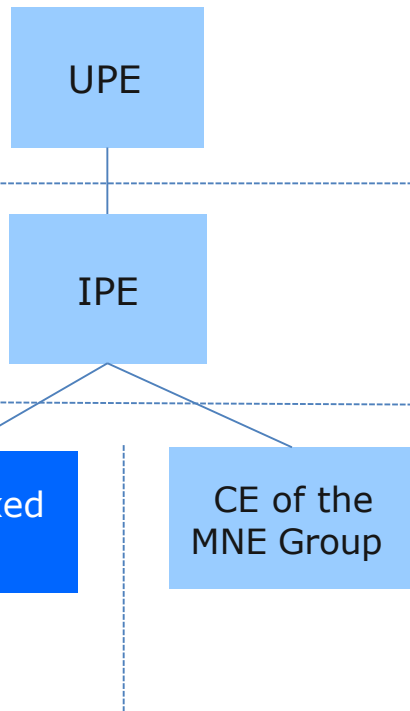
Step 6

## **Charge the top-up tax under QDMTT, IIR or UTPR**

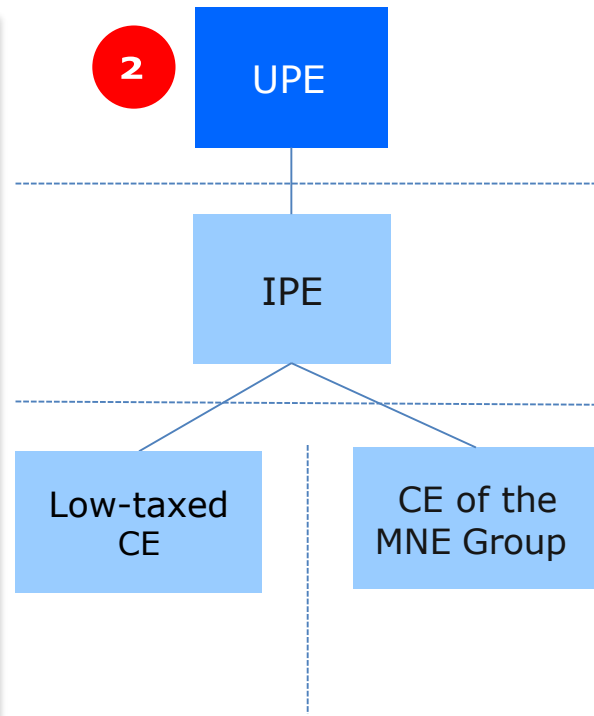
Impose top-up tax under QDMTT, IIR or UTPR in accordance with agreed rule order and allocation mechanism

# Agreed Rule Order

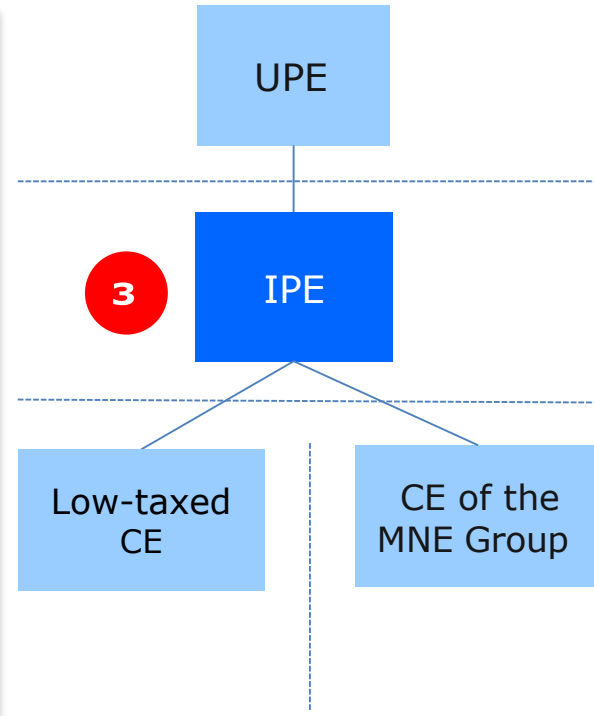
## QDMTT



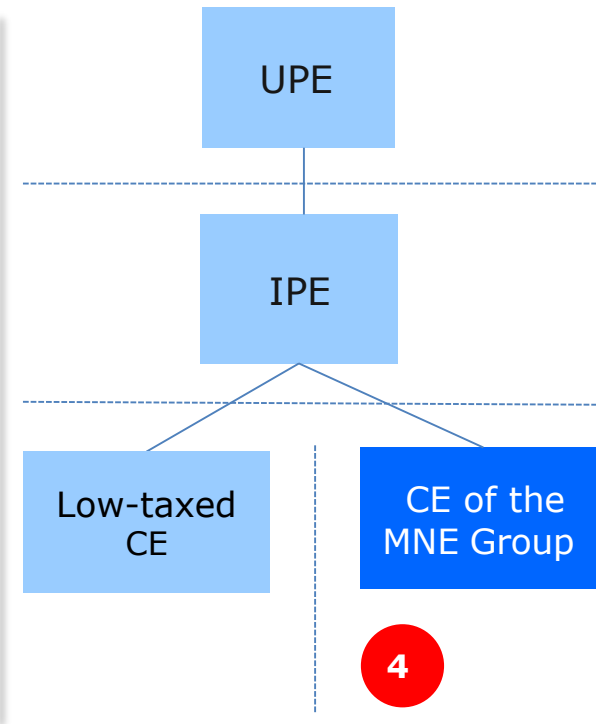
## IIR



## IIR



## UTPR

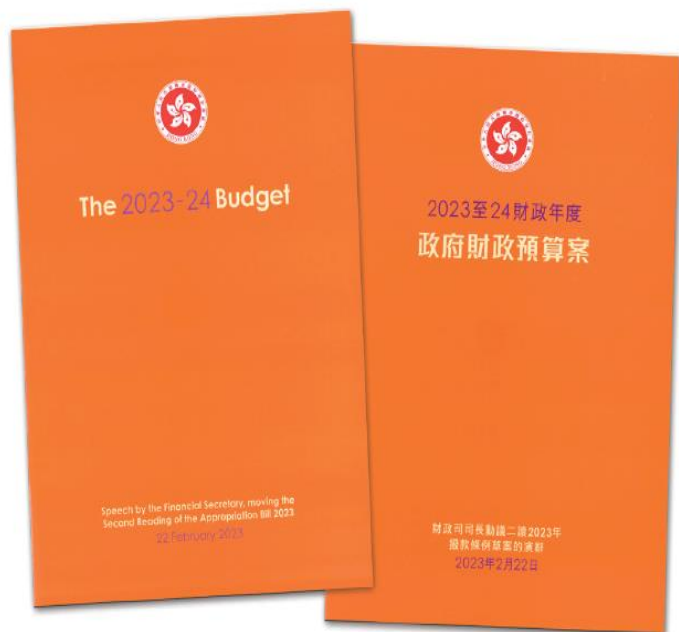




# **Hong Kong's Roadmap and Strategies**



# The 2023-24 Budget



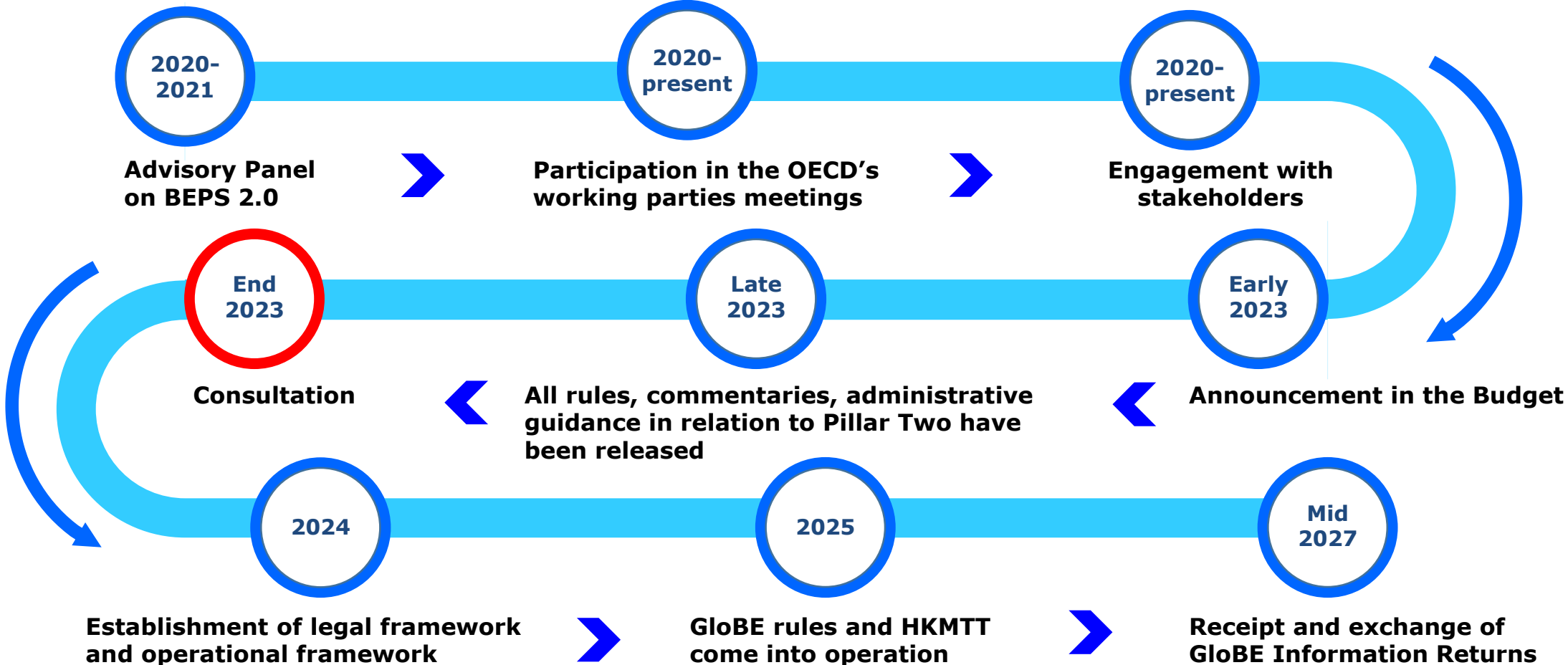
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Hong Kong will implement the global minimum effective tax rate in accordance with international consensus so as to safeguard our taxing rights and maintain the competitiveness of our tax regime.

Hong Kong plans to apply the global minimum effective tax rate on these large MNE groups and implement the domestic minimum top-up tax starting from **2025** onwards.

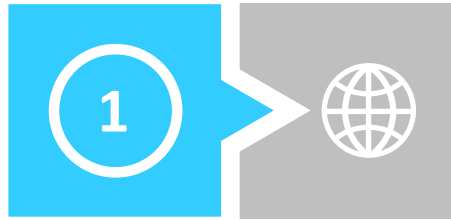
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# Implementation timeline

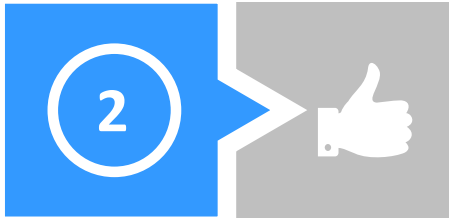


# The Guiding Principles

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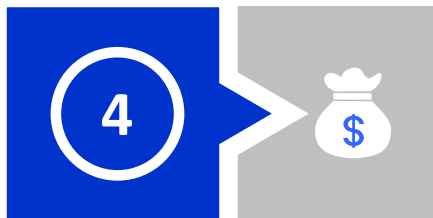
**To apply the GloBE rules and Hong Kong minimum top-up tax (HKMTT) to in-scope MNE groups only (i.e. MNE groups with consolidated annual revenue of EUR 750 million or above)**



**To maintain the territorial source principle of taxation and continue to apply the broad guiding principle when determining the source of profits outside the context of the GloBE rules**



**To uphold Hong Kong's simple, certain and low tax regime with due regard to tax competitiveness**



**To minimize the compliance burden of in-scope MNE groups while safeguarding Hong Kong's taxing rights**

# Legislative Approach

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## Key elements

- GloBE rules (i.e. IIR and UTPR)
- HKMTT
- Implementation framework

## Implementation approach

- Hybrid legislative approach – directly incorporating the GloBE model rules into the IRO with limited adaptations as far as practicable
- The rules have to be read and applied in a way the best secures consistency with the requirements and guidance provided in the commentary and administrative guidance of the GloBE rules
- Top-up tax under HKMTT and GloBE rules is to be regarded as Profits Tax under the IRO
- Interaction with the IRO, e.g. low-taxed income will be subject to top-up tax under HKMTT and GloBE rules despite the income is offshore or capital in nature under section 14 of the IRO



# Location of Constituent Entity – Hong Kong Resident

## Residency rule

- Local residency rule is crucial to the application of the GloBE rules and HKMTT as it determines the taxing rights and affects the computation of jurisdictional ETR and where the top-up tax has to be paid
- Hong Kong adopts territorial source principle of taxation and does not impose tax based on an entity's residence. Hence, the IRO does not contain definition of "resident" for general purpose

## For the purposes of HKMTT and GloBE rules, propose to provide the following definition:

- An entity is a Hong Kong resident entity if –
  - a) in the case where an entity is a company: the entity is incorporated in Hong Kong, or if incorporated outside Hong Kong, normally managed or controlled in Hong Kong; or
  - b) in any other case: the entity is constituted under the laws of Hong Kong, or if otherwise constituted, normally managed or controlled in Hong Kong
- Propose to apply the above definition with retrospective effect from **1 January 2024**



# Implementation of GloBE Rules in Hong Kong

## Objective

- To secure a qualified status of the GloBE rules implemented in Hong Kong under the OECD's peer review

## Scope

- Apply to the MNE group with the revenue threshold of or above EUR 750 million
- Smaller Hong Kong-headquartered MNE groups are not affected
- Adopt Euro currency as revenue threshold so to avoid rebasing the revenue threshold each year

## UTPR

- Charge top-up tax by way of an equivalent adjustment instead of denial of deduction
- Allocation of top-up tax:
  - By default, the top-up tax will be allocated among Hong Kong constituent entities based on their respective number of employees and value of tangible assets
  - The default mode can be disapplied if the group designates one or more than one Hong Kong constituent entity to pay the top-up tax
- UTPR will not apply to MNE groups which are in their initial phase of international activity
  - Relief not applicable if Hong Kong is the reference jurisdiction (i.e. where the group has the highest total value of tangible assets)

# Implementation of Hong Kong Minimum Top-up Tax

## Objective

- To ensure that the HKMTT will be assessed as a QDMTT in the OECD's peer review process
- To enable in-scope MNE groups to benefit from the QDMTT safe harbour so that the top-up tax payable under the GloBE rules in respect of Hong Kong is deemed as zero

## The Mechanics

- Mirror all the requirements of the GloBE rules subject to the permitted and optional variations within OECD's framework
- Impose on the whole amount of the total top-up tax computed in respect of all Hong Kong constituent entities, irrespective of the group's ownership interest held in the constituent entities

## Scope

- Apply to MNE groups with consolidated revenue of or above EUR 750 million
- In-scope MNE groups, whether headquartered in Hong Kong or outside Hong Kong, will be covered

## Relief measures

- Though not mandatory, relief measures provided under the GloBE rules, such as substance-based income exclusion, de minimus exclusion and relief for initial phase of international activity will still be available under the HKMTT

# Core Design of Hong Kong Minimum Top-up Tax

## Allocation of HKMTT liability

- By default, the HKMTT will be allocated among Hong Kong constituent entities of an in-scope MNE group based on the ratio of the GloBE income of the Hong Kong constituent entities to the aggregate GloBE income of all Hong Kong constituent entities of the group
- The default mechanism can be disapplied if the group designates one or more than one Hong Kong constituent entity as paying entity. If this is the case, all Hong Kong constituent entities of the group will be jointly and severally liable for the whole amount of the top-up tax payable

## Financial accounting standard

- Allow the use of local financial accounting standard for HKMTT computation instead of the one used by the group's UPE in preparing the consolidated financial statements
- To secure the eligibility for the QDMTT safe harbour, if the local financial accounting standard is adopted, the QDMTT jurisdiction must require the use of the local financial accounting standard where the conditions are met. MNE groups must not be given an option to choose which standard to use



## Transitional Safe Harbours

- Allow in-scope MNE groups to determine whether they are liable to any top-up tax by a simple calculation or yardstick in the initial years in which the GloBE Rules are being introduced

### ***CbCR safe harbour***

- Use of simplified jurisdictional revenue and income information contained in the MNE's qualified CbC report and jurisdictional tax information contained in its qualified financial statements.
- Applies to a transition period covering all fiscal years beginning on or before 31 Dec 2026 but not including a fiscal year that ends after 30 Jun 2028
- Top-up tax in a jurisdiction will be deemed zero if the group can satisfy one of the following tests:
  - De minimis test
  - Simplified ETR test
  - Routine profits test

### ***UTPR safe harbour***

- Not applicable to Hong Kong

## Permanent Safe Harbours

- Allow in-scope MNE groups to assume that the top-up tax for a jurisdiction is zero under certain conditions

### ***QDMTT safe harbour***

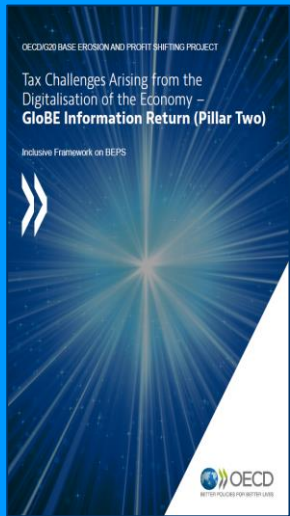
- Where an in-scope MNE group is eligible for the QDMTT safe harbour in respect of a jurisdiction, the group will only need to undertake one QDMTT calculation and be relieved from applying the GloBE rules to that jurisdiction since the top-up tax payable in respect of that jurisdiction under the GloBE rules will be deemed to be zero
- Additional set of standards
  - QDMTT accounting standard
  - Consistency standard
  - Administration standard

**The Government proposes to provide the CbCR safe harbour and QDMTT safe harbour in the legislation**

# Tax Compliance – Filing of return and notification

	Top-up tax return	Top-up tax notification
Filing Obligations	Each Hong Kong constituent entity of an in-scope MNE group will be required to furnish a single top-up tax return for the purposes of GloBE rules and HKMTT	Each Hong Kong constituent entity of an in-scope MNE group will be required to file an annual notification relating to its obligation of filing top-up tax return
Relief measures	An in-scope MNE group, whether headquartered in or outside Hong Kong, will be allowed to designate one Hong Kong constituent entity (Designated Local Entity) to file the top-up tax return /top-up tax notification to the IRD such that all other HK constituent entities of the group will be relieved from their filing obligation	
Filing means	In prescribed manner and form – a designated electronic platform Service provider will be accommodated	
Filing deadline	No later than 15 months after the last day of the reporting fiscal year. Transition year: extend to 18 months	No later than 6 months after the end of the fiscal year
Designated Local Entity	Expected to be the UPE of the group if it is a Hong Kong-headquartered group	Same entity of filing the top-up tax return

# The GloBE Information Return (GIR)



1 MNE Group Information

1.1 Identification of the Filing Constituent Entity

1. UPE in the Filing Constituent Entity	2. Name of the Filing Constituent Entity	3. Tax Identification number	4. Role	5. Jurisdiction where the Filing CE is located	6. Recipient Jurisdictions for Exchange of Information (if relevant)
Yes/No					

1.2 MNE Group General Information

2 Jurisdictional Safe Harbours and Exclusions

Jurisdictional safe harbours and exclusions – Jurisdictional schedules

The Filing Constituent Entity shall complete Section 2 on a jurisdictional basis, for each jurisdiction where exceptions to the GloBE computation apply.

3 GloBE Computations

GloBE Computations – Jurisdictional schedules

The Filing Constituent Entity shall complete Section 3 on a jurisdictional basis, for each jurisdiction (or subgroup, where relevant) where exceptions to the GloBE computation do not apply.

3.1 Characteristics of the jurisdiction

1. Name of the jurisdiction	2. Type of subgroup (if any)	3. Identification of subgroup (if any) for the ETR and Top-up Tax computation

3.2 ETR computation

3.2.1 ETR

a. Financial Accounting Net Income or Loss	b. Net GloBE Income or Loss	c. Income tax expense	d. Adjusted Covered Taxes	e. ETR
	(A)		(B)	(C)/(B)(A)

## Standard template

- OECD has developed a standard template for the GIR, which contains the information that a tax administration needs to perform an appropriate risk assessment and to evaluate the correctness of a constituent entity's top-up tax liability

## Different sections

- The GIR consists of a general section and jurisdictional sections
- The jurisdictional sections would also be used for purposes of reporting and calculations undertaken under a QDMTT that meets the requirements to be considered as a safe harbour

## Exchange of Information

- The GIR will be exchanged with relevant jurisdictions under the agreed dissemination approach

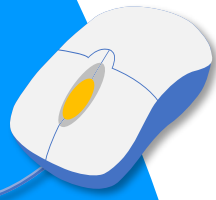
# Top-up Tax Return

## Single return

- Top-up tax return will require necessary information to enable the IRD to determine the MNE group's top-up tax liabilities under the GloBE rules or HKMTT as appropriate
- For an in-scope MNE group which is headquartered in
  - (a) Hong Kong; or
  - (b) a non-Hong Kong jurisdiction that is unable to exchange GIRs with Hong Kong under a qualifying competent authority agreement,the top-up tax return will include data points required in GIR (GIR information)

## Exchange of Information

- The GIR information of a Hong Kong-headquartered MNE group will be exchanged with other relevant jurisdictions which have a qualifying competent authority agreement in place with Hong Kong



# Assessment and Payment of Top-up Tax

- Notice of assessment demanding the top-up tax payable will be issued based on the information declared electronically upon the filing of the top-up tax return
- No provisional tax top-up tax will be charged
- Reasonable time will be allowed for paying the top-up tax charged, say two weeks from the date of the notice of assessment
- Post-assessment audit and compliance check will be performed
- For HKMTT top-up tax or UTPR top-up tax
  - If an in-scope MNE group opts to designate one or more than one paying entity, all Hong Kong constituent entities will be jointly and severally liable for the whole amount of top-up tax payable
  - Recharge of top-up tax by a paying entity to non-paying entities will not be taxable (in the hand of the paying entity) or deductible (in the hand of the recharged entity) under profits tax

# Other Administrative Provisions

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- To maintain simplicity, certainty and preserve continuity, it is proposed to ride on existing administrative provisions of IRO, with necessary modifications, for the purposes of the GloBE rules and HKMTT:
  - Objection procedures
  - Record keeping
  - Collection and recovery of tax
  - Anti-avoidance issues
  - Penalty

# Mandatory Electronic Filing of Profits Tax Returns



## Inland Revenue (Amendment) (Miscellaneous Provisions) Ordinance 2021

- To enhance the statutory framework for electronic filing of profits tax returns
- Empower the CIR to specify the classes or descriptions of taxpayers who must furnish their profits tax returns by e-filing in gazette notice

## Voluntary e-filing of profits tax return

- Launch voluntary e-filing of returns together with financial statements and tax computations in iXBRL format
- IRD support to taxpayers
  - Provision of free conversion tools
  - Provision of online materials
  - Helpdesk
  - Outreaching team
  - Ongoing consultative stakeholder engagement sessions

## First phase of mandatory e-filing

- Plan to issue a gazette notice to require Hong Kong constituent entities of in-scope MNE groups to e-file their profits tax return for a year of assessment beginning on or after 1 April 2025 (i.e. YOA: 2025/26)
- The earliest basis period for YOA 2025/26 commences on 2 April 2024

A 3D maze with a central path leading to a bright light at the end. The maze is constructed from white walls on a light blue floor. The path starts from the bottom center and leads towards a bright light source at the top center, creating a strong perspective and a sense of depth. The walls are uniform in height and width, and the overall scene is brightly lit, with soft shadows cast by the walls.

**We welcome your views**

**email: [beps@fstb.gov.hk](mailto:beps@fstb.gov.hk) by 20 March 2024**