

Chapter 7.3: Transitional Safe Harbours

Learning Objective

After completing this chapter, you will be able to identify which safe harbours are available during the Pillar Two transition period, apply the three tests for the Transitional CbCR Safe Harbour, understand the QDMTT Safe Harbour requirements, and determine which jurisdictions qualify for safe harbour relief in your MNE Group.

1. Overview of Safe Harbours

Safe harbours provide compliance relief by allowing MNEs to avoid detailed GloBE calculations in certain jurisdictions:

PILLAR TWO SAFE HARBOURS

TRANSITIONAL (Time-limited):

└─ Transitional CbCR Safe Harbour

→ FY beginning \leq 31 Dec 2026, ending before 30 June 2028

→ Based on CbCR data

└─ Transitional UTPR Safe Harbour

→ FY beginning \leq 31 Dec 2025, ending before 31 Dec 2026

→ UPE jurisdiction with $\geq 20\%$ nominal CIT rate

PERMANENT:

└─ QDMTT Safe Harbour

→ Qualified QDMTT jurisdictions

- | | → Top-Up Tax = zero
- | |
- | └─ Simplified Calculations Safe Harbour
 - Permanent simplified methodology
 - Subject to 2028 review

2. Transitional CbCR Safe Harbour

2.1 Purpose

The Transitional CbCR Safe Harbour allows MNEs to exclude lower-risk jurisdictions from detailed GloBE calculations during the initial implementation years. If a jurisdiction qualifies, the **Top-Up Tax is deemed to be zero**.

2.2 Transition Period

Criterion	Requirement
Start	Fiscal years beginning on or before 31 December 2026
End	Fiscal years ending before 30 June 2028
Typical coverage	FY 2024, 2025, 2026 (for Dec year-ends)

2.3 The Three Tests

A jurisdiction qualifies for the Transitional CbCR Safe Harbour if it meets **ANY ONE** of three tests:

TRANSITIONAL CbCR SAFE HARBOUR TESTS

Test 1: DE MINIMIS TEST

- └─ CbCR Revenue < €10 million, AND
- └─ CbCR Profit (Loss) < €1 million

Test 2: SIMPLIFIED ETR TEST

- └ Simplified Covered Taxes ÷ CbCR Profit ≥ Transition Rate
- └ Transition Rates:
 - └ 2023-2024: 15%
 - └ 2025: 16%
 - └ 2026: 17%

Test 3: ROUTINE PROFITS TEST

- └ CbCR Profit ≤ Substance-Based Income Exclusion (SBIE)

Pass ANY ONE test → Safe Harbour applies → Top-Up Tax = €0

3. Test 1: De Minimis Test

3.1 Requirements

Metric	Threshold
CbCR Revenue	< €10 million
CbCR Profit (Loss)	< €1 million (including losses)

Data Source

Data comes from the **Qualified Country-by-Country Report** for the jurisdiction.

Example: Luxembourg

Metric	FY 2025 CbCR Data	Threshold	Meets?
Revenue	€9,200,000	< €10M	✓
Profit	€630,000	< €1M	✓

Result: Luxembourg passes the De Minimis Test → Safe Harbour applies.

Important Notes

- Both thresholds must be met
- Losses count as meeting the profit threshold (loss < €1M)
- No averaging — tested annually

4. Test 2: Simplified ETR Test

3.1 Requirements

Calculate a Simplified ETR and compare to the Transition Rate:

$\text{Simplified ETR} = \text{Simplified Covered Taxes} \div \text{CbCR Profit (Loss)}$

If $\text{Simplified ETR} \geq \text{Transition Rate} \rightarrow \text{Test passed}$

4.2 Transition Rates

Fiscal Year Beginning	Transition Rate
2023	15%
2024	15%
2025	16%
2026	17%

Simplified Covered Taxes

Simplified Covered Taxes are calculated as:

Income Tax Expense (per Qualified Financial Statements)
LESS: Taxes that are not Covered Taxes
LESS: Uncertain Tax Position adjustments

= Simplified Covered Taxes

Key simplification: No GloBE adjustments required (no CFC tax allocation, no deferred tax recalculation).

Example: Germany

Item	Amount (€)
CbCR Profit	65,000,000
Income Tax Expense (per QFS)	15,000,000
Less: Non-Covered Taxes	(200,000)
Less: UTP adjustments	(100,000)
Simplified Covered Taxes	14,700,000

Simplified ETR = $\text{€}14,700,000 \div \text{€}65,000,000 = 22.62\%$

Transition Rate (FY 2025): 16%

$22.62\% \geq 16\% \rightarrow$ Test passed \rightarrow Safe Harbour applies

Loss Jurisdictions

If CbCR Profit is zero or negative, the Simplified ETR test cannot be applied.
Consider: - De Minimis Test (if revenue < €10M) - Routine Profits Test

5. Test 3: Routine Profits Test

3.1 Requirements

The jurisdiction's CbCR Profit must be **equal to or less than** the Substance-Based Income Exclusion (SBIE):

If CbCR Profit ≤ SBIE → Test passed

SBIE Calculation

Full SBIE calculation using Pillar Two transition rates:

Year	Payroll Rate	Asset Rate
2024	10.0%	8.0%
2025	9.8%	7.8%
2026	9.6%	7.6%

Example: Singapore

Item	Amount (€)
CbCR Profit	€1,500,000
Eligible Payroll	€8,000,000
Tangible Assets (NBV)	€12,000,000

SBIE Calculation (FY 2025):

Payroll carve-out: €8,000,000 × 9.8% = €784,000
Asset carve-out: €12,000,000 × 7.8% = €936,000
Total SBIE: €1,720,000

CbCR Profit (€1,500,000) ≤ SBIE (€1,720,000) → Test passed

When Routine Profits Test Is Useful

- High-substance jurisdictions with moderate profits
- Manufacturing operations with significant assets
- Service centres with significant payroll

"Once Out, Always Out" Rule

Critical Rule

If an MNE Group **does not apply** the Transitional CbCR Safe Harbour for a jurisdiction in a fiscal year when the GloBE Rules apply, it **cannot qualify** for the safe harbour in that jurisdiction in any subsequent year.

"ONCE OUT, ALWAYS OUT" EXAMPLE

FY 2024: Germany qualifies for Safe Harbour

MNE elects to apply Safe Harbour → ✓ Can continue in future

FY 2024: Singapore qualifies for Safe Harbour

MNE does NOT apply Safe Harbour (full GloBE calculation done)

→ Singapore is OUT for all future years

FY 2025: Singapore cannot use Safe Harbour (even if it would qualify)

Full GloBE calculation required

Implications

- **Evaluate all jurisdictions in Year 1** — don't miss the opportunity
- **Document Safe Harbour elections** for compliance records

- **Consider future years** — if a jurisdiction is borderline, applying Safe Harbour in Year 1 preserves the option

QDMTT Safe Harbour (Permanent)

2.1 Purpose

The QDMTT Safe Harbour sets the **Top-Up Tax to zero** for jurisdictions where a Qualified Domestic Minimum Top-Up Tax applies, eliminating the need for a second calculation under GloBE Rules.

3.1 Requirements

For a QDMTT to qualify for the Safe Harbour, it must meet **three standards**:

Standard	Description
Accounting Standard	QDMTT computed using same accounting standard as GloBE (or with acceptable adjustments)
Consistency Standard	QDMTT rules consistent with GloBE Model Rules
Administration Standard	Jurisdiction applies QDMTT in consistent manner

Effect

QDMTT SAFE HARBOUR EFFECT

Without Safe Harbour:

Step 1: Calculate QDMTT under local rules → €500,000

Step 2: Calculate GloBE Top-Up Tax → €520,000

Step 3: IIR Top-Up Tax = €520,000 - €500,000 = €20,000

With Safe Harbour:

Step 1: Calculate QDMTT under local rules → €500,000

Step 2: GloBE Top-Up Tax = €0 (Safe Harbour)

Step 3: IIR Top-Up Tax = €0

Result: No residual IIR liability; QDMTT covers everything

Qualifying Jurisdictions

Jurisdictions with Qualified QDMTT that meets the three standards include: - Ireland
- UK - Most EU Member States implementing the Pillar Two Directive

6. Transitional UTPR Safe Harbour

2.1 Purpose

Provides relief from UTPR Top-Up Tax in respect of the **UPE jurisdiction only** during the transition period.

3.1 Requirements

Criterion	Requirement
UPE jurisdiction	Must have nominal corporate income tax rate $\geq 20\%$
Period	FY beginning on or before 31 Dec 2025 , ending before 31 Dec 2026

Effect

If the UPE jurisdiction has $\geq 20\%$ nominal CIT rate, the UTPR Top-Up Tax amount attributable to that jurisdiction is reduced to **zero**.

Example

UPE: US Corporation (21% CIT rate)

Period: FY 2025

Without UTPR Safe Harbour:

→ UTPR jurisdictions could collect Top-Up Tax on US operations if US has not implemented IIR

With UTPR Safe Harbour:

→ UTPR Top-Up Tax for US (UPE jurisdiction) = €0

→ Other low-taxed jurisdictions still subject to UTPR

Rationale

Provides transition relief for UPE jurisdictions that have high tax rates but have not yet implemented Pillar Two (e.g., US).

7. Stratos Worked Example: Safe Harbour Analysis

7.1 Background

Stratos Holdings plc analyses Safe Harbour eligibility for FY 2025 (year ending 31 December 2025).

Jurisdictional Data

Jurisdiction	CbCR Revenue (€)	CbCR Profit (€)	Income Tax Expense (€)	Payroll (€)	Assets (€)
UK	85,000,000	8,500,000	2,200,000	4,200,000	2,800,000
Germany	520,000,000	53,880,000	12,800,000	12,500,000	18,000,000

Jurisdiction	CbCR Revenue (€)	CbCR Profit (€)	Income Tax Expense (€)	Payroll (€)	Assets (€)
Singapore	42,000,000	4,000,000	420,000	1,200,000	850,000
Ireland	160,000,000	15,000,000	1,850,000	8,400,000	12,000,000
Luxembourg	9,200,000	630,000	60,000	320,000	180,000
USA	140,000,000	12,300,000	2,000,000	8,000,000	3,000,000
Cayman	25,000,000	2,016,000	25,000	200,000	50,000

Test Application

Transition Rate for FY 2025: 16%

UK

Test	Calculation	Result
De Minimis	Revenue €85M > €10M	X
Simplified ETR	$€2,200,000 \div €8,500,000 = 25.88\% \geq 16\%$	✓ Pass
Routine Profits	Not needed	—

UK Result: Safe Harbour applies (Simplified ETR Test)

Germany

Test	Calculation	Result
De Minimis	Revenue €520M > €10M	X

Test	Calculation	Result
Simplified ETR	$\text{€}12,800,000 \div \text{€}53,880,000 = 23.75\% \geq 16\%$	✓ Pass
Routine Profits	Not needed	—

Germany Result: Safe Harbour applies (Simplified ETR Test)

Singapore

Test	Calculation	Result
De Minimis	Revenue €42M > €10M	X
Simplified ETR	$\text{€}420,000 \div \text{€}4,000,000 = 10.50\% < 16\%$	X
Routine Profits	SBIE = $(\text{€}1.2\text{M} \times 9.8\%) + (\text{€}0.85\text{M} \times 7.8\%) = \text{€}183,900$; Profit €4M > €183,900	X

Singapore Result: Safe Harbour does NOT apply → Full GloBE calculation required

Ireland

Test	Calculation	Result
De Minimis	Revenue €160M > €10M	X
Simplified ETR	$\text{€}1,850,000 \div \text{€}15,000,000 = 12.33\% < 16\%$	X
Routine Profits	SBIE = $(\text{€}8.4\text{M} \times 9.8\%) + (\text{€}12\text{M} \times 7.8\%) = \text{€}1,759,200$; Profit €15M > €1.76M	X

Ireland Result: Safe Harbour does NOT apply

However: Ireland has QDMTT → **QDMTT Safe Harbour** applies instead

Luxembourg

Test	Calculation	Result
De Minimis	Revenue €9.2M < €10M; Profit €630K < €1M	✓ Pass
Simplified ETR	Not needed	—
Routine Profits	Not needed	—

Luxembourg Result: Safe Harbour applies (De Minimis Test)

USA

Test	Calculation	Result
De Minimis	Revenue €140M > €10M	✗
Simplified ETR	$€2,000,000 \div €12,300,000 = 16.26\% \geq 16\%$	✓ Pass
Routine Profits	Not needed	—

USA Result: Safe Harbour applies (Simplified ETR Test)

Cayman

Test	Calculation	Result
De Minimis	Revenue €25M > €10M	✗
Simplified ETR	$€25,000 \div €2,016,000 = 1.24\% < 16\%$	✗
Routine Profits	SBIE = $(€200K \times 9.8\%) + (€50K \times 7.8\%) = €23,500$; Profit €2M > €23.5K	✗

Cayman Result: Safe Harbour does NOT apply → Full GloBE calculation required

Summary: Stratos Safe Harbour Status FY 2025

Jurisdiction	Safe Harbour	Basis	Full GloBE Calc?
UK	Yes	Simplified ETR (25.88%)	No
Germany	Yes	Simplified ETR (23.75%)	No
Singapore	No	All tests failed	Yes
Ireland	QDMTT SH	QDMTT Safe Harbour	QDMTT only
Luxembourg	Yes	De Minimis	No
USA	Yes	Simplified ETR (16.26%)	No
Cayman	No	All tests failed	Yes

Compliance Impact

Scenario	Jurisdictions Requiring Full GloBE Calc
Without Safe Harbours	7 jurisdictions
With Safe Harbours	2 jurisdictions (Singapore, Cayman) + QDMTT (Ireland)

Result: Safe Harbours reduce detailed GloBE calculations by ~60%.

8. Common Pitfalls

Pitfall 1: Missing the "Once Out, Always Out" Rule

Error: Not applying Safe Harbour in Year 1 for a qualifying jurisdiction, then trying to apply it in Year 2.

Consequence: Jurisdiction permanently excluded from Safe Harbour.

Solution: Analyse all jurisdictions in the first year and elect Safe Harbour where beneficial.

Pitfall 2: Using Wrong Transition Rate

Error: Using 15% rate for FY 2025 (should be 16%).

Consequence: Incorrect Safe Harbour determination.

Solution: Verify Transition Rate based on fiscal year **start** date.

Pitfall 3: Confusing CbCR Data with GloBE Data

Error: Using GloBE-adjusted income for Safe Harbour tests.

Consequence: Incorrect test results.

Solution: Safe Harbour tests use **CbCR data** and **Qualified Financial Statement** tax expense — not GloBE-adjusted figures.

Pitfall 4: Ignoring QDMTT Safe Harbour

Error: Performing full GloBE calculation for jurisdiction with Qualified QDMTT.

Consequence: Unnecessary compliance burden.

Solution: Check QDMTT Safe Harbour eligibility first — if met, no residual IIR calculation needed.

Pitfall 5: Not Documenting Safe Harbour Elections

Error: Failing to maintain records of Safe Harbour application.

Consequence: Audit risk; inability to demonstrate compliance.

Solution: Document Safe Harbour analysis annually; retain workings.

9. Safe Harbour Assessment Checklist

TRANSITIONAL SAFE HARBOUR CHECKLIST

MNE Group: _____

Fiscal Year: _____

SECTION A: TRANSITION PERIOD CONFIRMATION

☐ Fiscal year start date: _____

☐ Fiscal year end date: _____

☐ Is FY start on or before 31 Dec 2026?

YES / NO

☐ Is FY end before 30 June 2028?

YES / NO

If both YES: Transitional CbCR Safe Harbour available

☐ Transition Rate for this FY: _____

(15% for 2023-24, 16% for 2025, 17% for 2026)

SECTION B: JURISDICTIONAL ANALYSIS

Jurisdiction: _____

☐ Has Safe Harbour been applied in prior year?

YES / NO / N/A

If NO (and GloBE Rules applied): "Once out, always out" –
Safe Harbour NOT available

TEST 1: DE MINIMIS

☐ CbCR Revenue: _____

€ _____

☐ CbCR Profit (Loss): _____

€ _____

☐ Revenue < €10M AND Profit < €1M? YES / NO

If YES: Safe Harbour applies (De Minimis)

TEST 2: SIMPLIFIED ETR

☐ Income Tax Expense (per QFS): €

☐ Less: Non-Covered Taxes: (€

☐ Less: UTP adjustments: (€

☐ Simplified Covered Taxes: €

☐ CbCR Profit: €

☐ Simplified ETR: _____

☐ Simplified ETR ≥ Transition Rate? YES / NO

If YES: Safe Harbour applies (Simplified ETR)

TEST 3: ROUTINE PROFITS

☐ Eligible Payroll: €

☐ Tangible Assets (NBV): €

☐ Payroll carve-out (× rate): €

☐ Asset carve-out (× rate): €

☐ Total SBIE: €

☐ CbCR Profit ≤ SBIE? YES / NO

If YES: Safe Harbour applies (Routine Profits)

☐ **CONCLUSION: Does jurisdiction qualify?** YES / NO

(Repeat for each jurisdiction)

SECTION C: QDMTT SAFE HARBOUR

☐ Does jurisdiction have Qualified QDMTT? YES / NO

If YES:

- ☐ Meets Accounting Standard?

YES / NO
- ☐ Meets Consistency Standard?

YES / NO
- ☐ Meets Administration Standard?

YES / NO

If all YES: QDMTT Safe Harbour applies → IIR Top-Up Tax = €0

SECTION D: SUMMARY

Jurisdiction	CbCR SH?	Test Passed	QDMTT SH?	Full GloBE?
-----	-----	-----	-----	-----
YES/NO	YES/NO	YES/NO		
YES/NO	YES/NO	YES/NO		
YES/NO	YES/NO	YES/NO		

- ☐ Documentation complete?

YES / NO
- ☐ Elections filed/recorded?

YES / NO