

EXPOSURE DRAFT



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Taxation (Multinational—Global and Domestic Minimum Tax) Amendment (2025 Measures No. 1) Rules 2025

I, Andrew Leigh, Assistant Minister for Productivity, Competition, Charities and Treasury, make the following rules.

Dated 2025

Dr Andrew Leigh **[DRAFT ONLY—NOT FOR SIGNATURE]**
Assistant Minister for Productivity, Competition, Charities and Treasury
Parliamentary Secretary to the Treasurer

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1 Name

This instrument is the *Taxation (Multinational—Global and Domestic Minimum Tax) Amendment (2025 Measures No. 1) Rules 2025*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	The day after this instrument is registered.	

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the *Taxation (Multinational—Global and Domestic Minimum Tax) Act 2024*.

Note: Section 29 of the *Taxation (Multinational—Global and Domestic Minimum Tax) Act 2024* provides that the Minister may make rules prescribing matters required or permitted by the Act, or necessary or convenient, to be prescribed.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Amendments

Taxation (Multinational—Global and Domestic Minimum Tax) Rules 2024

1 Subsection 2-35(3)

Repeal the subsection, substitute:

- (3) If a Constituent Entity of an MNE Group is a Securitisation Entity for a Fiscal Year:
- (a) treat the GloBE Income of the Constituent Entity for the Fiscal Year as being zero for the purposes of the following:
 - (i) the definition of **Aggregate GloBE Income of all CEs** in subsection 5-40(2);
 - (ii) the definition of **Aggregate GloBE Income of all CEs for prior year** in subsection 5-40(5) (including that definition as it applies for the purposes of subsection 5-40(7));
 - (iii) the definition of **GloBE Income of the CE** in subsection 5-40(2);
 - (iv) the definition of **GloBE Income of the CE for prior year** in subsection 5-40(5) (including that definition as it applies for the purposes of subsection 5-40(7)); and
 - (b) for those purposes, do not apply paragraph 5-40(7)(b) in relation to the GloBE Income of the Constituent Entity for the Fiscal Year.

2 Subsection 2-35(5)

Repeal the subsection, substitute:

- (5) If subsection (3) applies and no Constituent Entity of the MNE Group that is located in Australia and is not a Securitisation Entity has GloBE Income for the Fiscal Year:
- (a) treat the GloBE Income of each such Constituent Entity as being one Euro for the Fiscal Year, for the purposes of the following:
 - (i) the definition of **Aggregate GloBE Income of all CEs** in subsection 5-40(2);
 - (ii) the definition of **Aggregate GloBE Income of all CEs for prior year** in subsection 5-40(5) (including that definition as it applies for the purposes of subsection 5-40(7));
 - (iii) the definition of **GloBE Income of the CE** in subsection 5-40(2);
 - (iv) the definition of **GloBE Income of the CE for prior year** in subsection 5-40(5) (including that definition as it applies for the purposes of subsection 5-40(7)); and
 - (b) for those purposes, do not apply paragraph 5-40(7)(b) in relation to the GloBE Income of the Constituent Entity for the Fiscal Year.

3 Paragraph 2-35(6)(d)

Omit “Australian final withholding tax”, substitute “withholding tax (within the meaning of the *Income Tax Assessment Act 1997*)”.

4 Subsection 2-40(1)

Omit “.”, substitute “, where the head company of the consolidated group is not an Excluded Entity.”.

5 Subsection 2-50(1)

Repeal the subsection, substitute:

- (1) Subsection (2) applies if a Constituent Entity of an MNE Group is a subsidiary member of a consolidated group and all of the following apply:
 - (a) the Constituent Entity is not any of the following:
 - (i) an Investment Entity;
 - (ii) an Insurance Investment Entity;
 - (iii) a Securitisation Entity for the Fiscal Year;
 - (b) the head company of the consolidated group is not an Excluded Entity.

6 Paragraph 2-65(2)(b)

Omit all the words after “to the allocated amount,”, substitute “by the end of the period of 12 months after the end of the current Fiscal Year”.

7 Paragraphs 2-85(3)(a) and (b)

Repeal the paragraphs, substitute:

- (a) no other Constituent Entities of the MNE Group (other than the Securitisation Entity) are located in Australia; or
- (b) each Constituent Entity of the MNE Group that is located in Australia is one of the following:
 - (i) a Securitisation Entity;
 - (ii) an Investment Entity;
 - (iii) an Insurance Investment Entity.

8 At the end of section 2-85

Add:

- (4) Subsections (5) and (6) apply in relation to a Constituent Entity of an MNE Group (other than a Securitisation Entity, Investment Entity or Insurance Investment Entity) located in Australia if:
 - (a) paragraph (2)(c) applies in relation to the MNE Group for a Fiscal Year; and
 - (b) the Constituent Entity does not have a UTPR Top-up Tax Amount for the Fiscal Year.
- (5) Treat the Constituent Entity as having one employee, for the Fiscal Year, for the purposes of the following definitions in subsection 2-70(3):
 - (a) the definition of ***Number of employees of all CEs in Australia***;
 - (b) the definition of ***Number of employees of CE in Australia***.
- (6) Treat the sum of the Net Book Value of tangible assets of the Constituent Entity as being one Euro, for the Fiscal Year, for the purposes of the following definitions in subsection 2-70(3):
 - (a) the definition of ***Total value of tangible assets of all CEs in Australia***;

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(b) the definition of *Total value of tangible assets of CE in Australia*.

9 After section 3-30

Insert:

3-31 Adjustment—Excluded Equity Gain or Loss—election

- (1) A Filing Constituent Entity for an MNE Group may make an election for the MNE Group under this subsection that applies to a specified jurisdiction.
- (2) An election under subsection (1) is a Five-Year Election.

Revocation

- (3) An election under subsection (1) may not be revoked if, for any Fiscal Year to which it applies, an adjustment mentioned in subsection 3-32(2) is made in relation to a loss mentioned in that subsection.

3-32 Adjustment—Excluded Equity Gain or Loss—general case

- (1) Subsection (2) applies if an election under subsection 3-31(1) for an MNE Group applies to a jurisdiction and a Fiscal Year.
- (2) Despite section 3-30, in computing the GloBE Income or Loss of a Constituent Entity of the MNE Group located in the jurisdiction, adjust the Constituent Entity's Financial Accounting Net Income or Loss for the Fiscal Year so as to include any Excluded Equity Gain or Loss of the Constituent Entity for the Fiscal Year, to the extent that:
 - (a) for a gain or loss in respect of an Ownership Interest mentioned in paragraph 3-35(1)(a):
 - (i) the Constituent Entity is subject to tax on the basis of mark-to-market movements, or the impairment, of the Ownership Interest, if the tax consequences of those movements or that impairment are reflected in the Constituent Entity's income tax expense; or
 - (ii) the Constituent Entity is subject to tax on a realisation basis, if the Constituent Entity's income tax expense includes a deferred tax expense on the mark-to-market movements, or the impairment, of the Ownership Interest; or
 - (b) for a profit or loss in respect of an Ownership Interest mentioned in paragraph 3-35(1)(b)—the profit or loss is attributable to an Ownership Interest (other than a Portfolio Shareholding) that is in a Tax Transparent Entity; or
 - (c) for a gain or loss in respect of an Ownership Interest mentioned in paragraph 3-35(1)(c)—the gain or loss is included in the Constituent Entity's taxable income (excluding any gain that is fully offset, or the proportionate share of any gain that is partially offset, by any deduction or other similar relief particular to the type of gain).
- (3) However, subsection (2) does not apply in relation to a profit or loss, or a gain or loss, in respect of an Ownership Interest that is a qualified flow-through ownership interest in relation to which section 4-36 or 4-38 applies.

10 Before section 4-5

Insert:

Division 1—General

11 At the end of Part 4-1

Add:

Division 2—Qualified flow-through ownership interests

4-36A Application of Division

This Division has effect despite anything in Division 1 of this Part.

4-36 Excluded Equity Gain or Loss—qualified flow-through ownership interests—general case

- (1) This section applies if:
 - (a) an election under subsection 3-31(1) for an MNE Group applies to a jurisdiction and a Fiscal Year; and
 - (b) a Constituent Entity of the MNE Group located in the jurisdiction has a qualified flow-through ownership interest for the Fiscal Year; and
 - (c) the Constituent Entity is not mentioned in subsection 4-38(1).
- (2) If the Constituent Entity's adjusted investment amount in respect of the qualified flow-through ownership interest exceeds zero for the Fiscal Year, add to the Constituent Entity's Adjusted Covered Taxes for the Fiscal Year the lesser of the following:
 - (a) that excess;
 - (b) the sum of the amounts covered by subsection (3) for the Fiscal Year.
- (3) This subsection covers each of the following:
 - (a) the amount of any tax credit, other than a Qualified Refundable Tax Credit, with respect to the qualified flow-through ownership interest;
 - (b) the amount of any tax-deductible loss with respect to the qualified flow-through ownership interest, multiplied by the applicable domestic tax rate;to the extent that the amount is treated, for financial accounting purposes, as reducing the Constituent Entity's tax expense for the Fiscal Year.
- (4) If the Constituent Entity's adjusted investment amount in respect of the qualified flow-through ownership interest for the Fiscal Year is exceeded by the sum of the amounts covered by subsection (5) for the Fiscal Year, subtract the excess from the Constituent Entity's Adjusted Covered Taxes for the Fiscal Year, subject to subsection (6).
- (5) This subsection covers each of the following:
 - (a) the amount of any tax credit in respect of the qualified flow-through ownership interest;

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- (b) the amount of any tax-deductible loss in respect of the qualified flow-through ownership interest, multiplied by the applicable domestic tax rate;
 - (c) the amount of any distribution (including a return of capital) in respect of the qualified flow-through ownership interest;
 - (d) the amount of the proceeds of sale of all or a part of the qualified flow-through ownership interest.
- (6) A subtraction may only be made under subsection (4) in respect of the following amounts for the Fiscal Year to the extent of any addition to the Constituent Entity's Adjusted Covered Taxes for the Fiscal Year under subsection (2):
- (a) an amount mentioned in paragraph (5)(a) that is a Qualified Refundable Tax Credit;
 - (b) an amount mentioned in paragraph (5)(c) or (d).

4-37 Meaning of *qualified flow-through ownership interest*, *investment amount* and *adjusted investment amount*

- (1) A ***qualified flow-through ownership interest*** of a Constituent Entity is an investment in a particular Tax Transparent Entity held by the Constituent Entity directly, or indirectly through one or more other Tax Transparent Entities that are not Constituent Entities of the MNE group, if:
- (a) the investment:
 - (i) is treated, for tax purposes, as an equity interest in the jurisdiction in which the Constituent Entity is located; and
 - (ii) would be so treated under an Authorised Financial Accounting Standard in the jurisdiction in which the Tax Transparent Entity operates, but only if the Tax Transparent Entity's assets, liabilities, income, expenses and cash flows are not consolidated on a line-by-line basis in the Consolidated Financial Statements of the Ultimate Parent Entity of the MNE Group; and
 - (b) at the time the Constituent Entity acquired the investment, the Constituent Entity:
 - (i) could not reasonably have expected that its total return (including distributions, the tax benefits of tax losses and the tax benefits of Qualified Refundable Tax Credits, but excluding the tax benefits of other kinds of tax credits) from the investment would equal or exceed the total fair market value of the consideration provided in respect of the investment (the ***investment amount***); and
 - (ii) could have reasonably expected a return on a portion of the investment amount in the form of tax credits other than Qualified Refundable Tax Credits.
- (2) However, an investment mentioned in subsection (1) is *not* a ***qualified flow-through ownership interest*** if any of the following applies:
- (a) the investment is not held by the Constituent Entity as a genuine economic interest;
 - (b) the Constituent Entity is protected, to any extent, from a diminution of the investment amount;
 - (c) in the jurisdiction in which the Constituent Entity is located, compliance with the GloBE Rules, as implemented in that jurisdiction, is a condition of

the transfer, through the particular Tax Transparent Entity in which the investment subsists, of the benefit of tax credits in respect of that investment.

- (3) To calculate the **adjusted investment amount** of a Constituent Entity in respect of a qualified flow-through ownership interest for a Fiscal Year, reduce the investment amount by the sum of all amounts covered by subsection 4-36(5) for all previous Fiscal Years in respect of the qualified flow-through ownership interest. However, the adjusted investment amount may not be less than zero.

4-38 Excluded Equity Gain or Loss—qualified flow-through ownership interests—proportional amortisation

- (1) This section applies if:
- (a) an election under subsection 3-31(1) for an MNE Group applies to a jurisdiction and a Fiscal Year; and
 - (b) a Constituent Entity of the MNE Group located in the jurisdiction has a qualified flow-through ownership interest for the Fiscal Year; and
 - (c) either:
 - (i) the Constituent Entity uses the proportional amortisation method of accounting in relation to the qualified flow-through ownership interest for the Fiscal Year; or
 - (ii) the Constituent Entity does not use that method in relation to the qualified flow-through ownership interest for the Fiscal Year, but an election under subsection (4) applies to the Constituent Entity for the Fiscal Year.
- (2) If the final result of the following method statement is exceeded by the sum of all amounts covered by subsection (3) for the Fiscal Year, subtract the excess from the Constituent Entity's Adjusted Covered Taxes for the Fiscal Year.

Method statement

- Step 1:* Work out the sum of the amounts covered by paragraphs (3)(a) and (b) for the Fiscal Year.
- Step 2:* Work out the sum of all amounts covered by paragraphs (3)(a) and (b) that, at the time the Constituent Entity acquired the qualified flow-through ownership interest, the Constituent Entity could reasonably have expected to receive over the life of the qualified flow-through ownership interest.
- Step 3:* Divide the result of step 1 for the Fiscal Year by the result of step 2.
- Step 4:* Multiply the result of step 3 for the Fiscal Year by the investment amount. This the final result.

- (3) This subsection covers each of the following:
- (a) the amount of any tax credit in respect of the qualified flow-through ownership interest;

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- (b) the amount of any tax-deductible loss in respect of the qualified flow-through ownership interest, multiplied by the applicable domestic tax rate;
- (c) the amount of any distribution (including a return of capital) in respect of the qualified flow-through ownership interest;
- (d) the amount of the proceeds of sale of all or a part of the qualified flow-through ownership interest.

Election

- (4) A Filing Constituent Entity for an MNE Group may make an election for the MNE Group under this subsection that applies to a specified Constituent Entity of the MNE Group.
- (5) The election begins to apply at the later of the following:
 - (a) the start of the Fiscal Year in which the Constituent Entity acquires the qualified flow-through ownership interest;
 - (b) the start of the Fiscal Year in which the Constituent Entity becomes subject to this instrument in relation to the qualified flow-through ownership interest.
- (6) The election may not be revoked.

12 At the end of section 7-130

Add:

- (5) If the Constituent Entity-owner mentioned in paragraph (1)(b) is a regulated mutual insurance company, paragraphs (2)(a) and (b) are taken to be satisfied in relation to the Constituent Entity-owner for the Fiscal Year.
- (6) A ***regulated mutual insurance company*** is an insurance company that is:
 - (a) wholly owned by its policyholders; and
 - (b) regulated by a regulatory authority in the jurisdiction in which it is located.

13 Section 10-5

Insert:

adjusted investment amount: see subsection 4-37(3).

qualified flow-through ownership interest: see section 4-37.

regulated mutual insurance company: see subsection 7-130(6).

14 At the end of the instrument

Add:

Chapter 15—Application and transitional provisions

15-5 Application—Taxation (Multinational—Global and Domestic Minimum Tax) Amendment (2025 Measures No. 1) Rules 2025

The amendments made by the *Taxation (Multinational—Global and Domestic Minimum Tax) Amendment (2025 Measures No. 1) Rules 2025* apply in relation to Fiscal Years starting on and after 1 January 2024.