

Government Proposes Draft Law to Transpose Minimum Taxation Directive (Pillar 2) – Details

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The Council of Ministers has published a draft Law that will transpose the [Minimum Taxation Directive \(2022/2523\)](#) into Spanish legislation on completion of the legislative procedure (see [Government Proposes Draft Law to Transpose Minimum Taxation Directive \(Pillar Two\) \(21 December 2023\)](#)).

The proposal was published on 20 December 2023 and it is subject to public consultation until 19 January 2024 (see [Government Opens Public Consultation on the Draft Proposal to Transpose Minimum Taxation Directive \(Pillar Two\) \(22 December 2023\)](#)). Once approved, it will come into effect from tax years commencing from 31 December 2023.

As per the Directive, the GloBE rules will apply to groups with a turnover of at least EUR 750 million over 2 of the last 4 years, even if they are purely nationally based.

It introduces a Qualified Domestic Minimum Top-Up Tax (QDMTT), apart from the GloBE rules (IIR - Income Inclusion Rule- and UTPR – Undertaxed Profits Rule). The UTPR does not apply for tax years commencing before 31 December 2025 and ending before 31 December 2026 if the ultimate parent entity is in a jurisdiction with at least a 20% nominal CIT rate.

A transitional country-by-country (CbC) safe harbour applies until 31 December 2026. For tax years starting from 31 December 2023 until 31 December 2026, the top-up tax accrued in Spain is deemed to be zero for groups submitting the CbC report and complying with one of the following conditions:

- total revenue is less than EUR 10 million and profit (loss before income tax) is less than EUR 1 million; or
- the MNE group has a simplified effective tax rate (ETR) that is equal to or greater than the transition rate (15% in 2023 and 2024, 16% in 2025 and 17% in 2026); or
- the MNE group's profit (loss before income tax) is equal to or less than the substance-based income exclusion amount.

The draft proposal is available [here](#) (as a PDF and in Spanish only).

