

Decoding Top Up Tax in UAE

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Implementation of Top up tax in UAE

- On 11 February 2025, the Ministry of Finance (MoF) of the United Arab Emirates (UAE) released, Cabinet Decision No. 142 of 2024 on the Imposition of Top-up Tax on Multinational Enterprises.
- **Applicability**
 - Constituent entities (including JVs) located in the UAE
 - Which are Members of an MNE group
 - Whose Consolidated revenues exceeds EUR 750 million for at least 2 of the 4 preceding fiscal years
- Effective for FY starting on or after 1st January 2025.
- Permanent Establishments are treated separately for reporting and tax purposes.
- Specific treatments are provided for unique classification entities such as JV, Minority Owned Constituent Entities, etc.

Basis - Guidelines issued by Organisation for Economic Co – operation and Development (OECD) for BEPS Pillar Two.





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Excluded Entities



- PEs of all above
- Entities $\geq 95\%$ owned (directly/indirectly via above, excluding pension funds) that primarily hold/invest assets or conduct ancillary activities for above.
- Entities $\geq 85\%$ owned (directly/indirectly via above, excluding pension funds) with $\geq 85\%$ income from Excluded Dividends/Gains excluded from Pillar Two.
- **Note - Excluded Entities' revenue counts toward the Euro 750M threshold;**
- **MNEs can elect to exclude entities from this classification.**



Substance based income exclusions (SBIEs)

- The UAE's Net Pillar Two Income is reduced by SBIEs
- SBIEs = **Sum of payroll and tangible asset carve-outs across CEs, excluding UAE-located Investment Entities**

Payroll Carve out	5%* of UAE MNE Group employee Eligible Payroll Costs, excluding capitalized amounts and those tied to International Shipping Income and Qualified Ancillary Income excluded from Pillar 2 Income.
Tangible Assets Carve Out	5%* of the carrying value of - <ul style="list-style-type: none"> ▪ PPE, natural resources, Lessee's right of use of tangible assets located in the UAE; ▪ License or similar arrangement from the government for the use of immovable property or exploitation of natural resources that entails significant investment in tangible assets.

*Different rates applicable for transitional years (2025-2032)

Excess Profit = Net Pillar Two Income - SBIEs

Top up tax = Excess profits * Tax rate



Safe Harbour Rules

Routine Profits Test

The Top-up Tax for UAE-based Constituent Entities can be reduced to zero for a FY if Pillar Two Income is less than SBIEs.

Effective Tax Rate Test

The Top-up Tax for UAE-based Constituent Entities can be reduced to zero if Effective Tax Rate of the UAE is at least 15%.

De Minimis Test

The Top-up Tax for UAE-based Constituent Entities can be reduced to zero for a FY if:

Revenue < EUR 10M



Profit < EUR 1M

This is an annual election, meaning it must be made each FY.



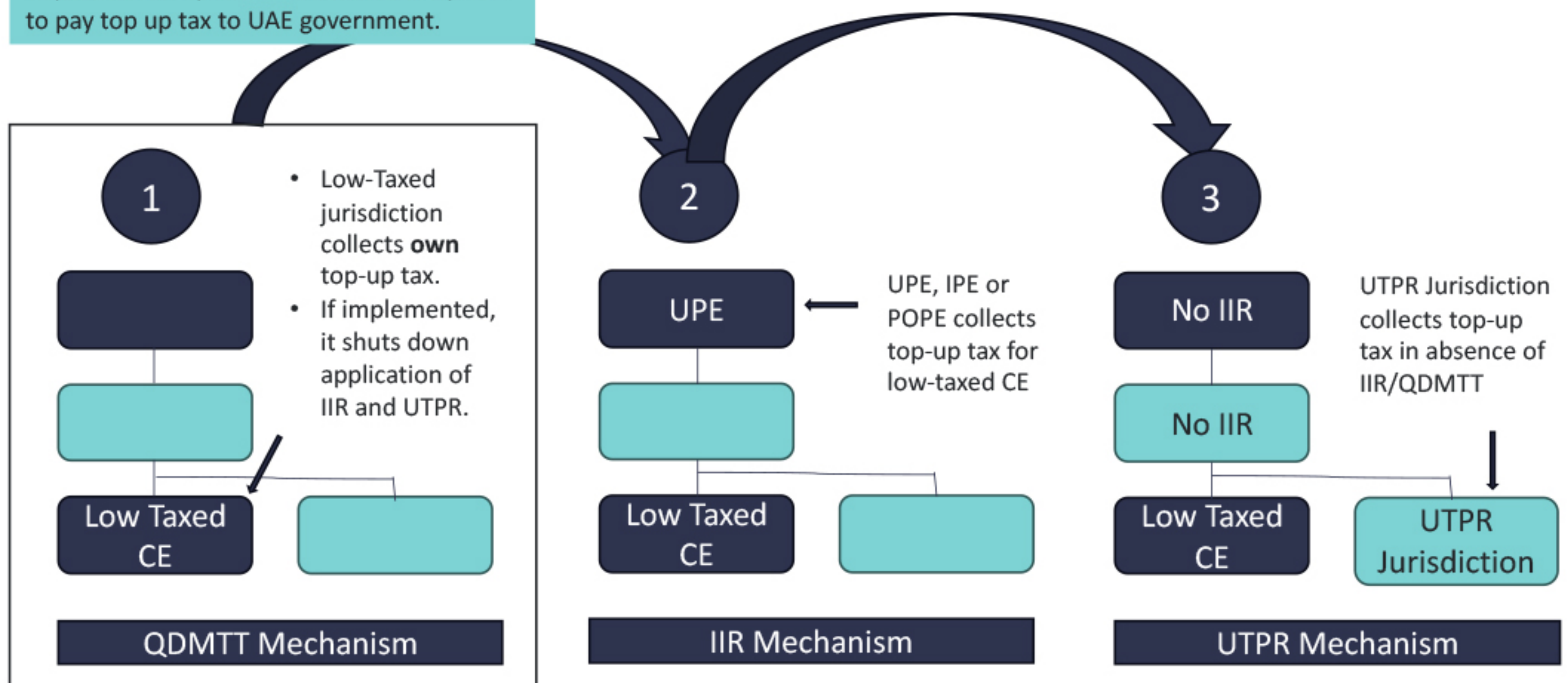


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Tax Collection Mechanism under Pillar Two

Implemented by UAE, hence MNEs required to pay top up tax to UAE government.



Safe Harbour Rules

- The OECD Forum on Harmful Tax Practices (FHTP) in October 2023, has concluded that “Free Zones” within the United Arab Emirates (UAE) are “Not Harmful” as a tax practice.
- Although According to FTA FAQs, all UAE taxpayers—whether classified as Exempt Persons or Qualifying Free Zone Persons—must determine if Cabinet Decision No. 142 of 2024 applies to them. If it does, they must calculate and pay any top-up tax and complete the required filings and notifications.

▲ **7. I am exempt from UAE Corporate Tax or I am eligible for the 0% rate due to being a Qualified Free Zone Person, do I need to comply with Cabinet Decision No. 142 of 2024 on the Imposition of Top-up Tax on Multinational Enterprises?**

All UAE taxpayers, whether they are Exempt Persons or Qualifying Free Zone Persons under the UAE Corporate Tax Law, will need to assess whether they are within scope of Cabinet Decision No. 142 of 2024. If they are in scope, they must comply with Cabinet Decision No. 142 of 2024. This includes calculating and paying any top-up tax due and making the associated filings and notifications, where required.

Source - <https://mof.gov.ae/uae-domestic-minimum-top-up-tax/>



Way Forward

Compliance Requirements

- Top up tax return
 - To be filed by Constituent Entity, Joint Venture and JV Subsidiary located in the UAE.
 - 15 months after Fiscal Year or 18 months after the first Transition Year.
 - Information and reporting requirements equivalent to Pillar Two Information Return. Majorly includes following –
 - MNE Group Information
 - Safe Harbours and Exclusions
 - GloBE computations.



Way Forward

Disclosure Requirements

- As per IFRS guidance of May 2023 amending IAS 12
 - Deferred tax needs to be accounted for due to Pillar Two.
- Qualitative and quantitative overview of expected top-up tax impact to be disclosed.
- Details of current taxes and amount of Pillar Two top-up taxes to be disclosed.

IFRS Disclosures

Qualitative: How the group is affected by Pillar Two legislation and the main jurisdictions with exposure and

Quantitative: Proportion of the entity's profits that might be subject to Pillar Two and the average effective tax rate (ETR), or how the entity's average ETR would have changed if Pillar Two legislation had been effective.



Way Forward

MNEs & Pillar Two

Team Allocation	<ul style="list-style-type: none">• Form a dedicated team to analyze the impact of Pillar Two and coordinate with the Ultimate Parent Entity (UPE).
Test	<ul style="list-style-type: none">• Testing the applicability of Transitional Safe Harbour rules and documentation of impact assessment.
Data Gathering	<ul style="list-style-type: none">• Detailed data gathering, followed by automation of certain data gathering.
Reporting & Controls	<ul style="list-style-type: none">• Develop a Pillar Two compliance and reporting process with controls, including an implementation roadmap and audit defense plan.
Restructuring	<ul style="list-style-type: none">• Groups may consider restructuring alternatives.





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