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NOTE

From: Presidency
To: Council

Subject: Draft Council Directive amending Directive 2011/16/EU on administrative cooperation in the field of taxation
- Presidency compromise text

Delegations will find attached the Presidency compromise text.

2024/0276 (CNS)

DRAFT

COUNCIL DIRECTIVE

amending Directive 2011/16/EU on administrative cooperation in the field of taxation

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 113 and 115 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Parliament¹,

Having regard to the opinion of the European Economic and Social Committee²,

Acting in accordance with a special legislative procedure,

¹ OJ C ..., ..., p.

² OJ C ..., ..., p.

Whereas:

- (1) Directive (EU) 2022/2523³ implements the agreement reached on 8 October 2021 by the OECD/G20 Inclusive Framework (OECD/G20 IF) on base erosion and profit shifting (BEPS) and closely follows the Global Anti-Base Erosion Model Rules (Pillar Two) of Organisation for Economic Co-operation and Development (OECD) ('OECD Model Rules') agreed by the OECD/G20 IF on 14 December 2021. Directive (EU) 2022/2523 introduces a qualified income inclusion rule (IIR) and a qualified undertaxed profit rule (UTPR). That Directive also allows Member States to introduce their own qualified domestic top-up tax (QDTT).
- (2) Directive (EU) 2022/2523 already sets out the rules for filing Top-up tax information returns and outlines broadly the information categories to be reported by the multinational enterprise (MNE) groups and large-scale domestic groups (LSDGs) covered by that Directive. The tax administrations need those Top-up tax information returns to perform an appropriate risk assessment, to evaluate the correctness of the tax liability and to monitor whether MNE groups and LSDGs apply the rules set out in Directive (EU) 2022/2523 correctly.
- (3) It is therefore appropriate to amend Directive 2011/16/EU⁴ to set up new rules on automatic exchange of information to facilitate the exchange of information with respect to the Top-up tax information return and thereby establish the framework for the operational implementation of the filing obligations laid down in Directive (EU) 2022/2523, in line with the OECD/G20 IF Multilateral competent authority agreement on the Exchange of GloBE information and its commentary and the GloBE Information return to the extent that such new rules are consistent with the filing obligations laid down in Directive (EU) 2022/2523 and with Union law.

³ Directive (EU) 2022/2523 of 15 December 2022 on ensuring a global minimum level of taxation for multinational enterprise groups and large-scale domestic groups in the Union (OJ L 328, 22.12.2022, p. 1, ELI: <http://data.europa.eu/eli/dir/2022/2523/oj>).

⁴ Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC (OJ L 64, 11.3.2011, p. 1, ELI: <http://data.europa.eu/eli/dir/2011/16/oj>).

- (4) While the general rule is that a constituent entity files a Top-up tax information return with its tax administration (local filing), Directive (EU) 2022/2523 provides a derogation pursuant to which a constituent entity is not obliged to file a Top-up tax information return with its tax administration if such return has been filed by the ultimate parent entity or by a designated filing entity located in a jurisdiction that has, for the reporting fiscal year, a qualifying competent authority agreement in effect with the Member State in which the constituent entity is located (central filing). This Directive constitutes such a qualifying competent authority agreement between Member States.
- (5) The new rules on automatic exchange of information should enable the central filing of the Top-up tax information return in accordance with Directive (EU) 2022/2523, and may also serve for filing purposes in each jurisdiction that is implementing the OECD/G20 IF agreement regarding the minimum taxation of MNE groups (implementing jurisdictions)⁵. Tax administrations of each relevant Member State should receive the necessary information under the standard information return.
- (6) Member States should take the necessary measures to require the filing constituent entities of MNE groups to use the standard template set out in Directive 2011/16/EU to fulfil their filing obligations under Directive (EU) 2022/2523. The template to be used by LSDGs to fulfil their filing obligations laid down in Directive (EU) 2022/2523, remains the choice of the Member States, except in the limited situations when there is a need for exchange of information.

⁵ OECD (2021), Tax Challenges Arising from Digitalisation of the Economy – Global Anti-Base Erosion Model Rules (Pillar Two): Inclusive Framework on BEPS, OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing, Paris, <https://doi.org/10.1787/782bac33-en>.

- (7) When a Member State receives a Top-up tax information return from the ultimate parent entity or the designated filing entity of an MNE group under central filing in accordance with Directive (EU) 2022/2523, such a Member State should communicate to other implementing Member States or QDTT-only Member States, no later than 3 months after the filing deadline, or - in case of receipt of a Top-up tax information return after the filing deadline - no later than 3 months after such receipt, the relevant specific parts of the Top-up tax information return in accordance with the dissemination approach approved by the OECD/G20 IF. As regards the first Reporting fiscal year, the deadline for communication of those relevant specific parts should be prolonged to 6 months after the filing deadline. Additionally, in order to accommodate any delays in the new system of exchange, in any case (i.e. for the first and next Reporting fiscal years) the first exchange will take place no earlier than 1 December 2026.
- (8) The Member State of the ultimate parent entity of the MNE group should receive the full Top-up tax information return. The Member State that has implemented a qualified IIR or a qualified UTPR or both (Implementing Member State) should be provided with the General section of the Top-up tax information return, provided that there is a constituent entity of the MNE group located in its territory. The QDTT-only Member State, where constituent entities of the MNE group are located, should be provided with the relevant parts of the General section of the Top-up tax information return, although QDTT-only Member States should not send the information.
- (9) Jurisdictional sections should be provided to the Member State with taxing rights under Directive (EU) 2022/2523 including the QDTT, according to dissemination approach.

- (10) Directive (EU) 2022/2523 allows Member State in which no more than twelve ultimate parent entities of groups within the scope of that Directive are located, to elect not to apply the IIR and UTPR for a limited period of time. Such Member State, if it is not a QDTP-only Member State, should only start applying the rules on exchange of Top-up tax information returns (i.e. receive and send the information) when the period of such election under Directive (EU) 2022/2523 ends.
- (11) In order to ensure uniform conditions for the implementation of this Directive and in particular, for the automatic exchange of information between competent authorities, implementing powers should be conferred on the Commission to adopt the necessary practical arrangements, as part of the procedure for establishing the standard computerised form. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council⁶.
- (12) The receiving competent authority should notify the sending competent authority when there is reason to believe that the information included in a Top-up tax information return, being subject of the exchange, requires correction. Since such notification normally takes place before a more thorough risk assessment or tax examination, the sending competent authority should be notified only of manifest errors identified. The amended information should be exchanged without undue delay with all competent authorities for which such information is subject to exchange. This procedure does not preclude tax administrations from requesting necessary corrections in follow up requests to verify compliance with Council Directive (EU) 2022/2523 under their national law.

⁶ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13, ELI: <http://data.europa.eu/eli/reg/2011/182/oj>).

- (13) If a competent authority does not receive an exchange that was expected pursuant to a notification from an MNE group, it should notify the competent authority that was expected to send the information of the missing exchange. The competent authority that was expected to send the information of the missing exchange should without undue delay determine the reason for not exchanging the relevant information and inform the competent authority that notified the missing exchange of that reason within 1 month, indicating, where relevant, the expected new date for the exchange. In order to ensure the effective operation of Directive 2011/16/EU, it is understood that the exchange takes place as soon as possible to avoid causing additional delays for Member States. The expected exchange date should be set for a day no later than 3 months of the receipt of notification of the missing exchange.
- (14) If the Top-up tax information return has not been filed centrally by the ultimate parent entity or the designated filing entity of an MNE group and the information is not received by the new expected date for exchange, it is understood that the competent authority that notified the missing exchange may require local filing since the conditions for central filing under Directive (EU) 2022/2523 have not been fulfilled.
- (15) Directive 2011/16/EU including Annex VII thereto, as amended by this Directive, should be read together with Directive (EU) 2022/2523. The terms set out for the purposes of exchange of information with respect to the Top-up tax information return under this Directive should have the same meaning as those in Directive (EU) 2022/2523. Furthermore, this Directive contains additional definitions necessary to reflect international developments made in the context of the exchange of information in the field of taxation.

(16) In implementing this Directive, Member States should use the Multilateral competent authority agreement on the Exchange of GloBE information and its commentary, the OECD Model Rules and the explanations and examples in the Commentary to the Global Anti-Base Erosion Model Rules (Pillar Two) released by the OECD/G20 IF on BEPS, as well as the GloBE Implementation Framework, and any updates thereof, as a source of illustration or interpretation in order to ensure consistency in application across Member States to the extent that those sources are consistent with this Directive, Directive (EU) 2022/2523 and Union law. Consequently, the OECD/G20 IF on BEPS instructions for the filing of the standard template, such as the introduction and explanatory guidance to the GloBE Information Return including the basis for information reported in the GloBE Information Return and transitional simplified jurisdictional reporting framework (for fiscal years beginning on or before 31 December 2028 but not including a fiscal year that ends after 30 June 2030), should, to the extent that those sources are consistent with this Directive and Union law, be used as a source of illustration and interpretation for the MNE groups to file the Top-up tax information return in order to ensure consistency of application. It is therefore appropriate to supplement Directive 2011/16/EU with a new annex that contains a standard form, in line with the standard template developed by the OECD/G20 IF on BEPS, for the filing of the Top-up tax information return under Directive (EU) 2022/2523, as provided for by this Directive.

(17) The standard template for the Top-up tax information return set out in this Directive ensures that the information and tax calculations that an MNE group is required to file under the Top-up tax information return are sufficiently comprehensive to allow tax administrations to perform an appropriate risk assessment and to evaluate the correctness of a constituent entity's tax liability under Directive (EU) 2022/2523. At the same time, it is sought to avoid imposing unnecessary information collection, computation and reporting requirements on MNE groups and to avoid exposing taxpayers to multiple, uncoordinated requests for further information in each implementing jurisdiction. A standardised information return does not affect the ability of a tax administration to require a routine domestic tax return or to collect information for the purposes of the preparation of the domestic top-up tax return, therefore Member States, in some cases, should be able to require additional data points to be reported beyond the Top-up tax information return for purposes of the preparation of the tax return (for instance, to convert the top-up tax liability into the domestic currency). However, the Member States should generally refrain from requiring the reporting of additional data points beyond the Top-up tax information return as part of their routine tax return and payment requirements and any such information should relate, for instance, to liability, timing and method of payment or identification of the taxpayer and contact details, rather than the calculation of a constituent entity's top-up tax liability. This Directive does not apply to domestic tax audit procedures, and does not preclude tax administrations from requesting necessary supporting information in follow-up requests to verify compliance with provisions transposing Directive (EU) 2022/2523 under their national law.

- (18) [deleted]
- (19) To ensure the exchange of information regarding joint ventures and equal treatment, Member States should require, when implementing this Directive, that in those rare cases where a parent entity of a large-scale domestic group holds a direct or indirect ownership interest in a joint venture or joint venture affiliate and the latter is subject to a QDIT in another Member State, such large-scale domestic group should use the same standard template as a MNE group (i.e. set out in Section IV of Annex VII to this Directive) when filing their Top-up information return. Consequently, Member States should ensure that the provisions on exchange of information are applied in such cases.
- (20) Furthermore, recognising the need to provide a complete legal framework, so that it covers the scope of the Directive (EU) 2023/2226 for the automatic exchange of information on financial accounts, it is essential that Article 8(3a) is amended accordingly. The range of information to be exchanged should take into account the transition measures under Section XI of Annex I.

- (21) Since the objective of this Directive, namely to provide the framework for the operational implementation of the filing obligations laid down in Directive (EU) 2022/2523 on the basis of the common approach contained in the OECD Model Rules and to ensure that respective information on financial accounts are subject to automatic exchange, cannot be sufficiently achieved by the Member States, because independent action by Member States would risk fragmenting the internal market, but can rather, given the scale of the global minimum tax reform and the critical importance of adopting solutions that function for the internal market as a whole, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective.
- (22) Given that Member States need to act within a very short period of time to begin transposition of rules on the Top-up tax information return, this Directive should enter into force as a matter of urgency.
- (23) Directive 2011/16/EU should therefore be amended accordingly,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 2011/16/EU is amended as follows:

(1) in Article 3, point (9) is amended as follows:

(a) the first subparagraph, is amended as follows:

(a) point (a) is replaced by the following:

‘(a) for the purposes of Article 8(1) and Articles 8a to 8ae, the systematic communication of predefined information to another Member State, without prior request, at pre-established regular intervals. For the purposes of Article 8(1), reference to available information relates to information in the tax files of the Member State communicating the information, which is retrievable in accordance with the procedures for gathering and processing information in that Member State.’;

(b) point (c) is replaced by the following:

‘(c) for the purposes of provisions of this Directive other than Article 8(1) and (3a) and Articles 8a to 8ae, the systematic communication of predefined information provided for in the first subparagraph, points (a) and (b), of this point.’;

- (b) the second subparagraph is replaced by the following:

‘In the context of this Article, Articles 8(3a), 8(7a) and 21(2) of this Directive and Annex IV to this Directive, any capitalised term shall have the meaning that it has under the corresponding definitions set out in Annex I to this Directive. In the context of Article 21(5) and Article 25(3) and (4) of this Directive, any capitalised term shall have the meaning that it has under the corresponding definitions set out in Annex I, V or VI to this Directive. In the context of Article 8aa of this Directive and Annex III to this Directive, any capitalised term shall have the meaning that it has under the corresponding definitions set out in Annex III to this Directive. In the context of Article 8ac of this Directive and Annex V to this Directive, any capitalised term shall have the meaning that it has under the corresponding definitions set out in Annex V to this Directive. In the context of Article 8ad of this Directive and Annex VI to this Directive, any capitalised term shall have the meaning that it has under the corresponding definitions set out in Annex VI to this Directive. In the context of Articles 8ae and 9a of this Directive and Annex VII to this Directive any term shall have the same meaning as defined in Article 3, Article 9(2), point (a), Article 16(4), (6), (8) and (11), Article 17(1), Article 21(5), Article 22(1), Article 24(4) and (6), Article 26(2), Article 27(3), (4), and (5), Article 28(1), Article 30(2), Article 31(1), Article 32, Article 33(1), Article 35(1), Article 36(1), Article 37(1), Article 39(1), Article 42(1), Article 44(1), Article 47(1) and Article 49(3) of Directive (EU) 2022/2523*. Furthermore, any capitalised term shall have the same meaning as defined in Annex VII, Section I, to this Directive.

* Directive (EU) 2022/2523 of 15 December 2022 on ensuring a global minimum level of taxation for multinational enterprise groups and large-scale domestic groups in the Union (OJ L 328, 22.12.2022, p. 1, ELI: <http://data.europa.eu/eli/dir/2022/2523/oj>);

(2) Article 8(3a) is replaced by the following:

3a. Each Member State shall take the necessary measures to require its Reporting Financial Institutions to perform the reporting and due diligence rules included in Annexes I and II and to ensure effective implementation of, and compliance with, such rules in accordance with Section IX of Annex I.

Pursuant to the applicable reporting and due diligence rules contained in Annexes I and II, the competent authority of each Member State shall, by automatic exchange, communicate within the deadline laid down in point (b) of paragraph 6 to the competent authority of any other Member State, the following information regarding taxable periods as from 1 January 2016 concerning a Reportable Account:

(a) the name, address, TIN(s) and date and place of birth (in the case of an individual) of each Reportable Person that is an Account Holder of the account and, in the case of any Entity that is an Account Holder and that, after application of due diligence rules consistent with the Annexes I and II, is identified as having one or more Controlling Persons that are Reportable Persons, the name, address, and TIN(s) of the Entity and the name, address, TIN(s) and date and place of birth of each Reportable Person;

- (b) the account number (or functional equivalent in the absence of an account number);
- (c) the name and identifying number (if any) of the Reporting Financial Institution;
- (d) the account balance or value (including, in the case of a Cash Value Insurance Contract or Annuity Contract, the Cash Value or surrender value) as of the end of the relevant calendar year or other appropriate reporting period or, if the account was closed during such year or period, the closure of the account;
- (e) in the case of any Custodial Account:
 - (i) the total gross amount of interest, the total gross amount of dividends, and the total gross amount of other income generated with respect to the assets held in the account, in each case paid or credited to the account (or with respect to the account) during the calendar year or other appropriate reporting period; and
 - (ii) the total gross proceeds from the sale or redemption of Financial Assets paid or credited to the account during the calendar year or other appropriate reporting period with respect to which the Reporting Financial Institution acted as a custodian, broker, nominee, or otherwise as an agent for the Account Holder;

- (f) in the case of any Depository Account, the total gross amount of interest paid or credited to the account during the calendar year or other appropriate reporting period;
- (g) in the case of any account not described in point (e) or point (f), the total gross amount paid or credited to the Account Holder with respect to the account during the calendar year or other appropriate reporting period with respect to which the Reporting Financial Institution is the obligor or debtor, including the aggregate amount of any redemption payments made to the Account Holder during the calendar year or other appropriate reporting period;
- (h) whether a valid self-certification has been provided for each Account Holder;
- (i) the role(s) by virtue of which each Reportable Person that is a Controlling Person of an Entity Account Holder is a Controlling Person of the Entity and whether a valid self-certification has been provided for each such Reportable Person;

- (j) the type of account, whether the account is a Pre-existing Account or a New Account and whether the account is a joint account, including the number of joint Account Holders; and
- (k) in the case of any Equity Interest held in an Investment Entity that is a legal arrangement, the role(s) by virtue of which the Reportable Person is an Equity Interest holder.

For the purposes of the exchange of information under this paragraph, unless otherwise provided for in this paragraph or in Annexes I and II, the amount and characterisation of payments made with respect to a Reportable Account shall be determined in accordance with the national legislation of the Member State which communicates the information.

The first and second subparagraphs of this paragraph shall prevail over point (c) of paragraph 1 or any other Union legal instrument, to the extent that the exchange of information at issue would fall within the scope of point (c) of paragraph 1 or of any other Union legal instrument.

The competent authority of each Member State shall communicate the information referred to in points (h) to (k) of the second subparagraph regarding taxable periods as from 1 January 2026.

(3) the following article is inserted:

‘Article 8ae

*Filing format and exchange of information with respect to Top-up tax information returns
under Article 44 of Directive (EU) 2022/2523*

1. Each Member State shall take the necessary measures to require the filing constituent entity of an MNE group to use the standard template set out in Section IV of Annex VII to this Directive to fulfil the filing obligations under Article 44 of Directive (EU) 2022/2523.
2. The competent authority of a Member State which has received the Top-up tax information return filed by the ultimate parent entity or designated filing entity, as referred to in Article 44(3), points (a) and (b), of Directive (EU) 2022/2523, shall communicate, by means of automatic exchange and in accordance with the following dissemination approach, the following:
 - (a) the General section of the Top-up tax information return, to the Implementing Member State where the ultimate parent entity or constituent entities of the MNE group are located;
 - (b) the General section of the Top-up tax information return, with the exception of the high-level summary information in Section 1.4 thereof, to the qualified domestic top-up tax (QD TT)-only Member States:
 - (i) where constituent entities of the MNE group are located;
 - (ii) where a joint venture or a member of a joint venture group of the MNE group is located if the qualified domestic top-up tax is imposed in respect of joint ventures in the Member State;

- (iii) where the qualified domestic top-up tax is imposed in the Member State in respect of a stateless constituent entity or a stateless joint venture of the MNE group;
- (c) one or more Jurisdictional sections of the Top-up tax information return, to Member States that have taxing rights, under Directive (EU) 2022/2523 including the qualified domestic top-up tax, in respect of the Member States to which such Jurisdictional Sections relate.

Notwithstanding the first subparagraph of this paragraph, UTPR jurisdictions with a UTPR percentage of zero shall only be provided with the portion of the Top-up tax information return that contains information on the attribution of Top-up tax under the UTPR in respect of that jurisdiction, such information being consistent with an excerpt of Section 3.4.3 of the Top-up tax information return, and the Implementing Member State in which the ultimate parent entity is located shall be provided with all Jurisdictional sections.

3. The competent authority of a Member State shall communicate the Top-up tax information return received pursuant to paragraph 1 and that communication shall take place no later than 3 months after the filing deadline for the Reporting fiscal year.
4. The competent authority of a Member State shall communicate the Top-up tax information return received after the filing deadline, and that communication shall take place no later than 3 months after the date on which it is received.

5. The Commission shall adopt, by means of implementing acts, the necessary practical arrangements to facilitate the communication as referred to in paragraph 2 of this Article. Those implementing acts shall be adopted in accordance with the procedure referred to in Article 26(2).
 6. The Commission shall not have access to the information referred to in paragraph 2, points (a) to (c).
 7. The communication of information, as referred to in paragraphs 2, 3 and 4 of this Article, shall take place using the standard computerised format referred to in Article 20(4).
- (4) Article 8b is replaced by the following:

‘Article 8b

Statistics on automatic exchanges

‘Member States shall provide the Commission on an annual basis with statistics on the volume of automatic exchanges under Articles 8(1), 8(3a), 8aa, 8ac and 8ae and with information on the administrative and other relevant costs and benefits relating to exchanges that have taken place and any potential changes, for both tax administrations and third parties.’

- (5) the following article is inserted:

Article 9a

Collaboration on corrections, compliance and enforcement with respect to Top-up tax information returns

1. Where the competent authority of a Member State has reason to believe, that the information, in a Top-up tax information return filed by an ultimate parent entity or designated filing entity that is located in the jurisdiction of the other Member State, communicated under Article 8ae, requires the correction of manifest errors, it shall, without undue delay, notify the competent authority of the other Member State. If the notified competent authority agrees that the information in the Top-up tax information return requires corrections, it shall take, without undue delay, appropriate measures to obtain an amended top-up tax information return from the concerned ultimate parent entity or designated filing entity. It shall communicate, without undue delay, the amended top-up tax information return with all competent authorities for which such information is subject to exchange in accordance with this Directive.

2. When the competent authority of a Member State has received a notification from one or more constituent entities located in its Member State that the Top-up tax information return for such constituent entities was to be filed by the ultimate parent entity or designated filing entity located in another Member state, but the information included in the Top-up tax information return was not communicated within the deadlines specified in Article 8ae(3) or 27d(3) and (4), it shall, without undue delay, notify the other competent authority that the information has not been received. The notified competent authority shall, without undue delay, determine the reason for not communicating the concerned Top-up tax information return and shall inform the competent authority within 1 month of the receipt of the notification, including the expected exchange date for the Top-up tax information return, where relevant. The expected exchange date shall be set for a day no later than 3 months of the receipt of notification of the missing exchange.’;

(6) in Article 18, paragraph 4 is replaced by the following:

‘4. The competent authority of each Member State shall put in place an effective mechanism to ensure the use of information acquired through the reporting or the exchange of information under Articles 8 to 8ae.’;

(7) in Article 20, paragraph 4 is replaced by the following:

‘4. The automatic exchange of information pursuant to Articles 8, 8ac and 8ae shall be carried out using a standard computerised format aimed at facilitating such automatic exchange, adopted by the Commission in accordance with the procedure referred to in Article 26(2).’;

(8) [deleted]

(9) in Article 22, paragraphs 3 and 4 are replaced by the following:

- ‘3. Member States shall retain the records of the information received through the automatic exchange of information pursuant to Articles 8 to 8ae for no longer than necessary but in any event not less than five years from its date of receipt to achieve the purposes of this Directive.
4. Member States shall endeavour to ensure that a reporting entity is allowed to obtain confirmation by electronic means of the validity of the information on the TIN of any taxpayer subject to the exchange of information under Articles 8 to 8ae. The confirmation of the information on the TIN may be requested only for the purposes of validation of the correctness of data referred to in Articles 8(1), 8(3a), 8a(6), 8aa(3), 8ab(14), 8ac(2), 8ad(3) and 8ae(2).’;

(10) Article 25a is replaced by the following:

‘Article 25a

Penalties

Member States shall lay down the rules on penalties applicable to infringements of national provisions adopted pursuant to this Directive and concerning Articles 8aa to 8ae and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive.’;

(11) [deleted]

(12) [deleted]

(13) the following article is inserted:

‘Article 27d

The first Reporting fiscal year and exchange of the information referred to in Article 8ae for the first time

1. The first Reporting fiscal year for which the information shall be communicated under Article 8ae is the first fiscal year beginning from 31 December 2023.
2. For the Member States that have elected not to apply the IIR and the UTPR pursuant to Article 50(1) of Directive (EU) 2022/2523, the first Reporting fiscal year for which the information shall be communicated under Article 8ae shall be the first fiscal year following the end of such election.

Notwithstanding the first subparagraph of this paragraph, for the Member States that have elected not to apply the IIR and the UTPR pursuant to Article 50(1) of Directive (EU) 2022/2523 and have elected to apply a qualified domestic top-up tax pursuant to Article 11(1) of that Directive, the first Reporting fiscal year for which the information shall be communicated under Article 8ae shall be the first fiscal year when the qualified domestic top-up tax applies.

3. When communicating the information referred to in Article 8ae with respect to the first Reporting fiscal year, the competent authority of the Member State shall communicate that information no later than 6 months after the filing deadline.
4. In any case, Member States shall communicate the information referred to in Article 8ae for the first time no earlier than 1 December 2026.’;

(14) the text set out in the Annex to this Directive is added as Annex VII.

Article 2

Transposition

1. Member States shall adopt and publish, by 31 December 2025, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall immediately inform the Commission thereof.

They shall apply those measures from 1 January 2026.

When Member States adopt those measures, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication.

Member States shall determine how such reference is to be made.

2. Notwithstanding paragraph 1, the Member States that have elected not to apply the IIR and the UTPR pursuant to Article 50(1) of Directive (EU) 2022/2523 shall adopt and publish the laws, regulations and administrative provisions necessary to comply with Article 1, points (1) and (3) to (14), of this Directive by the day before the end of such election.

They shall apply those measures from the day after the day such election ends.

Notwithstanding the first subparagraph of this paragraph, the Member States that have elected not to apply the IIR and the UTPR pursuant to Article 50(1) of Directive (EU) 2022/2523 and have elected to apply a qualified domestic top-up tax pursuant to Article 11(1) of Directive (EU) 2022/2523 shall adopt and publish the laws, regulations and administrative provisions necessary to comply with this Directive by the day before the first Reporting fiscal year under the election to apply a qualified domestic top-up tax starts. They shall immediately inform the Commission thereof.

They shall apply those measures from the beginning of the first Reporting fiscal year under the election to apply a qualified domestic top-up tax.

When the first Reporting fiscal year referred to in the third subparagraph of this paragraph begins before or on the day this Directive enters into force, the Member State that have elected not to apply the IIR and the UTPR pursuant to Article 50(1) of Directive (EU) 2022/2523 and have elected to apply a qualified domestic top-up tax pursuant to Article 11(1) of Directive (EU) 2022/2523 shall adopt and publish, by 31 December 2025, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall immediately inform the Commission thereof.

They shall apply those measures from 1 January 2026.

When Member States adopt those measures, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

3. By way of derogation from paragraph 1, Member States shall adopt and publish, by 31 December 2027, the laws, regulations and administrative provisions necessary to comply with Article 1, point (9), of this Directive. They shall immediately inform the Commission thereof.

They shall apply those measures from 1 January 2028.

When Member States adopt those measures, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

4. Member States shall communicate to the Commission, the text of the main measures of national law which they adopt in the field covered by this Directive.

Article 3

This Directive shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

Article 4

This Directive is addressed to the Member States.

Done at, ..., ...

For the Council

The President

‘ANNEX VII

Filing rules and form for Top-up tax information return

SECTION I

DEFINITIONS

For the purposes of this Annex, the following definitions apply:

- (1) ‘Implementing Member State’ means a Member State that has implemented either a qualified income inclusion rule (IIR) or a qualified under-taxed profits rule (UTPR) as defined in Article 3 of Directive (EU) 2022/2523 or both, for the given Reporting fiscal year.
- (2) ‘Qualified domestic top-up tax (QDTP)-only Member State’ means a Member State that has only implemented a qualified domestic minimum top-up tax as defined in Article 3 of Directive (EU) 2022/2523 for the given Reporting fiscal year.
- (3) ‘Top-up tax information return’ means the information return filed by an ultimate parent entity, designated filing entity, designated local entity or constituent entity for which the form is included in Section IV of this Annex.

- (4) ‘General section’ means the section of the Top-up tax information return that contains general information on the MNE group as a whole, including its corporate structure and a high-level summary of the application of Directive (EU) 2022/2523, such section being consistent with Section 1 of the Top-up tax information return.
- (5) ‘Jurisdictional section’ means the sections of the Top-up tax information return that contain information on the detailed application of the qualified IIR, qualified UTPR and qualified domestic top-up tax in respect of each jurisdiction where the MNE group is operating, such sections being consistent with Sections 2 and 3 of the Top-up tax information return.
- (6) ‘Reporting fiscal year’ means the fiscal year to which the Top-up tax information return relates.

SECTION II

FILING REQUIREMENTS

The constituent entity filing the Top-up tax information return shall identify the relevant sections and the relevant Member States, that the information shall be distributed to, pursuant to the dissemination approach set out in Article 8ae.

SECTION III

*FILING FORMAT AND AND EXCHANGE OF INFORMATION FOR LARGE-SCALE
DOMESTIC GROUPS WITH JOINT VENTURES*

When a parent entity of a large-scale domestic group holds a direct or indirect ownership interest in a joint venture or joint venture affiliate that is subject to a QDIT in another Member State than the Member State where the large-scale domestic group is located, such large-scale domestic group shall use the format set out in Section IV of Annex VII to file the Top-up tax information return.

In cases covered by the previous subparagraph, Member States shall take the necessary measures to ensure that paragraph 2 of Article 8ae, and Article 9a apply.

SECTION IV

DATA POINTS

1. MNE GROUP INFORMATION

1.1. Identification of the filing constituent entity

1. UPE is the filing constituent entity	2. Name of the filing constituent entity	3. Tax identification number	4. Role	5. Jurisdiction where the filing constituent entity is located	6. Recipient Jurisdictions for Exchange of Information (if relevant)
Yes/No					

1.2. MNE group general information

1.2.1. MNE group and Reporting fiscal year

1. Name of the MNE group	2. Start date of the Reporting fiscal year	3. End date of the Reporting fiscal year	4. Amended return
			Yes/No

1.2.2. MNE General accounting information

1. Consolidated financial statements of the UPE (type)	2. Financial accounting standard used for the consolidated financial statements of the UPE	3. Presentation currency used for the consolidated financial statements of the UPE (ISO code)

1.3. Corporate structure

1.3.1. Ultimate parent entity

1. UPE Jurisdiction	
2. Applicable rules?	
3. Name of the UPE	
4. TIN of the UPE	

5. TIN of the UPE in the filing jurisdiction (if different, and if any)	
6. Status for purposes of the rules	
7. If the UPE is an excluded entity - Type	
8. The jurisdiction in which a dual resident parent entity is deemed to be subject to qualified IIR (if based on the rules that parent entity is deemed to be located in another jurisdiction where it is in not subject to qualified IIR) (if any)	

1.3.2. Group entities (other than the UPE) and members of joint venture groups

1.3.2.1. Constituent entities and members of joint venture groups

Changes	1. Changes from previous Reporting fiscal year?	Yes/No
Jurisdiction	2. Jurisdiction	
	3. Applicable rules?	
Identification of the constituent entity, joint venture or joint venture affiliate	4. Name of constituent entity, joint venture or joint venture affiliate	
	5. TIN	
	6. TIN for filing jurisdiction (if any)	
	7. Status for purposes of the rules	
Ownership structure of the constituent entity, joint venture or joint venture affiliate	For each entity holding ownership interests in the constituent entity, joint venture or joint venture affiliate: 8. Type 9. TIN (for constituent entities or members of joint venture groups) 10. Ownership interest held (percentage)	
If the constituent entity is a partially owned parent entity or an intermediate parent entity, is the entity required to apply a qualified IIR?	11. Parent entity status	
	12. If the intermediate parent entity shall not apply IIR, because the UPE is subject to qualified IIR or there is another intermediate parent entity that owns a controlling interest in it and is subject to qualified IIR, identify the UPE or the other intermediate parent entity (TIN)	
	13. If the partially owned parent entity shall not apply IIR, because another partially owned parent entity that is subject to qualified IIR holds 100% of its ownership interests, identify the other partially owned parent entity required to apply a qualified IIR (TIN)	
Is UTPR applicable in respect of the entity?	14. Initial phase of international activity applicable?	Yes/No
	15. Aggregate ownership interests (respectively allocable share of top-up taxes) of parent entities required to apply a qualified IIR in respect of the constituent entity (respectively member of joint venture group) (in percentage)	

	16. Are the UPE's ownership interests in the constituent entity (respectively UPE's allocable share of top-up tax for the member of joint venture group) greater than the aggregate ownership interests (respectively allocable share) of parent entities required to apply a qualified IIR in that constituent entity (respectively member of joint venture group)?	Yes/No
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1.3.2.2. Excluded entities

1. Changes from previous Reporting fiscal year?	Yes/No
2. Name of the excluded entity	
3. Type of the excluded entity	

1.3.3. Changes in the corporate structure that occurred during the Reporting fiscal year

Were changes in the corporate structure that occurred during the Reporting fiscal year not reported because they neither affected the effective tax rate computation or the computation or allocation of top-up tax?								Yes/No
1. Name of the constituent entity (or other entity of the MNE group) or member of joint venture group	2. TIN	3. Effective date of the change	4. Status before the change	5. Status after the change	6. Entities holding ownership interests in that constituent entity (or other entity) or member of joint venture group before or after the change	7. Ownership interests held in that constituent entity (or other entity) or member of joint venture group before the change (Percentage)	8. Ownership interests held in that constituent entity (or other entity) or member of joint venture group after the change (Percentage)	

1.4. High-level summary of information

1. Name of the jurisdiction	2. Type of subgroup (if any)	3. Identification of subgroup (if any)	4. Name(s) of jurisdiction(s) with taxing rights	5. Safe harbour or exclusion applied?	6. Effective tax rate range	7. Has application of substance-based income exclusion resulted in no top-up tax arising?	8. Top-up tax payable (qualified domestic top-up tax) – range	9. Top-up tax payable (qualified IIR/qualified UTPR) – range
				[Insert relevant option]	[Insert relevant option]	Yes/No	[Insert relevant option]	[Insert relevant option]

2. JURISDICTIONAL SAFE HARBOURS AND EXCLUSIONS

2.1. Characteristics of the jurisdiction

1. Name of the jurisdiction	
2. Type of subgroup (if any)	
3. Identification of subgroup (if any)	
4. Jurisdiction with taxing rights	
5. Existence of reportable differences (Yes/No)	

2.2. Jurisdictional exceptions applicable in respect of this jurisdiction (top-up tax reduced to zero)

2.2.1. Safe harbour jurisdiction election

2.2.1.1. Safe harbour election

1. Safe Harbour elected	[insert the relevant option]
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2.2.1.2. Permanent safe harbours

Simplified calculation for non-material constituent entities

	1. Total revenue of all non-material constituent entities in the jurisdiction	2. Aggregate simplified tax of all non-material constituent entities in the jurisdiction
a. Reporting fiscal year		
b. 1 st preceding fiscal year (if applicable)		n.a.
c. 2 nd preceding fiscal year (if applicable)		n.a.
d. Average of the three fiscal years (if applicable)		n.a.

2.2.1.3. Transitional safe harbours

(a) Transitional CbCR safe harbour

1. Total revenue	
2. Profit (loss) before income tax	
3. Simplified covered taxes	

(b) Transitional UTPR safe harbour

1. Corporate income tax rate	
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2.2.2. Election for de minimis exclusion

- Election to apply the de minimis exclusion for the Reporting fiscal year
- Simplified calculations for non-material constituent entities – constituent entities that are not non-material constituent entities

	1. Revenue (financial accounts)	2. Qualifying revenue	3. Financial accounting net income or loss	4. Qualifying income or loss
a. Reporting fiscal year				
b. 1st preceding fiscal year (if applicable)				
c. 2nd preceding fiscal year (if applicable)				
d. Average of the three fiscal years				

2.3. MNE group in the initial phase of international activity (if applicable)

1. First day of the first fiscal year in which the MNE group originally falls within the scope of the rules	
2. Reference jurisdiction	
3. Net book value of tangible assets in reference jurisdiction for the fiscal year in which the MNE group originally falls within the scope of the rules	
4. Number of jurisdictions where the MNE group has constituent entities for the fiscal year in which the MNE group originally falls within the scope of the rules	
5. Tangible assets of constituent entities located outside the reference jurisdiction for the fiscal year in which the MNE group originally falls within the scope of the rules	a. Jurisdiction
	b. Net book values of tangible assets of all constituent entities located in each jurisdiction
6. Number of jurisdictions where the MNE group has constituent entities during the Reporting fiscal year	
7. Sum of the net book values of tangible assets of all constituent entities located in other jurisdictions than the reference jurisdiction during the Reporting fiscal year	

3. COMPUTATIONS

3.1. Characteristics of the jurisdiction

1. Name of the jurisdiction	
2. Type of subgroup (if any)	
3. Identification of subgroup (if any) for the effective tax rate and top-up tax computation	
4. Jurisdiction with taxing rights	
5. Effective tax rate	
6. Adjusted covered taxes	
7. Net qualifying income or loss	
8. Substance-based income exclusion	
9. Additional current top-up tax	
10. Top-up tax amount under domestic legislation	
11. Elections	
12. Aggregate current tax expense with respect to covered taxes after allocations of covered taxes incurred by certain types of constituent entities	
13. Qualified refundable tax credits or marketable transferable tax credits (tax expense)	
14. Other tax credits (tax expense)	
15. Deferred tax expense amount	
16. Qualified refundable tax credits or marketable transferable tax credits (income)	
17. Excess negative tax expense carry-forward	
18. Transition rules	

3.2. Effective tax rate computation

3.2.1. Effective tax rate

a. Financial accounting net income or loss	b. Net qualifying income or loss	c. Income tax expense	d. Adjusted covered taxes	e. Effective tax rate
	[A]		[B]	$[C]=[B]/[A]$

3.2.1.1. Computation of the qualifying income or loss

1. Aggregate financial accounting net income or loss amount after allocations (All constituent entities in the jurisdiction)	
2. Adjustments	Net amount
(a) Net taxes expense	
(b) Excluded dividends	
(c) Excluded equity gain or loss	
(d) Included revaluation method gain or loss	
(e) Gain or loss from disposition of assets and liabilities excluded due to reorganization	
(f) Asymmetric foreign currency gains or losses	
(g) Policy disallowed expenses	
(h) Prior period errors	
(i) Changes in accounting principles	
(j) Accrued pension expense	
(k) Debt releases	
(l) Stock-based compensation	
(m) Arm's length adjustments	
(n) Qualified refundable tax credit or marketable transferable tax credit	
(o) Election for gains and losses using realisation principle	
(p) Election for adjusted asset gain	
(q) Intragroup financing arrangement expense	

(r) Election for intragroup transactions in same jurisdiction	
(s) Insurance company taxes charged to policyholders	
(t) Increase/decrease to equity attributed to additional tier one and restricted tier one capital distributions paid/payable or received/receivable	
(u) Constituent entities joining and leaving an MNE group	
(v) Reduction of qualifying income of the UPE that is a flow-through entity	
(w) Reduction of qualifying income of the UPE that is subject to a deductible dividend regime	
(x) Taxable distribution method election	
(y) International shipping income	
(z) Transactions between constituent entities	
3. Net qualifying income or loss of the jurisdiction	

3.2.1.2. Computation of adjusted covered taxes

(a) Total amount of adjusted covered taxes

1. Aggregate current tax expense with respect to covered taxes after allocations (All constituent entities in the jurisdiction)	
2. Adjustments	Net amount
(a) Covered tax accrued as an expense in the profit before taxation in the financial accounts	
(b) Qualifying loss deferred tax asset established or used	
(c) Covered taxes for uncertain tax position recorded as a reduction to covered taxes in prior year	
(d) Qualified refundable tax credit or marketable transferable tax credits recorded as a reduction to current tax expense	
(e) Qualified flow-through tax benefits of qualified ownership interests	
(f) Current tax expense on income excluded from qualifying income or loss	
(g) Non-qualified refundable tax credit, non-marketable transferable tax credit or other tax credits not recorded as a reduction to current tax expense	
(h) Covered taxes refunded or credited (except for any qualified refundable tax credit, or marketable transferable tax credits) not treated as an adjustment to current tax expense	
(i) Current tax expense related to uncertain tax position	
(j) Current tax expense not expected to be paid within three years	

(k)	Post-filing adjustments	
(l)	Covered taxes relating to net asset gain or net asset loss	
(m)	Reduction of covered taxes of the UPE that is a flow-through entity	
(n)	Covered taxes for qualifying income of the UPE that is reduced under a deductible dividend regime	
(o)	Deemed distribution tax	
(p)	Taxable distribution method election	
(q)	Total deferred tax adjustment amount	
(r)	Increase or decrease in covered taxes recorded in equity or other comprehensive income relating to amounts included in qualifying income or loss that will be subject to tax under local tax rules	
(s)	Excess negative tax expense carry-forward generated	
(t)	Decrease in covered taxes (but not below zero) by the remaining balance of the excess negative tax expense carry-forward	
3. Adjusted covered taxes		

(b) Excess negative tax expense carry-forward

1.	Balance from prior years	[A]
2.	Excess negative tax expense carry-forward generated in the Reporting fiscal year	[B]
3.	Excess negative tax expense carry-forward utilised for the Reporting fiscal year	[C]
4.	Excess negative tax expense carry-forward remaining for subsequent years	[D]=[A]+[B]- [C]

(c) Transitional blended CFC regime calculation (if any)

1. CFC jurisdictions	2. Subgroup	3. Aggregated taxes allocated to that subgroup under a blended CFC tax regime
Total		

3.2.2. *Jurisdictional computations relating to deferred tax accounting*

3.2.2.1. Deferred tax adjustments

(a) High-level summary

1. Deferred tax expense for	(a) Deferred tax expense in the financial accounts	[A]
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purposes of the rules before recasting and adjustments		
	(b) Deferred tax expense in relation to assets or liabilities for which the carrying value based on the rules is different to the accounting carrying value	[B]
	(c) Deferred tax expense based on the carrying value of assets or liabilities as determined based on the rules	[C]
	(d) Deferred tax expense for purposes of the rules before recasting and adjustments	$[D]=[A]-[B]+[C]$
2. Total amount of the adjustments		[E]
3. Recasting the deferred tax expense to the minimum tax rate	(e) Deferred tax expense for purposes of the rules before recasting	$[F]=[D]+[E]$
	(f) Difference between deferred tax expense recorded at a lower tax rate than the minimum tax rate and recast at the minimum tax rate	[G]
	(g) Difference between deferred tax expense recorded at a higher tax rate than the minimum tax rate and recast at the minimum tax rate	[H]
4. Total deferred tax adjustment amount		$[I]=[F]+[G]-[H]$

(b) Breakdown of the adjustments

	Net amount
1. Adjustments to deferred tax expense	
(a) Deferred tax expense related to items excluded from qualifying income or loss	
(b) Deferred tax expense related to disallowed accruals	
(c) Deferred tax expense related to unclaimed accruals	

(d)	Valuation adjustment or accounting recognition adjustment related to a deferred tax asset	
(e)	Deferred tax expense arising from a re-measurement related to changes in the tax rate	
(f)	Deferred tax expense related to the generation and use of tax credits	
(g)	Substitute loss carry-forward deferred tax asset or deemed substitute loss carry-forward deferred tax asset	
(h)	Disallowed accruals or unclaimed accruals paid during the fiscal year	
(i)	Recapture deferred tax liability paid during the fiscal year	
(j)	Recognition of a loss deferred tax asset not included in the financials	
(k)	Deferred tax expense adjustment resulting from a reduction to a tax rate	
(l)	Deferred tax expense adjustment resulting from an increase to a tax rate	
(m)	Constituent entities joining and leaving an MNE group	
(n)	Deferred tax expense of the UPE that is a flow-through entity	
(o)	Deferred tax expense of the UPE that is subject to deductible dividend regime	
(p)	Deferred tax adjustment resulting from transactions between constituent entities	
2.	Total amount of the adjustments	[E]

(c) Loss carry-backs

	1. Deemed deferred tax assets attributable to loss carry_backs	2. Covered tax refund relating to loss carry_backs
a. Amount attributed to prior fiscal year X		
b. Amount attributed to prior fiscal year Y, etc.		
c. Total		

3.2.2.2. Recapture mechanism

(a) Annual amount of deferred tax liabilities subject to recapture rule

1.	Amount of deferred tax liabilities subject to recapture rule claimed in the fifth fiscal year preceding the Reporting fiscal year	
2.	Amount of recaptured deferred tax liability determined in the Reporting fiscal year in relation to the fifth fiscal year preceding the Reporting fiscal year	
3.	Amount of deferred tax liabilities subject to recapture rule claimed for the Reporting fiscal year	

(b) Aggregate deferred tax liability recapture accounts

•	• 1. Reporting fiscal year	• 2. Prior fiscal year
• a. Amount of pre-transition year deferred tax liabilities	•	•
• b. Amount of outstanding balance	•	•
• c. Amount of unjustified balance	•	•

3.2.2.3. Transition rules

1. Transition year	
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(a) Deferred tax assets and deferred tax liabilities at the beginning of the transition year

Deferred tax liabilities

1. Deferred tax liabilities at the beginning of the transition year	2. Deferred tax liabilities recast at the minimum tax rate (if applicable)
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Deferred tax assets

3. Deferred tax assets at the beginning of the transition year [A]	4. Deferred tax assets recast at the minimum tax rate (if applicable) [B]	5. Deferred tax assets arising from excluded items [C]	6. Deferred tax assets taken into account for purposes of the rules [D] = [A] or [B], if applicable - [C]
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(b) Transfer of assets after 30 November 2021 and before the commencement of a transition year

1. Jurisdiction of the disposing entities	2. Tax paid in respect of the transaction(s)	3. Net deferred tax asset or liability reflected in the financial accounts of the disposing constituent entity(ies)	4. Carrying value of the transferred assets for purposes of the rules	5. Net deferred tax asset or liability is determined with respect to the transferred assets for purposes of the rules for acquiring constituent entity(ies)

3.2.3. Jurisdictional elections (if any)

3.2.3.1. Jurisdictional elections

(a) Elections

1. Annual elections			
a. Aggregate asset gain election]
b. Immaterial decrease in covered taxes election]
c. Election not to apply the substance-based income exclusion]
d. Negative tax expense carry-forward]
2. Five-year elections	3. Election year	4. Revocation year	
e. Equity investment inclusion election			
f. Stock-based compensation election			
g. Realisation-principle election			
h. Intra-group transactions election			
i. Election not to allocate cross-border deferred tax			
5. Other elections	6. Election year	7. Revocation year	
j. Qualifying loss election			

(b) Information requirements related to jurisdictional elections

1. Inclusion of equity gain or loss with respect to an equity investment inclusion election	
2. Balance of the owner's investment in a qualified ownership interest from prior years	[A]
3. Additions to the owner's investment in a qualified ownership interest	[B]
4. Reductions to the owner's investment in a qualified ownership interest	[C]
5. Outstanding balance of the owner's investment in a qualified ownership interest	[D]=[A]+[B]-[C]

3.2.3.2. Deemed distribution tax election

1. Deemed distribution tax election

(a) Recapture mechanism

1. Fiscal year	2. Amount of deemed distribution tax	3. Deemed distribution tax paid or used				4. Outstanding balance of a deemed distribution tax recapture account
		3 rd preceding fiscal year	2 nd preceding fiscal year	1 st preceding fiscal year	Reporting fiscal year	
4 th preceding fiscal year						
3 rd preceding fiscal year		Not applicable				
2 nd preceding fiscal year		Not applicable	Not applicable			
1 st preceding fiscal year		Not applicable	Not applicable	Not applicable		
Reporting fiscal year		Not applicable	Not applicable	Not applicable	Not applicable	Not applicable

(b) Recalculation of effective tax rate and top-up tax

1. Reduction to the adjusted covered taxes for a prior fiscal year	2. Incremental top-up tax	3. Disposition recapture ratio
[A]	[B]	[C]

3.2.4. Constituent entity computations

(a) Election for the transitional simplified jurisdictional reporting framework

1. Does the MNE group elect to apply the transitional simplified jurisdictional reporting framework?	Yes/No
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(b) Aggregated reporting for tax consolidated groups

1. Tax consolidated group (TIN)	2. Consolidated entities (TIN)

3.2.4.1. Qualifying income or loss

(a) Adjustments to the financial accounting net income or loss

1. Constituent entity or member of joint venture group (TIN)		
2. Financial accounting net income or loss amount after allocations		
3. Adjustments	Additions	Reductions
(a) Net taxes expense		
(b) Excluded dividends		
(c) Excluded equity gain or loss		
(d) Included revaluation method gain or loss		
(e) Gain or loss from disposition of assets and liabilities excluded due to reorganization		
(f) Asymmetric foreign currency gains or losses		
(g) Policy disallowed expenses		
(h) Prior period errors		
(i) Changes in accounting principles		
(j) Accrued pension expense		
(k) Debt releases		
(l) Stock-based compensation		
(m) Arm's length adjustments		
(n) Qualified refundable tax credit or marketable transferable tax credits		
(o) Election for gains and losses using realisation principle		
(p) Election for adjusted asset gain		
(q) Intragroup financing arrangement expense		
(r) Election for intragroup transactions in same jurisdiction		
(s) Insurance company taxes charged to policyholders		
(t) Increase/decrease to equity attributed to additional tier one and restricted tier one capital distributions paid/payable or received/receivable		
(u) Constituent entities joining and leaving an MNE group		

(v)	Reduction of qualifying income of the UPE that is a flow-through entity		
(w)	Reduction of qualifying income of the UPE that is subject to a deductible dividend regime		
(x)	Taxable distribution method election		
(y)	International shipping income		
(z)	Transactions between constituent entities		
4. Qualifying income or loss of the constituent entity or member of joint venture group			

(b) Cross-border allocation of income or loss between a main entity and a permanent establishment and of a flow-through entity

1. Constituent entity or members of joint venture groups located in this jurisdiction or stateless constituent entity (TIN)	2. Financial accounting net income or loss before the adjustment	3. Basis for the adjustment	4. Other constituent entity or member of joint venture group (TIN)	5. Jurisdiction of other constituent entity or member of joint venture group (ISO)	6. Additions to this constituent entity	7. Reductions to this constituent entity	8. Financial accounting net income or loss after the adjustment

(c) Cross-border adjustments

1. Constituent entity or member of joint venture group (TIN)	2. Basis for the adjustment	3. Other constituent entity or member of joint venture group (TIN)	4. Jurisdiction of other constituent entity (ISO)	5. Additions to this constituent entity	6. Reductions to this constituent entity

(d) Adjustments to the qualifying income of the UPE that is a flow-through entity or is subject to a deductible dividend regime

1. Constituent entity (or member of joint venture group) located in this jurisdiction (TIN)	2. Basis for reduction	3. Identification of holders of ownership interests or dividend recipients (see note)	4. Ownership interest directly held (in percentage)	5. Reductions for this constituent entity

3.2.4.2. Adjusted covered taxes

(a) Adjustments to the current tax expense in the financial accounts

1. Constituent entity or member of joint venture group (TIN)		
2. Current tax expense with respect to covered taxes after allocations		
3. Adjustments	Additions	Reductions
(a) Covered tax accrued as an expense in the profit before taxation in the financial accounts		
(b) Covered taxes for uncertain tax position recorded as a reduction to covered taxes in prior year		
(c) Qualified refundable tax credit or marketable transferable tax credits recorded as a reduction to current tax expense		
(d) Qualified flow-through tax benefits of qualified ownership interests		
(e) Current tax expense on income excluded from qualifying income or loss		
(f) Non-qualified refundable tax credit, non-marketable transferable tax credits or other tax credits not recorded as a reduction to current tax expense		
(g) Covered taxes refunded or credited (except for any qualified refundable tax credit, or marketable transferable tax credits) not treated as an adjustment to current tax expense		
(h) Current tax expense related to uncertain tax position		
(i) Current tax expense not expected to be paid within three years		
(j) Post-filing adjustments		
(k) Covered taxes relating to net asset gain or net asset loss		
(l) Reduction of covered taxes of the UPE that is a flow-through entity		
(m) Covered taxes for qualifying income of the UPE that is reduced under a deductible dividend regime		
(n) Deemed distribution tax		
(o) Taxable distribution method election		
(p) Total deferred tax adjustment amount		
(q) Increase or decrease in covered taxes recorded in equity or other comprehensive income relating to amounts included in qualifying income or loss that will be subject to tax under local tax rules		
4. Adjusted covered taxes		

(b) Cross allocation of taxes

1. Constituent entity located in this jurisdiction or stateless constituent entity (or member of joint venture group) (TIN)	2. Covered taxes of the constituent entity (or member of joint venture group) before the adjustment	3. Basis for the adjustment	4. Other constituent entity (or member of joint venture group) (TIN)	5. Jurisdiction of other constituent entity (or member of joint venture group) (ISO)	6. Additions to this constituent entity	7. Reductions to this constituent entity	8. Covered taxes of the constituent entity (or member of joint venture group) after the adjustment

(c) Deferred tax expense

1. Constituent entity or member of joint venture group (TIN)		
2. Deferred tax expense amount for purposes of the rules		
3. Adjustments to deferred tax expense	Additions	Reductions
(a) Deferred tax expense related to items excluded from qualifying income or loss		
(b) Deferred tax expense related to disallowed accruals		
(c) Deferred tax expense related to unclaimed accruals		
(d) Valuation adjustment or accounting recognition adjustment related to a deferred tax asset		
(e) Deferred tax expense arising from a re-measurement related to changes in the tax rate		
(f) Deferred tax expense related to the generation and use of tax credits		
(g) Substitute loss carry forward DTA or deemed substitute loss carry forward DTA		
(h) Disallowed accruals or unclaimed accruals paid during the fiscal year		
(i) Recapture deferred tax liability paid during the fiscal year		
(j) Recognition of a loss deferred tax asset not included in the financials		
(k) Deferred tax expense adjustment resulting from a reduction to a tax rate		
(l) Deferred tax expense adjustment resulting from an increase to a tax rate		
(m) Constituent entities joining and leaving an MNE group		
(n) Deferred tax expense of the UPE that is a flow-through entity		
(o) Deferred tax expense of the UPE that is subject to deductible dividend regime		
(p) Deferred tax adjustment resulting from transactions between constituent entities		

4. Difference between deferred tax expense recorded at a lower tax rate than the minimum tax rate and recast at minimum tax rate		
5. Difference between deferred tax expense recorded at a higher tax rate than the minimum tax rate and recast at minimum tax rate		
6. Total deferred tax adjustment amount		

3.2.4.3. Constituent entity elections (or elections that apply to a joint venture group)

1. Constituent entities (or member of joint venture group) for which an election is made (TIN)		
2. Annual elections	a. Election to apply the simplified calculations for non-material constituent entities (simplified calculations safe harbour)	
	b. Debt release election	
	c. Unclaimed accrual election	
3. Five-year elections		4. Election year
	d. Not treating an entity as an excluded entity election	
	e. Inclusion of all dividends with respect to portfolio shareholdings	
	f. Treating foreign exchange gains or losses attributable to hedging as an excluded equity gain or loss	
	g. Investment entity tax transparency election	
	h. Taxable distribution method election	
	i. Unclaimed accrual five-year election	
6. Other elections	j. Qualifying loss election	
	k. Fair value election	
1. Constituent entities (members of joint venture groups) for which the election is made (TIN)	2. Fiscal year of the triggering event	3. Inclusion in the fiscal year of the triggering event or five-year inclusion

3.2.4.4. International shipping income exclusion

(a) International shipping income exclusion

1. Constituent entity or member of joint venture group located in this jurisdiction (TIN)		
International shipping income	2. Category	
	3. Revenue	[A]
	4. Costs	[B]
	5. International shipping income	$[C]=[A]-[B]$
Qualified ancillary international shipping income	6. Category	
	7. Revenue	[D]
	8. Costs	[E]
	9. Qualified ancillary international shipping income	$[F]=[D]-[E]$
Effect on substance-based income exclusion	10. Payroll costs attributable to the excluded international shipping income or qualified ancillary international shipping income	
	11. Carrying value of tangible assets used in the generation of the excluded international shipping income or qualified ancillary international shipping income	
Covered taxes	12. Covered taxes attributable to the excluded international shipping income or qualified ancillary international shipping income	

(b) Jurisdictional cap for the qualified ancillary international shipping income exclusion

1. Total international shipping income for all constituent entities (or members of joint venture group)	[A]
2. 50% cap	$50\% \times [A]$
3. Total qualified ancillary international shipping income for all constituent entities (or members of joint venture group)	[B]
4. Excess of the cap if B exceeds 50% of A	$[B]-50\% \times [A]$

3.2.4.5. Information for purposes of election to apply taxable distribution method (if applicable)

Taxable distribution method election

1. Constituent entity- owner (or member of joint venture group) for which an election is made (TIN)	2. Investment entity for which the election is made (TIN)	3. Actual and deemed distributions of the investment entity's qualifying income received by the constituent entity-owner	4. Local creditable tax gross-up incurred by the investment entity	5. Constituent entity-owner's proportionate share of the investment entity's undistributed net qualifying income

3.2.4.6. Other accounting standard

1. Constituent entity (or member of joint venture group) with financial accounting net income or loss based on a different accounting standard (TIN)	2. Acceptable or authorised financial accounting standard

3.3. Top-up tax computation

3.3.1. Top-up tax

a. Top-up tax percentage	b. Substance-based income exclusion	c. Excess profits	d. Additional top-up tax	e. Payable domestic top-up tax	f. Top-up tax
[A]=15% - effective tax rate	[B]	[C] = net qualifying income or loss -[B]	[D]	[E]	=[A]x[C]+[D]-[E]

3.3.2. Computation of substance-based income exclusion (if applicable)

3.3.2.1. Total amount of the substance-based income exclusion

Payroll carve-out		Tangible assets carve-out		Total
1. Relevant eligible payroll costs of eligible employees performing activities in the jurisdiction	2. Application of relevant mark-up percentage for the Reporting fiscal year	3. Carrying value of relevant eligible tangible assets located in the jurisdiction	4. Application of relevant mark-up percentage for the Reporting fiscal year	5. Substance-based income exclusion
[A]	[B]	[C]	[D]	[E]=[A]x[B]+[C]x[D]

3.3.2.2. Allocation of eligible payroll costs and carrying value of eligible tangible assets to permanent establishments for purposes of the substance-based income exclusion

1. Relevant eligible payroll costs	2. Carrying value of relevant eligible tangible assets	3. Jurisdiction of permanent establishments	4. Relevant eligible payroll costs allocated to permanent establishments	5. Carrying value of relevant eligible tangible assets allocated to permanent establishments

3.3.2.3. Allocation of eligible payroll costs and carrying value of eligible tangible assets of a flow-through entity for purposes of the substance-based income exclusion

1. Relevant eligible payroll costs	2. Carrying value of relevant eligible tangible assets	3. Jurisdiction of constituent entity owners (or members of joint venture group)	4. Relevant eligible payroll costs allocated to constituent entity owner (or excluded)	5. Carrying value of relevant eligible tangible assets allocated to constituent entity owner (or excluded)

3.3.3. *Additional current top-up tax*

3.3.3.1. Additional top-up tax other than in case of a net qualifying loss in the Reporting fiscal year

1. Relevant Articles	2. Relevant year	3. As previously reported or recalculated	4. Net qualifying income/loss	5. Adjusted covered taxes	6. Effective tax rate	7. Excess profit	8. Top-up tax percentage	9. Top-up tax	10. Additional top-up tax
	Prior fiscal year X	a. Previously reported							
		b. Recalculated							

3.3.3.2. Additional top-up tax in case of a net qualifying loss for the Reporting fiscal year

1. Adjusted covered taxes for the jurisdiction (if negative)	[A]
2. Qualifying loss for the jurisdiction	[B]
3. Expected adjusted covered taxes	$[C]=[B] \times 15\%$
4. Additional top-up tax	$[D]=[C]-[A]$

3.3.4. *Qualified domestic top-up tax*

1. Financial accounting standard	
2. Qualified domestic top-up tax amount payable	

3. Qualified domestic top-up tax minimum tax rate (if higher than 15%)			
4. Basis for the blending of income and taxes (if different from the IIR rules)			
5. Currency used (if different from consolidated financial statement presentation currency)			
6. Five-year election to use the consolidated financial statement currency or the local currency	Currency	Election year	Revocation year
7. Substance-based income exclusion available?	Yes/No		
8. De-minimis available?	Yes/No		

3.4. Top-up tax allocation and attribution (if any)

3.4.1. Application of the IIR in respect of this jurisdiction

1. Group entity allocated top-up tax	a. Low-taxed constituent entity or member of joint venture group (TIN)		
	b. Qualifying income of the low taxed constituent entity or member of joint venture group		[A]
	c. Top-up tax of the low-taxed constituent entity or the member of the joint venture group		$[C] = [T] \times [A]/[A+B+etc]$
2. Parent entities required to apply a qualified IIR	a. Parent entity (TIN)		[Parent entity 1]
	b. Parent entity jurisdiction		Jurisdiction B
	c. The amount of qualifying income attributable to ownership interests held by other owners		[D]
	d. Parent entity's inclusion ratio		$[F] = ([A] - [D])/[A]$
3. IIR top-up tax	a. Parent entity's allocable share of the top-up tax		$[G] = [C] \times [F]$
	b. IIR offset		[H]
	c. Top-up tax payable by parent entity		$[I] = [G] - [H]$

3.4.2. Total UTPR top-up tax amount in respect of this jurisdiction

1. Low taxed constituent entity (or member of joint venture group) for which the reduction of UTPR to zero does not apply (TIN)	
2. Top-up tax taken into account for calculating the total UTPR top-up tax for each low-taxed constituent entity	
3. Total UTPR top-up tax amount in respect of this jurisdiction	

3.4.3. Attribution of top-up tax under the UTPR

1. UTPR jurisdictions	2. UTPR top-up tax carry-forward	3. Number of employees	4. Net book value of tangible assets	5. UTPR percentage	6. UTPR top-up tax amount attributed for the Reporting fiscal year	7. Additional cash tax expense incurred by constituent entities in UTPR jurisdiction	8. UTPR top-up tax left to be carried forward'
Total							