



GLOBAL MINIMUM TAX

Thailand Implements a Global Minimum Tax/Top-Up Tax

An emergency decree enacted on 25 December 2024 (Top-Up Tax Emergency Decree, B.E. 2567 (2024)) and published in the Thailand Royal Gazette on 26 December implements a domestic minimum top-up tax, income inclusion rule (IIR) and undertaxed payment rule (UTPR) that are aligned with Pillar Two. The decree, which applies for accounting periods starting on or after 1 January 2025, was confirmed by the House of Representatives and Senate on 8 and 13 January, respectively.

The decree provides for the application of a top-up tax on the profits of in-scope multinational enterprises (MNEs) to ensure they are subject to an effective tax rate (ETR) of at least 15% and will apply to Thai operations of a group that has annual revenue of at least EUR 750 million in at least two of the previous four accounting periods.

The year 2025 marks the first year covered by the top-up tax, although the filing of the return and collection of the tax will occur 15 months after the end of covered multinational enterprises' (MNE) fiscal year (extended to 18 months for the first fiscal year). Accordingly, the first tax return filing and payment of top-up tax are due on 30 June 2027 for MNEs with an accounting year ending on 31 December 2025.

One notable omission in the emergency decree is the transitional safe harbor provisions, which were initially expected to be part of the law. However, we anticipate that these provisions will be included in the forthcoming sub-legislation. If implemented, the safe harbours would alleviate the initial

compliance burden during the transition period (up to 31 December 2026), benefiting eligible in-scope MNEs.

The government anticipates that it will collect THB 12 billion annually from in-scope MNEs operating in Thailand.

Key Provisions of the Decree

The main provisions of the emergency decree are as follows:

In-scope MNEs:

"Constituent Entities" (CE) are entities located in Thailand that are members of an MNE group whose Ultimate Parent Entity (UPE) has annual consolidated revenue of EUR 750 million or more in at least two of the preceding four accounting periods.

Calculation of the Top-Up Tax:

- The minimum tax rate is 15%. The ETR of each CE is calculated by dividing the adjusted covered taxes by the net GloBE income.
- A CE in Thailand can reduce its tax base by deducting 5% of the value of its tangible assets and payroll costs incurred in Thailand.

Hierarchy in Levying the Top-Up Tax:

1. **Qualified Domestic Top-Up Tax (QDMTT):** All in-scope CEs in Thailand are liable to pay the top-up tax if their ETR in Thailand is below 15% for the portion allocated to each CE based on their GloBE income. Under certain conditions, they may designate one entity to pay the top-up tax on behalf of the CEs in Thailand.
2. **Income Inclusion Rule (IIR):** A Thai UPE, an intermediate parent entity or a partially owned parent entity in Thailand is liable for the top-up tax if one or more of its CEs in low-tax jurisdiction has an ETR below 15%.
3. **Undertaxed Payment Rule (UTPR):** In-scope CEs in Thailand are liable for the allocated top-up tax if there is any remaining top-up tax that has not been paid under the QDMTT or IIR.

Payment of the Top-Up Tax

- Where there are multiple CEs in Thailand, one of them may be designated to handle payment of the top-up tax. However, all Thai CEs will remain jointly liable in the event of noncompliance.
- For the QDMTT and UTPR, the top-up tax liabilities will be allocated among all the Thai CEs based on the proportion of their GloBE income. Subject to specific conditions, the Thai CEs may agree to assign one Thai CE responsibility to assume and pay the top-up tax. In that case, the Thai Revenue Department must be notified within 15 months after the last day of the UPE's fiscal year.

Tax Returns and Filing Deadline

- The relevant CE must file the data report (notification), the GloBE Information Return (GIR) and the top-up tax return and pay the top-up tax to the Thai tax authorities via an online system within 15 months from the end of the fiscal year (with the extension to 18 months for the first fiscal year).

- An exemption from the obligation to file a GIR will apply if the parent entity of another designated entity located in a country that has concluded a qualifying competent authority agreement with Thailand has already filed the GIR in that country.
- Failure to file the returns and pay the top-up tax by the due date will result in fines, a surcharge and other criminal penalties.

Tax Assessment

- The assessment officer of the Thai Revenue Department has authority to assess and charge the top-up tax for up to 10 years from the last day of the GIR filing deadline.
- If the tax authorities believe that incorrect information has been submitted in Thailand or overseas, the officer may summon the taxpayer to declare the facts or provide additional information within five years from the filing date, with a possible two-year extension.

BDO Insights

The Thai government has consistently communicated that a global minimum tax law will take effect on or after 1 January 2025. Consequently, it is expected that in-scope MNEs have already assessed their potential exposure to the tax in Thailand and in all jurisdictions where they operate.

As noted above, the transitional safe harbour rules are not included in the primary decree and in-scope MNEs likely will require more detailed information on how to comply with the global minimum tax rules. Therefore, it is likely that the government will issue supplementary legislation to address these gaps. Furthermore, we expect an amendment of the National Competitiveness Enhancement Act to be implemented alongside the decree, as the top-up tax collected will be allocated to the National Competitiveness Enhancement Fund.

In preparation for the implementation of the minimum tax, in-scope BOI-promoted entities may wish to consider switching to the 10% tax rate instead of benefiting from an income tax holiday incentive (BOI-promoted entities can elect to be subject to a corporate tax rate that is 50% of the normal rate of 20%, resulting in the 10% rate) (for prior coverage, see the [article](#) in the August 1013 issue of *Corporate Tax News*). This change would allow them to double the remaining period of the tax incentives.

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