

Qualified Status under the Global Minimum Tax – Questions and Answers

Last updated: January 2025

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1. Are jurisdictions required to adopt the Global Minimum Tax?

The Global Minimum Tax consists of an interlocking and coordinated system of domestic rules that are based on the GloBE Model Rules issued by the Inclusive Framework on BEPS (IF) in December 2021 and the associated commentary to those rules (Commentary and Administrative Guidance). Once implemented into domestic law of each jurisdiction the rules operate together to ensure that MNE Groups are subject to a minimum level of tax on their excess profits in every jurisdiction where they operate.

The October 2021 statement issued by members of the IF states that the Global Minimum Tax has the status of a common approach. This means that jurisdictions are not required to adopt the rules, but, if they choose to do so, they have agreed that they will implement and administer the rules in a way that is consistent with the outcomes provided for under the GloBE Model Rules and Commentary including any subsequent Administrative Guidance agreed by the IF.

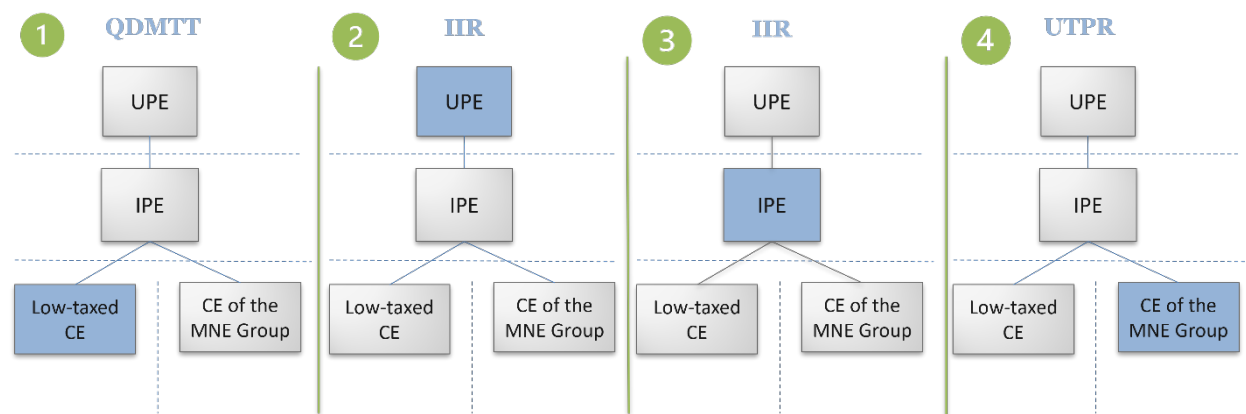
In addition, the common approach means that IF members accept the application of the rules applied by other IF members, including agreement as to rule order and the application of any agreed safe harbours.

2. Why do the rules need to be qualified for purposes of the Global Minimum Tax?

The Global Minimum Tax results from the combined effect of three types of domestic charging provisions that apply in accordance with an agreed rule order:

- the Qualified Domestic Minimum Top-up Tax (QDMTT) which applies first, at the level of source jurisdiction, in respect of any low-taxed profits arising in that jurisdiction,
- the Qualified Income Inclusion Rule (IIR) which applies in respect of remaining low-taxed profits. The IIR is applied first at the level of the Ultimate Parent Entity (UPE) of the MNE Group and then shifts to the next Intermediate Parent Entity (IPE) in the ownership chain in line with a top-down approach,
- the backstop rule (the UTPR) which applies at the level of any Constituent Entity within the MNE Group, to the extent low-taxed profits are not subject to a Qualified IIR.

The agreed rule order is illustrated below.



As illustrated in step 1 of this diagram, an MNE Group with low-taxed excess profits may be subject to a QDMTT imposed by the local jurisdiction on the excess profits of the Constituent Entities located in that jurisdiction. A payment of top-up tax under a QDMTT will be treated as fully creditable against another jurisdiction's Qualified IIR or Qualified UTPR, as relevant. However, as illustrated at steps 2 and 3, where there is no QDMTT in the low-tax jurisdiction, an IIR will apply to impose top-up tax on the excess profits; first at the level of the UPE and then at the level of an IPE further down the ownership chain if the UPE is located in a jurisdiction that has not adopted the GloBE Rules. Finally, the excess profits that are not

brought into tax under a QDMTT or a Qualified IIR will fall within the scope of the UTPR which allocates any remaining top-up tax in accordance with a substance-based allocation key to jurisdictions that have adopted a Qualified UTPR.

The rule order illustrated in the above diagram is achieved by turning off or adjusting the effect of the GloBE Rules in one jurisdiction where there are qualified rules in another jurisdiction that have priority under the agreed rule order. The coordination among the rules therefore relies on the recognition of such “qualified” status by every implementing jurisdiction.

3. *Why is the peer review used to recognise the qualified status?*

Every implementing jurisdiction needs a mechanism for identifying the qualified status of other implementing jurisdictions’ legislation in order to determine the application of the rule order. This mechanism must operate in a consistent and co-ordinated way in order to ensure that the Global Minimum Tax achieves its objectives in ensuring a minimum level of tax is paid on the profits in each jurisdiction while avoiding the risk of over-taxation. In addition, undertaking a common peer review process is more efficient than each jurisdiction undertaking its own separate review of every other implementing jurisdiction’s legislation. A common peer review process places all implementing jurisdictions on an equal footing and ensures that IF members can assess the conditions under which the qualified status is obtained. Finally, a common peer review process is expected to provide greater certainty to both implementing jurisdictions and MNE Groups which are in a position to anticipate in which jurisdictions they will be required to apply the rules.

4. *How is the peer review conducted?*

The peer review provides for a common assessment of the qualified rule status of the IIR, UTPR and DMTT, as well as the eligibility for the QDMTT Safe Harbour, in each implementing jurisdiction. The purpose of this process is to achieve consistency and co-ordination in the application of the GloBE Rules across different jurisdictions.

The peer review process consists of a full legislative review and ongoing monitoring by the IF. The full legislative review assesses whether the legislation of an implementing jurisdiction achieves consistent outcomes with the GloBE Rules. The ongoing monitoring ensures that rules are in practice applied and administered consistently with the GloBE Rules. In both instances, the GloBE Rules includes the GloBE Model Rules together with the Commentary and Agreed Administrative Guidance. However, the process starts with a transitional qualification mechanism (see below).

5. *What is the purpose of the transitional qualification mechanism?*

The GloBE Rules rely on the recognition of the qualified status of jurisdictions’ domestic rules in order to ensure coordinated outcomes and provide tax certainty for MNE Groups. In the short term it will not be possible to conduct and finalise a full legislative review for each implementing jurisdiction that is implementing IIR and/or DMTT legislation effective as of 2024.

Therefore, the IF has developed a simplified procedure for an initial transitional qualification mechanism that allows the swift recognition of the qualified status of implementing jurisdictions’ legislation on a temporary basis. This simplified procedure relies on a self-certification process that is described in more detail in the answer to question 6.

The transitional qualified status is available to all implementing jurisdictions, irrespective of the effective date of their domestic rules. Based on the experience gained in the first years of application of the Global Minimum Tax, however, the IF will review the transitional qualification mechanism to assess the need for any changes to the mechanism.

The transitional qualification mechanism is a simplified procedure, unlike the full legislative review which will be based on a more robust and detailed assessment of implementing jurisdictions' legislation. This means that the transitional qualified status does not affect or predetermine any outcomes under the full legislative review and the ongoing monitoring process.

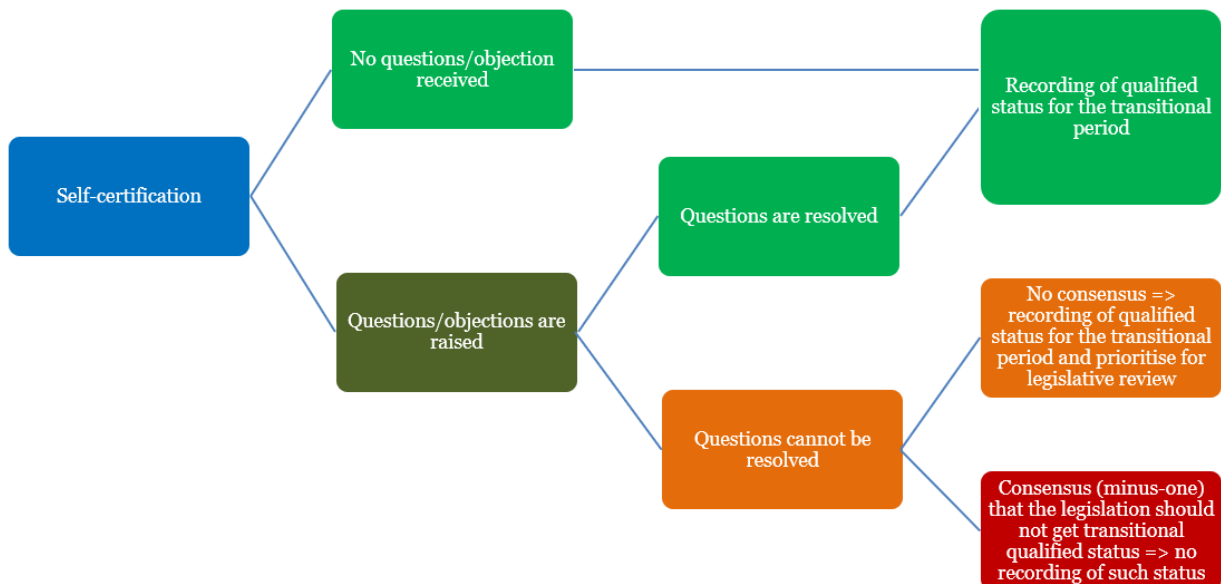
6. Which rules can be considered as qualified under the transitional qualification mechanism?

The transitional qualification mechanism is based on a self-certification by an implementing jurisdiction that its legislation achieves consistent outcomes with the key provisions of the GloBE Model Rules, the commentary and safe harbours, such as the Transitional CbCR Safe Harbour. Where the rules of an implementing jurisdiction contain some minor inconsistencies, that jurisdiction can still make a self-certification where such inconsistencies are expected to be addressed within an agreed timeframe.

Implementing jurisdictions begin the transitional qualification mechanism by preparing information on the main features of their legislation which they provide to the OECD Secretariat to explain the basis for the self-certification. This information is then shared with all members of the IF. The transitional qualification mechanism allows any IF member (including non-implementing jurisdictions) to raise questions on the self-certification based on this high-level information and to ask for these questions to be considered by all IF members in a meeting. If no questions are received or if questions from IF members are resolved, the implementing jurisdiction's legislation is recorded as having transitional qualified status.

If questions from IF members are not resolved and the Working Party agrees (on a consensus-minus-one basis) that an implementing jurisdiction's legislation should not be determined as qualified under the transitional qualified mechanism, the transitional qualified status is not recorded. If no agreement can be reached, then a jurisdiction's self-certification will be respected but the implementing jurisdiction can be expected to be subject to an accelerated full legislative review to consider those questions raised that were not resolved to delegates' satisfaction.

An overview of this process is provided below.

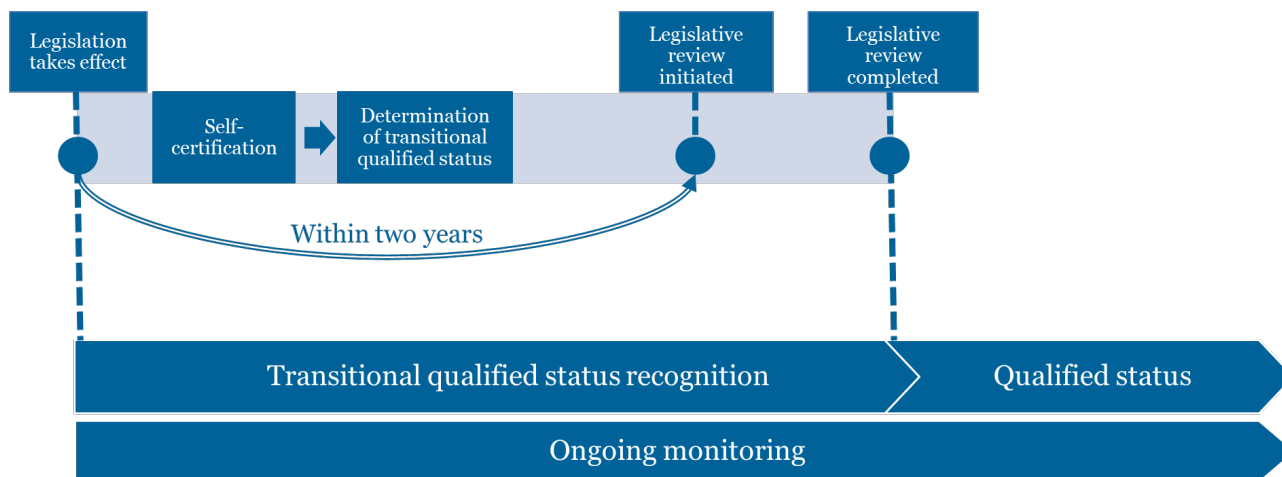


7. From when does the transitional qualified status apply? When does it stop?

Starting point. If an implementing jurisdiction submits its self-certification, the transitional qualified status is expected to be established within 12 months after the effective date of the legislation. Once confirmed, the qualified status is expected to apply from the effective date of that legislation.

End of the transitional qualified status. The full legislative review is expected to start no later than two years after the effective date of the legislation and the transitional qualified status of an implementing jurisdiction's legislation will end once the full legislative review is completed.

The timeline applicable for the transitional qualified status can be illustrated as follows:



8. Is it possible to prepare a self-certification based on draft legislation?

Yes, an implementing jurisdiction can self-certify either based on its final or draft legislation. In the latter case, the draft should be close to final (i.e. ready to be introduced to the domestic legislative body) or publicly available. The transitional qualified status is determined on the basis of the draft legislation, and it is expected to continue to apply after the legislation is enacted.

9. Can an implementing jurisdiction's legislation lose the transitional qualified status? What are the consequences for MNE Groups?

The transitional qualified status may be lost, for instance:

- if the full legislative review is not initiated within the agreed timeframe;
- if the full legislative review concludes that the legislation is not qualified; or
- if the legislation is amended and the revised legislation is not qualified.

The loss of the transitional qualified status will not be retrospective. For example, a jurisdiction whose domestic rules were qualified under the transitional qualified mechanism but for which the qualified status would not be confirmed after the full legislative review would still be treated as having qualified rules until the full legislative review was finalised.

To avoid uncoordinated outcomes, an MNE Group subject to a legislation that loses the qualified status during the Fiscal Year will continue to be treated as subject to qualified rules for the Reporting Fiscal Year that began before the date that the transitional qualified status expires or is revoked. For example, assume an implementing jurisdiction's transitional qualified status expires on 31 December 2026, then an MNE Group that has a Reporting Fiscal Year that starts on 1 April would still be treated as being subject to

qualified rules in respect of that jurisdiction if its Reporting Fiscal Year began on 1 April 2026 and ended on 31 March 2027.

10. Does the Inclusive Framework publish a compilation of jurisdictions' legislation with transitional qualified status?

Yes, a [central record](#) of the legislation with transitional qualified status is published on the OECD's website. The central record sets out those jurisdictions whose minimum tax legislation has completed the process for the transitional qualification mechanism and secured transitional qualified status. The relevant legislation set out in the central record will be treated as qualified on a transitional basis from the effective date of the legislation, which is the date when that legislation becomes applicable to in-scope taxpayers.

The central record will be updated on a regular basis and in a timely manner, after a self-certification that has been submitted to the Inclusive Framework has completed the transitional qualification mechanism process.

The fact that a jurisdiction's legislation is not included in this central record does not mean that the legislation is not qualified; rather it means that, as at the date of publication, the process provided for under the transitional qualification mechanism has not yet been initiated or completed for that legislation.

11. What are the next steps?

The full legislative review and ongoing monitoring process will be developed to ensure that rules are being applied and administered consistently with the GloBE Rules.

For more information on the Global Anti-Base Erosion Model Rules (Pillar Two), visit: <https://oe.cd/globerules>
