

Inland Revenue (Amendment) (Minimum Tax for Multinational Enterprise Groups) Bill
2024

Committee Stage

Amendments to be moved by the Secretary for Financial Services and the Treasury

<u>Clause</u>	<u>Amendment Proposed</u>
3(1)	In the proposed definition of <i>service provider</i> , in paragraphs (a) and (d), by deleting “62” and substituting “63”.
3(2)	In the proposed definition of <i>profits tax</i> , in paragraph (b), by adding “, in sections 50AAA and 50AAAB and Schedule 54, in section 59(1B), (1C) and (1D) and in Schedules 16D and 16E” after “those Parts”.
3(2)	<p>By adding in alphabetical order—</p> <p>“<i>foreign DMTT</i> (外地當地最低補足稅) means a minimum tax that is included in the domestic law of a territory outside Hong Kong and implemented and administered in that territory and that—</p> <p>(a) is a QDMTT; or</p> <p>(b) would have been a QDMTT but for either or both of paragraphs (c) and (d) of the definition of <i>qualified domestic minimum top-up tax</i> in Article 10.1.1 of the GloBE rules;</p> <p><i>foreign IIR top-up tax</i> (外地收入納入規則補足稅) means a tax under an IIR, as defined by Article 10.1.1 of the GloBE rules, implemented and administered in a territory outside Hong Kong (whether or not a qualified IIR);</p> <p><i>foreign UTPR top-up tax</i> (外地低稅利潤規則補足稅) means a tax under a UTPR, as defined by Article 10.1.1 of the GloBE rules, implemented and administered in a territory outside Hong Kong (whether or not a qualified UTPR);</p> <p><i>GloBE rules</i> (《全球反侵蝕稅基規則》) has the meaning given by section 26AD(1);</p> ”

QDMTT (合資格當地最低補足稅) means a qualified domestic minimum top-up tax as defined by Article 10.1.1 of the GloBE rules;

qualified IIR (合資格收入納入規則) has the meaning given by Article 10.1.1 of the GloBE rules;

qualified UTPR (合資格低稅利潤規則) has the meaning given by Article 10.1.1 of the GloBE rules;”.

- 3(3) (a) By deleting “section 2(8)” and substituting “section 2(10)”.
- (b) By renumbering the proposed section 2(9) as section 2(11).

4 By adding—

“(8) In subsection (7), **entity** (實體), **MNE group** (跨國企業集團) and **permanent establishment** (常設機構) have the same meanings as they have in the GloBE rules.”.

New By adding—

“5A. Section 15N amended (when does section 15M not apply)

(1) Section 15N(6)—

Repeal paragraphs (a) and (b)

Substitute

- “(a) the sum is subject to a similar tax or QDMTT in that territory (and this paragraph is not met by the sum being subject to any foreign IIR top-up tax or foreign UTPR top-up tax in that territory); and
- (b) the applicable rate, or (if there is more than one applicable rate) the highest applicable rate, of a similar tax in that territory is equal to or higher than the reference rate.”.

(2) Section 15N(9)—

Repeal the definition of *applicable rate*

Substitute

“*applicable rate* (適用稅率), in relation to a sum subject to a similar tax or QDMTT (***specified tax***) in a territory, means—

- (a) if the specified tax is chargeable at the time the sum accrues—the rate of a similar tax in that territory applicable at that time; or
- (b) if the specified tax is chargeable for the taxable period during which the sum accrues—the rate of a similar tax in that territory applicable for that taxable period;”.”.

6(1) By deleting “and (ca)”.

6 By adding—

“(1A) Section 16(2)(c), (2A)(c), (2E)(c)(i) and (2F)(c)(i)—

Repeal

“Ordinance”

Substitute

“Ordinance (other than Part 4AA)”.

(1B) Section 16(2I)(b)—

Repeal

“Ordinance;”

Substitute

“Part;”.”.

6(2) By deleting the proposed section 16(2L) and substituting—

“(2L) A reference in subsection (1)(c) to a tax paid in a territory outside Hong Kong in respect of the profits referred to in that subsection—

- (a) includes a foreign DMTT paid in a territory only to the extent to which it is a QDMTT paid, in respect of the profits referred to in that subsection that are income of a permanent establishment, in that territory; but
- (b) does not include a foreign IIR top-up tax or a foreign UTPR top-up tax.”.

6 By adding—

“(3) Section 16(3), definition of *specified tax*—

Repeal

“(lb).”

Substitute

“(lb),

but does not include a foreign IIR top-up tax, a foreign UTPR top-up tax or a foreign DMTT.”.”.

New

By adding—

“6A. Section 18G amended (financial instrument: interpretation of this section and sections 18H, 18I, 18J, 18K and 18L)

- (1) Section 18G(1), English text, definition of *specified financial reporting standard*, paragraph (b)—

Repeal the full stop

Substitute a semicolon.

- (2) Section 18G(1)—

Add in alphabetical order

“*tax* (税) means tax charged under this Part.”.

6B. Section 18H amended (financial instrument: application of sections 18I, 18J, 18K and 18L)

Section 18H(1)—

Repeal

“to a person”

Substitute

“for ascertaining profits in respect of which a person is chargeable to tax under this Part”.

6C. Section 20A amended (persons chargeable on behalf of a non-resident)

After section 20A(3)—

Add

“(4) In this section—

tax (税) means tax charged under this Part.”.

6D. Section 20B amended (persons chargeable in respect of certain profits of a non-resident)

- (1) Section 20B(4), English text, definition of *entertainer or sportsman*—

Repeal the full stop

Substitute a semicolon.

- (2) Section 20B(4)—

Add in alphabetical order

“*tax* (税) means tax charged under this Part.”.

6E. Section 22 amended (assessment of partnerships)

- (1) Section 22(6), English text, definition of *general partner*—

Repeal

“637).”

Substitute

“637);”.

- (2) Section 22(6)—

Add in alphabetical order

“*tax* (税) means tax charged under this Part.”.”.

7

By deleting the proposed section 25A and substituting—

“25A. Reimbursement for certain top-up tax not taken into account for purposes of Part 4

- (1) This section applies to a payment (*intra-group payment*) made by an entity or permanent establishment of an MNE group (*paying entity*) to another entity or permanent establishment of the MNE group (*receiving entity*).
- (2) An intra-group payment is not to be taken into account in calculating the profits or loss of the receiving entity for the purposes of profits tax under this Part if the payment is proved by the receiving entity, to an assessor’s satisfaction, to be reimbursement for an applicable tax under an applicable assessment.
- (3) No deduction is allowable for an intra-group payment, for determining the profits tax to which the paying entity is

chargeable under this Part, if the payment is reimbursement for an applicable tax under an applicable assessment.

- (4) An intra-group payment is not reimbursement for an applicable tax under an applicable assessment unless the amount of the payment does not exceed the amount of the applicable tax that—
 - (a) is payable by the paying entity under an allocation of the applicable tax under the applicable assessment specified in subsection (5); but
 - (b) has been paid, or is agreed to be paid, by the receiving entity on behalf of the paying entity.
- (5) For the purposes of subsection (4)(a), an allocation of the applicable tax under the applicable assessment is—
 - (a) for an applicable tax other than an IIR top-up tax or a foreign IIR top-up tax—such an allocation among the entities and permanent establishments of the MNE group concerned that are relevant to the applicable assessment; or
 - (b) for an IIR top-up tax or a foreign IIR top-up tax—such an allocation among the receiving entity of the intra-group payment and the other entities and permanent establishments of the MNE group concerned each of which (*same group entity*) meets the descriptions in both subparagraphs (i) and (ii)—
 - (i) the same group entity is relevant to the applicable assessment;
 - (ii) the receiving entity is a parent entity of the same group entity.
- (6) For the purposes of subsection (5), an entity or permanent establishment is relevant to an applicable assessment if it has been taken into account in determining the ETR of a jurisdiction taken into account in making the applicable assessment.
- (7) In this section—

applicable assessment (適用評税) means—

 - (a) in relation to a top-up tax, an assessment under Part 4AA; or

- (b) in relation to a foreign IIR top-up tax, a foreign UTPR top-up tax or a foreign DMTT implemented by a territory outside Hong Kong, an assessment (however described) made by the tax authority of that territory;

applicable tax (適用稅項) means—

- (a) a top-up tax; or
 - (b) a foreign IIR top-up tax, a foreign UTPR top-up tax or a foreign DMTT.
- (8) An expression used in this section, and defined or otherwise explained in any provision of Part 4AA or Part 1 of Schedule 61 (***definition provision***), has the same meaning as in the definition provision.”.

8 In the proposed Part 4AA, in Note 1, by deleting “60 to 63” and substituting “61 to 64”.

8 In the proposed section 26AD(1), in the definition of ***GloBE rules***, in paragraph (a), by deleting “60” and substituting “61”.

8 In the proposed section 26AD(1), in the definitions of ***OECD GloBE rules document*** and ***specified OECD GloBE rules guidance***, by deleting “63” and substituting “64”.

8 In the proposed section 26AD(2), by deleting “60, 61, 62 and 63” and substituting “61, 62, 63 and 64”.

8 In the proposed section 26AE(3), by deleting “60” and substituting “61”.

8 In the proposed section 26AE(4), by deleting “61” and substituting “62”.

8 In the proposed section 26AE(5), by deleting “62” and substituting “63”.

8 In the proposed section 26AF(1) and (2), by deleting “60, 61 and 62” and substituting “61, 62 and 63”.

8 In the proposed section 26AG—

- (a) in the heading, by deleting “**60 to 63**” and substituting “**61 to 64**”;
- (b) in subsection (1)(b), by deleting “60, 61, 62 and 63” and substituting “61, 62, 63 and 64”.

8 By deleting the proposed section 26AH.

New By adding—

“8A. Section 40AB amended (Schedule 17A: specified alternative bond scheme and its tax treatment)

(1) Section 40AB, heading—

Repeal

“tax treatment”

Substitute

“treatment under this Ordinance (other than Part 4AA)”.

(2) Section 40AB—

Repeal

“tax treatment”

Substitute

“treatment, under this Ordinance (other than Part 4AA),”.’.

9 By deleting the clause and substituting—

“9. Section 50 amended (tax credits under double taxation arrangements)

(1) Section 50(1)—

Repeal

“This”

Substitute

“Subject to section 50AAAD, this”.

(2) Section 50(1A)(b), after “Ordinance”—

Add

“, other than a top-up tax”.’.

New By adding—

“9A. Section 50AAA amended (unilateral tax credits—no double taxation arrangements or specified DT arrangements made)

(1) Section 50AAA(1)—

Repeal

“This”

Substitute

“Subject to section 50AAAD, this”.

(2) Section 50AAA(7)—

Repeal the definition of *similar tax*

Substitute

“*similar tax* (類似稅項), in relation to specified income, means—

- (a) a tax that is of substantially the same nature as the tax specified in Part 2 of Schedule 54 for the income; or
- (b) a foreign DMTT regarded as a similar tax for the purposes of this section under section 50AAAD(3).”.

New

By adding—

“9B. Section 50AAAB amended (unilateral tax credits—no relief for underlying profits etc. under specified DT arrangements made)

(1) Section 50AAAB(1)—

Repeal

“This”

Substitute

“Subject to section 50AAAD, this”.

(2) Section 50AAAB(10)—

Repeal the definition of *similar tax*

Substitute

“*similar tax* (類似稅項) means—

- (a) a similar tax as defined by section 16(2I)(b); or

- (b) a foreign DMTT regarded as a similar tax for the purposes of this section under section 50AAAD(3);”.”.

New

By adding—

“9C. Section 50AAAD added

After section 50AAAC—

Add

“50AAAD. Tax credits denied, or allowed, for certain foreign top-up taxes

- (1) Neither a foreign IIR top-up tax, nor a foreign UTPR top-up tax, is to be allowed as a credit against tax payable in Hong Kong under section 50 (including that section as applied by section 50AAA or 50AAAB).
- (2) A foreign DMTT is to be allowed as a credit against tax payable in Hong Kong under section 50 only to the extent to which the foreign DMTT is—
 - (a) a QDMTT payable in a territory in respect of income of a permanent establishment in that territory; or
 - (b) a QDMTT payable in a case described in section 50(5)(c), (7)(a) or (7A) by a company in respect of the profits out of which it pays the dividend.
- (3) A foreign DMTT is to be regarded as a similar tax, for the purposes of sections 50AAA and 50AAAB, to the extent to which the foreign DMTT is—
 - (a) a QDMTT payable in a territory in respect of income of a permanent establishment in that territory;
 - (b) a QDMTT payable in the case described in section 2(3)(b) of Schedule 54 by the investee company in respect of the profits out of which it pays the dividend; or
 - (c) a QDMTT payable—
 - (i) in the case described in section 50AAAB(2) by the subject company in

respect of the profits out of which it pays the subject dividend; or

- (ii) in the case described in subsection (7) of section 50AAAB in respect of the profits mentioned in subsection (6)(a)(i) or (ii) (as the case requires) of that section.”.”.

10

(a) By renumbering the clause as clause 10(3).

(b) By adding—

“(1) Section 50AAC(1), definition of *foreign tax*, after “any tax”—

Add

“(other than a foreign IIR top-up tax, a foreign UTPR top-up tax or a foreign DMTT)”.

(2) Section 50AAC(1), definition of *Hong Kong tax*, after “other than”—

Add

“a top-up tax or an”.”.

New

By adding—

“10A. Section 51AAB substituted

Section 51AAB—

Repeal the section

Substitute

“51AAB. Specified person must furnish specified return in form of electronic record

- (1) A person who is required under section 51(1) to furnish a specified return for a specified year of assessment must file it in the form of an electronic record if the person is a specified person for that year of assessment.
- (2) The requirements relating to a return furnished in the form of an electronic record under section 51AA(2) also apply to a specified return furnished in the form of an electronic record under subsection (1).
- (3) In this section—

specified person (指明人士), in relation to a specified year of assessment, means a person that is specified in column 2 of Part 1 of Schedule 65 opposite that year of assessment;

specified return (指明報表), in relation to a specified person, means a return that is specified in column 3 of Part 1 of Schedule 65 opposite that person;

specified year of assessment (指明課稅年度) means a year of assessment specified in column 4 of Part 1 of Schedule 65.

(4) The Commissioner may, by notice published in the Gazette, amend Schedule 65.”.”.

- 12 In the proposed section 79A—
- (a) in the heading, by deleting “**60, 61 or 62**” and substituting “**61, 62 or 63**”;
 - (b) in subsection (1), in the definition of **Part 4AA entity**, in paragraphs (a), (b) and (c), by deleting “60, 61 or 62” and substituting “61, 62 or 63”;
 - (c) in subsection (2)(a), by deleting “60, 61 or 62” and substituting “61, 62 or 63”;
 - (d) in subsection (2)(b), by deleting “60 or of Schedule 61 or 62 (**definition provisions**)” and substituting “61 or of Schedule 62 or 63 (**definition provision**)”;
 - (e) in the English text, in subsection (2), by deleting “the definition provisions” and substituting “the definition provision”.
- 13 (a) In the proposed section 80O(1)(a)(i), (ii) and (iii), (b) and (c) and (2), by deleting “62” and substituting “63”.
- (b) In the proposed section 80O(11), in the definition of **top-up tax undercharged amount**, in paragraph (a), by deleting “62” and substituting “63”.
- 13 In the proposed section 80P(1), (2), (3), (4)(a) and (5)(a), by deleting “62” and substituting “63”.
- 13 By deleting the proposed section 80Q.

- 13 In the proposed section 80R—
- (a) in subsection (1), by deleting “80O, 80P or 80Q” and substituting “80O or 80P”;
 - (b) in subsection (1), by deleting everything after “brought” and substituting “within 8 years after the day on which the offence was committed.”;
 - (c) in subsection (2), by deleting “80O, 80P or 80Q” and substituting “80O or 80P”.
- 14(1) In the proposed section 82(1AAD)(a), by deleting “62” and substituting “63”.
- 15(1) In the proposed section 82A(1L)(a)(i), (ii), (iii) and (iv), by deleting “62” and substituting “63”.
- 15(2) In the proposed section 82A(4)(a)(i)(I), by deleting “62” and substituting “63”.
- 15(4) In the proposed definition of *top-up tax undercharged amount*, in paragraph (a), by deleting “62” and substituting “63”.
- New By adding—
- “15A. Section 84 amended (prosecutions, sanction of Commissioner)**
- Section 84(1)—
- Repeal**
- “80”
- Substitute**
- “80, 80O”.
- 15B. Section 87 amended (general power of Chief Executive in Council to exempt)**
- Section 87, after “Ordinance”—
- Add**
- “, other than a top-up tax”.

15C. Section 88 amended (exemption of charitable bodies)

(1) Section 88—

Renumber the section as section 88(1).

(2) After section 88(1)—

Add

“(2) Subsection (1) does not apply to a top-up tax.”.

15D. Schedule 17A amended (specified alternative bond scheme and its tax treatment)

(1) Schedule 17A—

Repeal

“**Tax Treatment**” (wherever appearing)

Substitute

“**Treatment under this Ordinance (other than Part 4AA)**”.

(2) Schedule 17A, English text, section 1(2), definition of *special purpose vehicle*, paragraph (b)—

Repeal

“requires).”

Substitute

“requires);”.

(3) Schedule 17A, section 1(2)—

Add in alphabetical order

“*tax* (税) does not include a top-up tax.”.

16 (a) In the heading, by deleting “**60 to 63**” and substituting “**61 to 65**”.

(b) By deleting “Schedule 59” and substituting “Schedule 60”.

16 By renumbering the proposed Schedules 60, 61, 62 and 63 as Schedules 61, 62, 63 and 64 respectively.

16 In the proposed Schedule 61, by deleting “26AD, 26AE, 26AF, 26AG, 26AH & 79A & Schs. 61 & 62]” and substituting “25A, 26AD, 26AE, 26AF, 26AG & 79A & Schs. 62 & 63]”.

- 16 In the proposed Schedule 61, in the English text, in Part 1, in Article 2.4.1—
- (a) by deleting “Entities of an MNE Group” and substituting “entities of an MNE group”;
 - (b) by deleting “Constituent Entities having” and substituting “constituent entities having”;
 - (c) by deleting “Top-up Tax Amount for the Fiscal Year” and substituting “top-up tax amount for the fiscal year”.
- 16 In the proposed Schedule 61, in Part 1—
- (a) in the English text, in Article 5.2.3, in paragraph (d), by deleting “Domestic” and substituting “domestic”;
 - (b) in Article 6.5.1, in Note 2, by deleting “62” and substituting “63”;
 - (c) in the English text, in Article 7.4, in the heading, by deleting the dash and substituting a hyphen;
 - (d) in the passage under the Article 8.1 heading, by deleting “62” and substituting “63”;
 - (e) in the Chinese text, in Chapter 9, in the heading, by deleting “度” and substituting “渡”;
 - (f) in the passage under the Article 9.4 heading, by deleting “62” and substituting “63”.
- 16 In the proposed Schedule 61, in Part 1, in Article 10.1.1—
- (a) in the English text, in the definition of ***designated filing entity***, by deleting “MNE Group” (wherever appearing) and substituting “MNE group”;
 - (b) in the definition of ***designated filing entity***, in the note, by deleting “62” and substituting “63”;
 - (c) in the English text, in the definition of ***designated local entity***, by deleting “MNE Group” (wherever appearing) and substituting “MNE group”;
 - (d) in the definition of ***designated local entity***, in the note, by deleting “62” and substituting “63”;
 - (e) in the Chinese text, in the definition of 指定本地實體, by deleting “團團” and substituting “團”;
 - (f) in the definition of ***filing constituent entity***, in the note, by deleting “62” and substituting “63”;

- (g) in the definition of ***GloBE information return***, in the note, by deleting “62” and substituting “63”;
- (h) in the English text, in the definition of ***other comprehensive income***, by deleting “. other” and substituting “. Other”;
- (i) in the English text, in the definition of ***qualified domestic minimum top-up tax***, in paragraph (d), by deleting “framework” and substituting “Framework”;
- (j) in the Chinese text, in the definition of 有形資產帳面淨值, by deleting “未” and substituting “末”;
- (k) in the Chinese text, in the definition of 淨稅項開支, by deleting “expenses” and substituting “expense”.

16 In the proposed Schedule 61, in Part 1, in Article 10.3.1, in the note, by deleting “2(9)” and substituting “2(11)”.

16 In the proposed Schedule 61, in the English text, in Part 2, in section 2, by deleting “MNE Group” and substituting “MNE group”.

16 In the proposed Schedule 61, in Part 2, in section 3—

- (a) by adding “, to which Article 2.4.1 in Part 1 of this Schedule (as modified by section 2 of this Part) applies (***specified HK constituent entity***),” after “allocated to a HK constituent entity”;
- (b) in paragraph (b), by adding “specified” before “HK constituent entity’s”;
- (c) by adding “specified” before “HK constituent entity (***CEI***)”;
- (d) in the formula, by deleting “HK” (wherever appearing) and substituting “specified HK”.

16 In the proposed Schedule 61, in Part 2, in sections 5, 6, 7 and 8, by deleting “62” (wherever appearing) and substituting “63”.

16 In the proposed Schedule 61, in Part 3, in section 1—

- (a) in the heading, by deleting “60” and substituting “61”;
- (b) in the English text, in subsection (2), by deleting “(***definition provisions***), has the same meaning as in the definition provisions” and substituting “(***definition provision***), has the same meaning as in the definition provision”;
- (c) by adding—

- “(4) A reference in this Part to a paragraph of the Commentary to Article 9.1.2 (Jan-2025 AG version) is a reference to that paragraph stipulated, in paragraph 11 of the Third Jan-2025 Administrative Guidance, to be incorporated into the Commentary to that Article of the OECD GloBE model rules.
- (5) A reference in this Part to a paragraph of the Commentary to Article 10.1 (Jun-2024 AG version) is a reference to that paragraph stipulated, in paragraph 24 of Chapter 6 of the Jun-2024 Administrative Guidance, to be incorporated into the Commentary to that Article of the OECD GloBE model rules.”.
- 16 In the proposed Schedule 61, in Part 3, in section 2, in the heading, by deleting “60” and substituting “61”.
- 16 In the proposed Schedule 61, in Part 3, in section 3(3)—
- (a) by deleting “where the qualified CbC report was based on the constituent entity’s reporting package, or separate financial statements, incorporating the purchase price accounting adjustment”;
- (b) in paragraph (a), by deleting “qualified CbC” and substituting “country-by-country”.
- 16 In the proposed Schedule 61, in Part 3, by deleting section 6(1)(b) and substituting—
- “(b) the MNE group’s profit before income tax for the jurisdiction for the fiscal year is less than EUR 1 million or the MNE group has a loss for the jurisdiction for the fiscal year.”.
- 16 In the proposed Schedule 61, in Part 3, in section 7(3), in the definition of *simplified covered taxes*—
- (a) in paragraph (a), by deleting “and”;
- (b) in paragraph (b), by deleting the full stop and substituting “; and”;
- (c) by adding—
- “(c) excluded deferred tax expenses.”.
- 16 In the proposed Schedule 61, in Part 3, in section 7(3), by adding in alphabetical order—
- “*excluded deferred tax expenses* (被豁免遞延稅項開支)—

- (a) means any deferred tax expenses attributable to the reversal of deferred tax assets and deferred tax liabilities described in subparagraph (a), (b) or (c) of paragraph 8.5 of the Commentary to Article 9.1.2 (Jan-2025 AG version) in a tested fiscal year; but
- (b) for determining the simplified covered taxes within the grace period, described in paragraph 8.8 of the Commentary to Article 9.1.2 (Jan-2025 AG version), may exclude the deferred tax expenses attributable to the reversal of such deferred tax assets up to the maximum amount allowed under paragraphs 8.9, 8.10 and 8.11 of the Commentary to Article 9.1.2 (Jan-2025 AG version);”.

16 In the proposed Schedule 61, in Part 3, in section 13(4)(b), by deleting “results from the arrangement” and substituting “is”.

16 In the proposed Schedule 61, in Part 3, by deleting section 13(5)(a) and (b) and substituting—

- “(a) the amount included in taxable income is offset by a tax attribute, such as a loss carryforward or an unused interest carryforward, with respect to which a valuation adjustment or accounting recognition adjustment has been made or would have been made if the adjustment determination were made without regard to the ability of a constituent entity to use the tax attribute with respect to any hybrid arbitrage arrangement entered into after 15 December 2022; or
- (b) the payment that gives rise to the expense or loss also gives rise to a taxable deduction or loss of a constituent entity that is located in the same jurisdiction as the constituent entity counterparty (*counterparty jurisdiction*), without being included as an expense or loss in determining the profit or loss before income tax for the counterparty jurisdiction, including as a result of being an expense or loss in the financial statements of a flow-through entity that is owned by a constituent entity in the counterparty jurisdiction.”.

16 In the proposed Schedule 61, in Part 3, by deleting section 13(8) and substituting—

“(8) In this section—

duplicate tax recognition arrangement (重複稅項確認安排)
means an arrangement entered into after 15 December 2022 that

results in each of 2 or more constituent entities of an MNE group including part or all of the same income tax expense in—

- (a) its adjusted covered taxes; or
- (b) its simplified ETR for the purpose of applying the transitional CbCR safe harbour,

but does not include an arrangement that also results in the income subject to tax being included in the relevant financial statements of each such constituent entity.

- (8A) Despite subsection (8), an arrangement is not a duplicate tax recognition arrangement if it arises solely because the simplified ETR of a constituent entity of the MNE group (*first constituent entity*) does not require adjustments for income tax expenses that would otherwise be allocated to another constituent entity of the MNE group in determining the first constituent entity's adjusted covered taxes.”.

16 In the proposed Schedule 61, in Part 3, by deleting section 14(4)(a) and substituting—

- “(a) the transitional CbCR safe harbour did not apply to the MNE group for the jurisdiction for a previous fiscal year; and”.

16 In the proposed Schedule 61, in Part 3, in section 16, in the heading, by deleting “**60**” and substituting “**61**”.

16 In the proposed Schedule 61, in the Chinese text, in Part 3, in section 16, by deleting “就本分部而言” and substituting “在本分部中”.

16 In the proposed Schedule 61, in Part 3, in section 19—

- (a) in the heading, by deleting “**60**” and substituting “**61**”;
- (b) in the definition of *QDMTT safe harbour standards*, by deleting “63” and substituting “64”.

16 In the proposed Schedule 61, in Part 3, in section 20(d), by deleting “23 or 24” and substituting “23, 24, 24A or 24B”.

16 In the proposed Schedule 61, in Part 3, in Division 4, in Subdivision 2, by adding—

“24A. Disqualifying condition—no charge for securitization entity

- (1) The QDMTT safe harbour does not apply to an MNE group’s jurisdictional top-up tax under the GloBE rules for a fiscal year, for constituent entities of the group located in a jurisdiction, if—
- (a) a member of the MNE group is a securitization entity participating in a securitization arrangement and is located in the jurisdiction; and
 - (b) the qualified domestic minimum top-up tax of the jurisdiction does not impose a charge in any circumstances on a securitization entity.
- (2) In subsection (1)—

securitization arrangement (證券化安排) has the meaning given by paragraph 148.4 of the Commentary to Article 10.1 (Jun-2024 AG version);

securitization entity (證券化實體) has the meaning given by paragraphs 148.2 and 148.3 of the Commentary to Article 10.1 (Jun-2024 AG version).

24B. Disqualifying condition—non-exclusion of tax attributes from total deferred tax adjustment amount or from simplified covered taxes

The QDMTT safe harbour does not apply to an MNE group’s jurisdictional top-up tax under the GloBE rules for a fiscal year, for constituent entities of the group located in a jurisdiction, if—

- (a) the general government of the jurisdiction provided the tax attributes described in paragraph 8.5 of the Commentary to Article 9.1.2 (Jan-2025 AG version); and
- (b) the jurisdiction does not exclude those tax attributes from its Article 9.1.1 computations in determining the total deferred tax adjustment amount or from the simplified covered taxes under its transitional CbCR safe harbour.”.

- 16 In the proposed Schedule 61, in Part 3, in section 29, in the heading, by deleting “**60**” and substituting “**61**”.
- 16 In the proposed Schedule 61, in Part 3, by deleting section 32(a) and (b) and substituting—
- “(a) the MNE group’s average GloBE revenue for the jurisdiction, as determined under the simplified income calculation in accordance with Article 5.5 of the GloBE rules, is less than EUR 10 million; and
 - (b) the MNE group’s average GloBE income for the jurisdiction, as determined under the simplified income calculation in accordance with Article 5.5 of the GloBE rules, is less than EUR 1 million or the MNE group has a loss for the jurisdiction.”.
- 16 In the proposed Schedule 61, in Part 3, in section 35, in the heading, by deleting “**60**” and substituting “**61**”.
- 16 In the proposed Schedule 61, in Part 3, in section 36—
- (a) in subsection (3), by deleting everything after “equal to the” and substituting “total revenue of the SC NMCEs for the jurisdiction for the year as determined in accordance with the relevant CbC regulations.”;
 - (b) in subsection (4), by deleting everything after “equal to the” and substituting “total revenue of the SC NMCEs for the jurisdiction for the year as determined in accordance with the relevant CbC regulations.”;
 - (c) in subsection (5), by deleting everything after “equal to the” and substituting “income tax accrued (current year) of the SC NMCEs for the jurisdiction for the year as determined in accordance with the relevant CbC regulations.”.
- 16 In the proposed Schedule 62, by deleting “, 26AH & 79A & Sch. 62]” and substituting “& 79A & Sch. 63]”.
- 16 In the proposed Schedule 62, in section 1, in the heading, by deleting “**61**” and substituting “**62**”.
- 16 In the proposed Schedule 62, in section 2—

- (a) in the heading, by deleting “61” and substituting “62”;
- (b) in subsection (2), by deleting “60 (*definition provisions*), has the same meaning as in the definition provisions” and substituting “61 (*definition provision*), has the same meaning as in the definition provision”.

16 In the proposed Schedule 62, in section 5(5), by deleting the definition of *local accounting standard* and substituting—

“*local accounting standard* (本地會計準則) means—

- (a) the International Financial Reporting Standards; or
- (b) accounting standards as defined by section 357(1) of the Companies Ordinance (Cap. 622).”.

16 In the proposed Schedule 62, in section 6—

- (a) in paragraph (c), by adding “subject to paragraph (ca),” before “Articles”;
- (b) by adding—
 - “(ca) if the HK constituent entity is a hybrid entity or reverse hybrid entity, covered taxes accrued in the financial accounts of a constituent entity-owner of the HK constituent entity are to be included in the adjusted covered taxes of the HK constituent entity if the taxes—
 - (i) are allocated to the HK constituent entity under Article 4.3.2(d) of the GloBE rules;
 - (ii) are imposed by the jurisdiction of the HK constituent entity; and
 - (iii) relate to the income of the HK constituent entity;”.

16 In the proposed Schedule 62, by deleting section 7 and substituting—

“7. Modifications—Article 9.3 of the GloBE rules

- (1) This section applies for determining, under section 4 of this Schedule, the HKMTT to which a HK constituent entity of an MNE group is chargeable for a fiscal year.
- (2) Article 9.3 of the GloBE rules only applies to an MNE group for a fiscal year if none of the ownership interests in a HK constituent entity of the group is held, directly or

indirectly, by a parent entity subject to a qualified IIR for the fiscal year.

(3) Article 9.3 of the GloBE rules has effect as if—

(a) its Article 9.3.1 read—

“9.3.1. Subject to Article 9.3.4 the top-up tax for each constituent entity of an MNE group shall be reduced to zero during the initial phase of the MNE group’s international activity, notwithstanding the requirements otherwise provided in Chapter 5.”; and

(b) its Article 9.3.5 were omitted.”.

16 In the proposed Schedule 63, by deleting “25A, 26AD, 26AE, 26AF, 26AG, 26AH, 79A, 80O, 80P, 82 & 82A & Sch. 60]” and substituting “26AD, 26AE, 26AF, 26AG, 79A, 80O, 80P, 82 & 82A & Schs. 61 & 65]”.

16 In the proposed Schedule 63, in section 1—

(a) in the heading, by deleting “**62**” and substituting “**63**”;

(b) in subsection (2), by deleting “60 (*definition provisions*), has the same meaning as in the definition provisions” and substituting “61 (*definition provision*), has the same meaning as in the definition provision”.

16 In the proposed Schedule 63, in section 2, in the heading, by deleting “**62**” and substituting “**63**”.

16 In the proposed Schedule 63, in section 3, by adding—

“(4) Despite subsection (1)(b), a HK constituent entity of an MNE group is not required to comply with section 11(1)(a) and (1A) of this Schedule for a fiscal year if—

(a) the HK constituent entity is neither the UPE, nor the designated filing entity, nor the designated local entity, of the MNE group; and

(b) both of the following apply—

(i) another HK constituent entity of the MNE group has complied with this section for the fiscal year,

including complying with section 11(1)(a) and (1A) of this Schedule;

- (ii) that other HK constituent entity's top-up tax return for the fiscal year contains a statement, for the purposes of section 11(1A) of this Schedule, that the assessment triggering information concerned is provided in the return with the consent of all HK constituent entities, or the UPE, of the MNE group.”.

16 In the proposed Schedule 63, in section 5(1), by adding “beginning on or after 1 January 2025” after “a fiscal year”.

16 In the proposed Schedule 63, in section 7(1), by deleting “within 30 days after the date of the Commissioner’s notice” and substituting “by the specified deadline”.

16 In the proposed Schedule 63, in section 7, by adding—

“(2A) A HK constituent entity of an MNE group (*subject entity*) is not required to comply with a Commissioner’s notice if, by the specified deadline, another HK constituent entity of the group (*specified entity*)—

- (a) has complied with the Commissioner’s notice; and
- (b) has informed the Commissioner in writing that the specified entity—
 - (i) is the UPE or designated local entity of the group; and
 - (ii) has complied with the Commissioner’s notice on behalf of the subject entity and all other HK constituent entities of the group.”.

16 In the proposed Schedule 63, in section 7(3)—

- (a) in the English text, in the definition of *return exchange date*, by deleting the full stop and substituting a semicolon;
- (b) by adding in alphabetical order—

“*specified deadline* (指明期限) means the later of the following—

- (a) the expiry of 60 days after the date of the Commissioner’s notice under subsection (1);
- (b) a date specified in the Commissioner’s notice.”.

- 16 In the proposed Schedule 63, in section 11(1), by deleting everything after “must” and substituting—
- “contain—
- (a) information specified by the Board of Inland Revenue as assessment triggering information (*assessment triggering information*); and
- (b) other information specified by the Board of Inland Revenue.”.
- 16 In the proposed Schedule 63, in section 11, by adding—
- “(1A) A top-up tax return, filed by a HK constituent entity of an MNE group, that contains assessment triggering information must contain a statement as to whether the assessment triggering information is provided in the return with the consent of all HK constituent entities, or the UPE, of the MNE group.”.
- 16 In the proposed Schedule 63, in section 14—
- (a) in the heading, by deleting “**62**” and substituting “**63**”;
- (b) in paragraphs (a) and (c), by deleting “, 61A”.
- 16 In the proposed Schedule 63, in section 16(1) and (2), by deleting “62” (wherever appearing) and substituting “63”.
- 16 In the proposed Schedule 63, in section 17(1)(b), by deleting “12” and substituting “9”.
- 16 In the proposed Schedule 63, in section 19(2), by deleting “62” and substituting “63”.
- 16 In the proposed Schedule 63, in section 20(2), by deleting “60 and 61” and substituting “61 and 62”.
- 16 In the proposed Schedule 63, in section 20(3), by deleting everything after “only do so within” and before “and the provisions of” and substituting—
- “8 years or, if the non-assessment or under-assessment is due to fraud or wilful evasion, within 12 years, after—

- (i) the end of the fiscal year of the MNE group to which the non-assessment or under-assessment relates (if the fiscal year ends on 31 March); or
- (ii) the end of 31 March of the year next following the end of the fiscal year of the MNE group to which the non-assessment or under-assessment relates (if the fiscal year ends on a day other than 31 March).”.

16 In the proposed Schedule 63, in section 20(4), by deleting everything after “a reference to the period of” and substituting—

“8 years after—

- (a) the end of the fiscal year of the MNE group to which the repayment relates (if the fiscal year ends on 31 March); or
- (b) the end of 31 March of the year next following the end of the fiscal year of the MNE group to which the repayment relates (if the fiscal year ends on a day other than 31 March).”.

16 In the proposed Schedule 63, by adding—

“20A. Modification to section 61A (transactions designed to avoid liability for tax)

For the purposes of section 14 of this Schedule, section 61A has effect as if section 61A(1)(ca) and (cb) were enacted and read—

- “(ca) any change in the top-up tax liability of any Part 4AA entity of an MNE group, or the overall top-up tax liability of an MNE group, that has resulted, will result or may reasonably be expected to result from the transaction;
- (cb) whether the result that has been achieved, will be achieved or may reasonably be expected to be achieved by the transaction is inconsistent with the outcomes provided under the OECD GloBE model rules, as construed in accordance with the OECD GloBE rules guidance;”.

16 In the proposed Schedule 63, in section 25(a), by deleting “60 and 61; and” and substituting “61 and 62;”.

16 In the proposed Schedule 63, in section 25, by adding—

- “(ab) the reference in section 70A(1) to 6 years after the end of a year of assessment is to be read as a reference to the period of 8 years after—
 - (i) the end of the fiscal year of the MNE group (if the fiscal year ends on 31 March); or
 - (ii) the end of 31 March of the year next following the end of the fiscal year of the MNE group (if the fiscal year ends on a day other than 31 March); and”.

16 In the proposed Schedule 63, by deleting section 26 and substituting—

“26. Modifications to section 79 (tax paid in excess to be refunded)

For the purposes of section 14 of this Schedule—

- (a) section 79 applies subject to this Schedule and Schedules 61 and 62; and
- (b) the reference in section 79(1) to 6 years of the end of a year of assessment is to be read as a reference to the period of 8 years of—
 - (i) the end of the fiscal year of the MNE group (if the fiscal year ends on 31 March); or
 - (ii) the end of 31 March of the year next following the end of the fiscal year of the MNE group (if the fiscal year ends on a day other than 31 March).”.

16 In the proposed Schedule 63, in section 27—

- (a) in the heading, by deleting “62” and substituting “63”;
- (b) by deleting the definition of *assessed group* and substituting—
 - “*assessed subgroup* (被評稅子集團), in relation to an MNE group—
 - (a) for UTPR top-up tax, means HK constituent entities of the MNE group other than those that are investment-related entities;
 - (b) for HKMTT, means—
 - (i) HK constituent entities of the MNE group, other than the following—
 - (A) those that are investment-related entities;

- (B) those that are minority-owned constituent entities;
 - (ii) HK constituent entities that—
 - (A) are minority-owned constituent entities of the same minority-owned subgroup of the MNE group; and
 - (B) are not investment-related entities; or
 - (iii) a HK constituent entity that—
 - (A) is a minority-owned constituent entity but not of a minority-owned subgroup of the MNE group; and
 - (B) is not an investment-related entity;”;
 - (c) in the English text, in the definition of *specified assessment*, by deleting “re-assessment” and substituting “reassessment”.
- 16 In the proposed Schedule 63, in section 28, in the heading, by deleting “**62**” and substituting “**63**”.
- 16 In the proposed Schedule 63, in section 29(1), (2), (3) and (4), by deleting “assessed group” (wherever appearing) and substituting “assessed subgroup”.
- 16 In the proposed Schedule 63, in section 30—
- (a) in subsections (1)(a), (2) and (4), by deleting “assessed group” (wherever appearing) and substituting “assessed subgroup”;
 - (b) in subsections (1)(a) and (3), by deleting “61” and substituting “62”.
- 16 In the proposed Schedule 63, in section 31—
- (a) in the heading, by deleting “**assessed group**” and substituting “**assessed subgroup**”;
 - (b) in subsections (1), (2), (3) and (4), by deleting “assessed group” (wherever appearing) and substituting “assessed subgroup”.
- 16 In the proposed Schedule 63, in section 32—
- (a) in the heading, by adding “**specified assessment or**” after “**Objection to**”;
 - (b) by deleting subsection (1)(a) and substituting—

- “(a) the HK constituent entity—
 - (i) that has filed a top-up tax return required under this Schedule; and
 - (ii) that—
 - (A) is the UPE, designated filing entity or designated local entity of the MNE group; or
 - (B) has complied with section 11(1)(a) and (1A) of this Schedule; or”;
- (c) in subsections (2), (3) and (4), by deleting “assessed group” (wherever appearing) and substituting “assessed subgroup”.

16

In the proposed Schedule 63, by adding—

“32A. UTPR top-up tax or HKMTT: overpayment by HK constituent entity may be applied to offset its assessed subgroup’s liability

- (1) This section applies if—
 - (a) a combined specified assessment (*1st-mentioned assessment*) of a UTPR top-up tax or HKMTT (*subject top-up tax*) for a fiscal year is made on HK constituent entities of an assessed subgroup and one or more than one such HK constituent entity has paid a sum for settling its liability for the subject top-up tax; and
 - (b) subsequently, any additional assessment or reassessment that is a combined specified assessment (*2nd-mentioned assessment*) is made of the subject top-up tax for that fiscal year on those constituent entities under which—
 - (i) one or more than one HK constituent entity has its liability for the subject top-up tax reduced (each a *liability-reduced entity*) and would, but for this section, become entitled to a refund of any sum as tax overpaid (*overpaid sum*); and
 - (ii) one or more than one other HK constituent entity has its liability for the subject top-up tax increased (each a *liability-increased entity*).

- (2) The Commissioner may apply a liability-reduced entity's overpaid sum to offset any subject top-up tax of a liability-increased entity.
- (3) Subsection (2) applies even if section 31 of this Schedule does not apply to the assessed subgroup.
- (4) This section does not affect the right and liabilities of a HK constituent entity of an assessed subgroup in relation to any other HK constituent entities of the assessed subgroup.
- (5) In subsection (1)—
combined specified assessment (合併指明評稅) has the meaning given by section 32(4) of this Schedule.”.

- 16 In the proposed Schedule 63, in section 33, by deleting “assessed group” (wherever appearing) and substituting “assessed subgroup”.
- 16 In the proposed Schedule 63, in section 33(2), by deleting everything after “establishment that” and substituting “was at any time in the taxable year a HK constituent entity of the assessed subgroup”.
- 16 In the proposed Schedule 63, in section 34—
 - (a) by deleting “Parts 6C, 9, 10, 11, 12 and 13, as modified by this Part,” (wherever appearing) and substituting “the CE-related provisions”;
 - (b) by deleting “those Parts, as so modified,” (wherever appearing) and substituting “the CE-related provisions”;
 - (c) by adding—
 “(3) In this section—
CE-related provisions (成員實體相關條文) means the following—
 (a) Parts 6C, 9, 10, 11, 12 and 13, as modified by this Part;
 (b) Part 2 of this Schedule.”.
- 16 In the proposed Schedule 63, in section 35(2), by adding “HK” before “constituent entities”.
- 16 In the proposed Schedule 63, in section 35(3)—
 - (a) by deleting “***assessed group*** in” and substituting “***assessed subgroup*** in”;

(b) by deleting “**assessed group** (被評稅集團)” and substituting “**assessed subgroup** (被評稅子集團)”.

16 In the proposed Schedule 63, in section 36(2)—

(a) by deleting “**assessed group** in” and substituting “**assessed subgroup** in”;

(b) by deleting “**assessed group** (被評稅集團)” and substituting “**assessed subgroup** (被評稅子集團)”.

16 In the proposed Schedule 64, by deleting “, 26AG & 26AH & Sch. 60]” and substituting “& 26AG & Sch. 61]”.

16 In the proposed Schedule 64, in Part 1, by adding—

“ 7.	OECD/G20 Base Erosion and Profit Shifting Project: Tax Challenges Arising from the Digitalisation of the Economy—Administrative Guidance on the Global Anti-Base Erosion Model Rules (Pillar Two), Central Record of Legislation with Transitional Qualified Status (January 2025)	15 January 2025	First Jan-2025 Administrative Guidance	1 January 2025
8.	OECD/G20 Base Erosion and Profit Shifting Project: Tax Challenges Arising from the Digitalisation of the Economy—Administrative Guidance on Article 8.1.4 and 8.1.5 of the Global Anti-Base Erosion Model Rules	15 January 2025	Second Jan-2025 Administrative Guidance	1 January 2025

9.	OECD/G20 Base Erosion and Profit Shifting Project: Tax Challenges Arising from the Digitalisation of the Economy—Administrative Guidance on Article 9.1 of the Global Anti-Base Erosion Model Rules	15 January 2025	Third Jan-2025 Administrative Guidance	1 January 2025
10.	OECD/G20 Base Erosion and Profit Shifting Project: Tax Challenges Arising from the Digitalisation of the Economy—GloBE Information Return (January 2025)	15 January 2025	Jan-2025 GloBE Information Return	1 January 2025
11.	OECD/G20 Base Erosion and Profit Shifting Project: Tax Challenges Arising from the Digitalisation of the Economy—Administrative Guidance on the Global Anti-Base Erosion Model Rules (Pillar Two), Central Record of Legislation with Transitional Qualified Status	31 March 2025	Mar-2025 Administrative Guidance	1 January 2025

”.

16

By adding—

“Schedule 65

[s. 51AAB]

Specified Person, Specified Return and Specified Year of Assessment for Purposes of Section 51AAB

Part 1

Specified Person, Specified Return and Specified Year of Assessment

Column 1	Column 2	Column 3	Column 4
Item	Specified person	Specified return	Specified year of assessment
1.	Phase 1 applicable entity	Return for profits tax under Part 4, of either of the following types— (a) profits tax return—corporations; (b) profits tax return—persons other than corporations	Year of assessment beginning on or after 1 April 2025

Part 2

Interpretation

1. In this Schedule—

fiscal year (財政年度) has the meaning given by Article 10.1.1 of the GloBE rules;

in-scope MNE group (受涵蓋跨國企業集團) has the meaning given by section 1(1) of Schedule 63;

MNE group (跨國企業集團) has the meaning given by Article 1.2.1 of the GloBE rules;

Part 4AA entity (第 4AA 部實體) has the meaning given by section 1(1) of Schedule 63;

phase 1 applicable entity (第 1 階段適用實體) is to be construed in accordance with sections 2 and 3 of this Part.

2. An entity or permanent establishment (*subject entity*) is a phase 1 applicable entity for a year of assessment (*subject year of assessment*) if—
 - (a) the subject entity is a Part 4AA entity of an MNE group for the corresponding fiscal year of the group for the subject year of assessment; and
 - (b) any of the following applies—
 - (i) the MNE group is an in-scope MNE group for the corresponding fiscal year of the group (beginning on or after 1 January 2025) for the subject year of assessment;
 - (ii) the MNE group was an in-scope MNE group for a fiscal year of the group (beginning on or after 1 January 2025) preceding the fiscal year mentioned in subparagraph (i).
3. An entity or permanent establishment that is, under section 2 of this Part, a phase 1 applicable entity for a year of assessment remains to be a phase 1 applicable entity for every subsequent year of assessment, whether or not it meets any of the conditions in section 2(a) and (b) of this Part for any such subsequent year of assessment.
4. For the purposes of this Part and in relation to an entity or permanent establishment of an MNE group, the corresponding fiscal year of the MNE group for a year of assessment is the fiscal year of the MNE group within which the basis period for the year of assessment of the entity or permanent establishment ends.”.

New

By adding—

“17. Consequential amendments to cross-references in various Schedules

(1) Schedule 16D—

Repeal

“[ss. 4,”

Substitute

“[ss. 2, 4,”.

(2) Schedule 16E—

Repeal

“[ss. 19CA,”

Substitute

“[ss. 2, 19CA,”.

(3) Schedule 54—

Repeal

“15OA & 50AAA]”

Substitute

“2, 15OA, 50AAA & 50AAAD]”.”..

New

By adding—

“18. Consequential amendments to description of Schedule 17A in various provisions

(1) The following provisions—

(a) section 5B(7);

(b) section 14A(6);

(c) section 15(3A);

(d) section 16(4A);

(e) section 20AC(7);

(f) section 20AN(7);

(g) section 26A(4);

(h) section 51C(5)(b);

(i) section 60(4);

(j) section 64(11);

(k) section 79(4);

(l) section 80(6)(b);

(m) section 82A(8);

(n) Schedule 6, Part 1, item 3;

(o) Schedule 16, Part 2, section 1, definition of *securities*, paragraph (a);

- (p) Schedule 16C, Part 2, section 1, definition of *securities*, paragraph (a)—

Repeal

“tax treatment”

Substitute

“treatment under this Ordinance (other than Part 4AA)”.

- (2) Part 6A, heading—

Repeal

“Tax Treatment”

Substitute

“Treatment under this Ordinance (other than Part 4AA)”.’.