

Chapter 2.2: Undertaxed Profits Rule Application

Learning Objective

After completing this chapter, you will be able to determine when the UTPR applies, calculate the UTPR Top-Up Tax Amount, and allocate it across jurisdictions using the substance-based formula.

1. How the UTPR Works

The **Undertaxed Profits Rule (UTPR)** is the backstop mechanism under GloBE. It applies when Top-Up Tax on low-taxed income is **not fully collected** through the Income Inclusion Rule.

The UTPR operates differently from the IIR: - **IIR**: Parent entity includes Top-Up Tax in its own jurisdiction - **UTPR**: Top-Up Tax is collected in **other jurisdictions** where the MNE group has operations, through deduction denial or equivalent adjustment

2. When Does UTPR Apply?

2.1 UTPR Triggers

The UTPR applies when there is **residual Top-Up Tax** not collected under the IIR (Article 2.5). This occurs in three main scenarios:

Scenario	Why UTPR Applies
No Qualified IIR at UPE level	UPE jurisdiction has not implemented a Qualified IIR

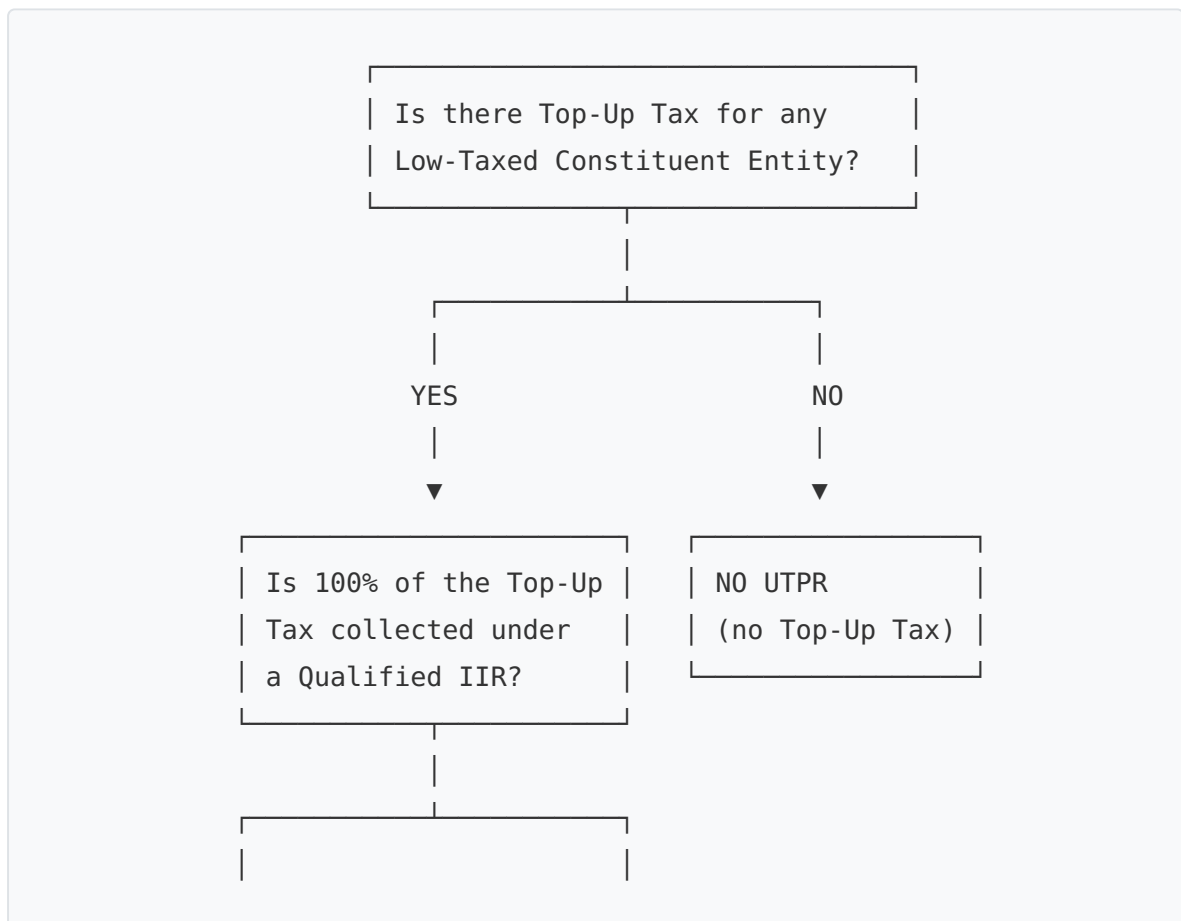
Scenario	Why UTPR Applies
Low-taxed UPE jurisdiction	UPE jurisdiction itself is a low-taxed jurisdiction (ETR below 15%)
Split ownership	Minority interests mean IIR does not capture 100% of Top-Up Tax

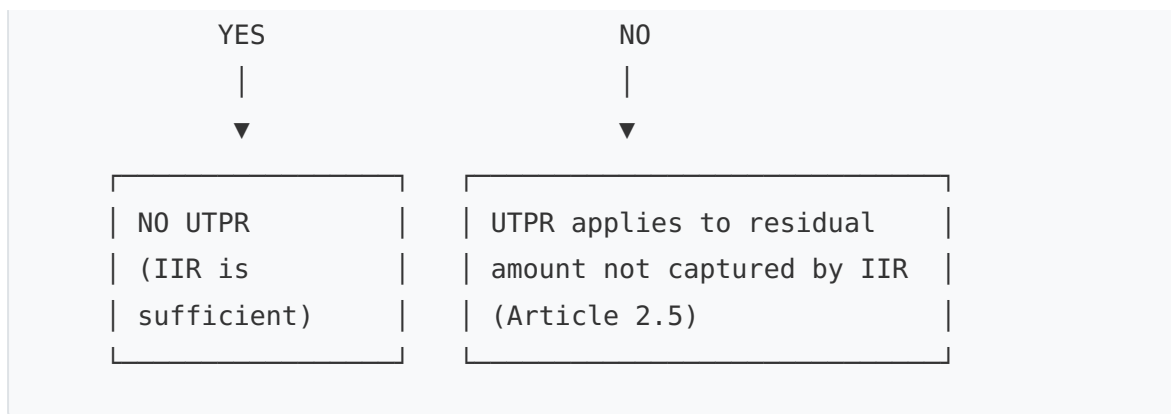
2.2 UTPR Priority

The IIR always has priority over the UTPR. The UTPR only applies to the **residual amount** not already taxed under the IIR.

Example: - LTCE Top-Up Tax: €1,000,000 - Amount collected under IIR (80% ownership): €800,000 - **UTPR Top-Up Tax Amount: €200,000** (the minority's share)

3. Decision Flowchart: Does UTPR Apply?





4. Step 1: Calculate the UTPR Top-Up Tax Amount

The **UTPR Top-Up Tax Amount** is the total Top-Up Tax **not collected** under the IIR (Article 2.5.1).

4.1 Formula

UTPR Top-Up Tax Amount = Total Top-Up Tax of all LTCEs – Top-Up Tax collected under IIR

4.2 Worked Example: UTPR Amount Calculation

Scenario: Stratos Group has a low-taxed subsidiary in Country X. The UPE jurisdiction (UK) has a Qualified IIR, but Stratos owns only 75% of the subsidiary.

Item	Amount
Country X Subsidiary Top-Up Tax	€400,000
Stratos's Inclusion Ratio	75%
Top-Up Tax collected under IIR	€400,000 × 75% = €300,000
UTPR Top-Up Tax Amount	€400,000 – €300,000 = €100,000

The €100,000 attributable to the 25% minority interest is not collected under the IIR and becomes subject to UTPR.

5. Step 2: Identify UTPR Jurisdictions

The UTPR Top-Up Tax Amount is allocated to jurisdictions where: 1. The MNE group has Constituent Entities, AND 2. The jurisdiction has implemented a **Qualified UTPR**

5.1 Jurisdictions with Qualified UTPR (as at 2025)

Jurisdiction	UTPR Status
United Kingdom	Qualified UTPR effective 2025
EU Member States	Qualified UTPR effective 2025
Australia	Qualified UTPR effective 2025
Japan	Qualified UTPR effective 2025
South Korea	Qualified UTPR effective 2025
Canada	Qualified UTPR effective 2025

Note: UTPR generally takes effect one year after IIR in most implementing jurisdictions. Verify current status through the OECD's published list of qualified jurisdictions.

6. Step 3: Calculate UTPR Percentage for Each Jurisdiction

The UTPR Top-Up Tax Amount is allocated using a **substance-based formula** with two equally weighted factors (Article 2.6):

6.1 The UTPR Percentage Formula

UTPR Percentage = (Employee Factor × 50%) + (Tangible Asset Factor × 50%)

Where: - **Employee Factor** = Employees in jurisdiction ÷ Total employees in all UTPR jurisdictions - **Tangible Asset Factor** = Tangible assets in jurisdiction ÷ Total tangible assets in all UTPR jurisdictions

6.2 Key Definitions

Term	Definition
Employees	Number of employees (headcount) in the jurisdiction
Tangible Assets	Net book value of tangible assets (property, plant, equipment)

Excluded from tangible assets: Intangible assets, financial assets, goodwill

7. Worked Example: UTPR Allocation Across Jurisdictions

Scenario: Stratos Group has a UTPR Top-Up Tax Amount of €100,000 to allocate. The group has Constituent Entities in four jurisdictions with Qualified UTPR.

7.1 Step 1: Gather Substance Data

Jurisdiction	Employees	Tangible Assets (€M)
Germany	200	25.0
France	150	20.0
Netherlands	50	10.0

Jurisdiction	Employees	Tangible Assets (€M)
Ireland	100	5.0
Total	500	60.0

7.2 Step 2: Calculate Employee Factor

Jurisdiction	Employees	Employee Factor
Germany	200	$200 \div 500 = 40.0\%$
France	150	$150 \div 500 = 30.0\%$
Netherlands	50	$50 \div 500 = 10.0\%$
Ireland	100	$100 \div 500 = 20.0\%$

7.3 Step 3: Calculate Tangible Asset Factor

Jurisdiction	Tangible Assets	Asset Factor
Germany	€25.0M	$25 \div 60 = 41.7\%$
France	€20.0M	$20 \div 60 = 33.3\%$
Netherlands	€10.0M	$10 \div 60 = 16.7\%$
Ireland	€5.0M	$5 \div 60 = 8.3\%$

7.4 Step 4: Calculate UTPR Percentage

Jurisdiction	Employee Factor × 50%	Asset Factor × 50%	UTPR %
Germany	$40.0\% \times 50\% = 20.0\%$	$41.7\% \times 50\% = 20.8\%$	40.8%

Jurisdiction	Employee Factor × 50%	Asset Factor × 50%	UTPR %
France	$30.0\% \times 50\% = 15.0\%$	$33.3\% \times 50\% = 16.7\%$	31.7%
Netherlands	$10.0\% \times 50\% = 5.0\%$	$16.7\% \times 50\% = 8.3\%$	13.3%
Ireland	$20.0\% \times 50\% = 10.0\%$	$8.3\% \times 50\% = 4.2\%$	14.2%
Total			100.0%

7.5 Step 5: Allocate UTPR Top-Up Tax

Jurisdiction	UTPR %	UTPR Top-Up Tax Allocated
Germany	40.8%	$\text{€}100,000 \times 40.8\% = \text{€}40,800$
France	31.7%	$\text{€}100,000 \times 31.7\% = \text{€}31,700$
Netherlands	13.3%	$\text{€}100,000 \times 13.3\% = \text{€}13,300$
Ireland	14.2%	$\text{€}100,000 \times 14.2\% = \text{€}14,200$
Total	100%	€100,000

8. Step 4: How UTPR Is Collected

Each jurisdiction collects its allocated UTPR Top-Up Tax through one of two methods (Article 2.4):

8.1 Method 1: Denial of Deduction (Most Common)

The jurisdiction denies a tax deduction to the local Constituent Entity, increasing taxable income and generating additional tax equal to the UTPR amount.

Calculation:

Deduction denied = UTPR allocation ÷ Local tax rate

Example for Germany (30% tax rate): - UTPR allocation: €40,800 - Deduction denied: €40,800 ÷ 30% = €136,000 - Additional taxable income: €136,000 - Additional tax: €136,000 × 30% = €40,800 ✓

8.2 Method 2: Equivalent Adjustment

The jurisdiction applies an adjustment that achieves the same result as deduction denial (e.g., direct tax charge, deemed income inclusion).

9. UTPR Carve-Out Rule

A jurisdiction is **excluded** from the UTPR allocation if, in the **prior year**, the UTPR Top-Up Tax allocated to that jurisdiction did not result in an actual cash tax expense (Article 2.6.3).

9.1 How the Carve-Out Works

Prior Year	Current Year Treatment
UTPR allocation resulted in cash tax expense	Jurisdiction remains in UTPR pool
UTPR allocation did NOT result in cash tax expense	UTPR Percentage = 0% for next year

Exception: The carve-out does not apply if **all** UTPR jurisdictions would have a UTPR Percentage of zero (i.e., at least one jurisdiction must remain in the pool).

9.2 Why This Matters

Some jurisdictions may not be able to collect UTPR through their domestic law mechanisms. The carve-out ensures UTPR is reallocated to jurisdictions that can actually collect it.

10. Transitional UTPR Safe Harbour

10.1 Overview

During the transition period, the UTPR **does not apply** to the UPE jurisdiction if that jurisdiction has a corporate tax rate of **at least 20%** (Transitional Safe Harbour).

10.2 Transition Period

- Fiscal years beginning on or before **31 December 2025**
- Fiscal years ending before **31 December 2026**

10.3 Practical Effect

For most MNE groups with UPEs in major developed economies (UK, US, most EU countries, Japan, etc.), **no UTPR applies to the UPE jurisdiction** during the transition period.

Example: Stratos Group plc has its UPE in the UK (25% corporate tax rate). During the transition period, even if the UK were a low-taxed jurisdiction (hypothetically), the UTPR would not apply to collect Top-Up Tax from UK-based Constituent Entities in respect of UK-parented low-taxed income.

10.4 After Transition Period

From 2026 onwards, the safe harbour no longer applies. UTPR may apply to UPE jurisdictions regardless of their statutory tax rate.

11. UTPR and QDMTT Interaction

11.1 QDMTT Priority

If a low-taxed jurisdiction has implemented a **Qualified Domestic Minimum Top-Up Tax (QDMTT)**, the QDMTT is collected **first**. The UTPR only applies to the residual amount not collected by the QDMTT.

Order of application: 1. QDMTT (collected in the low-taxed jurisdiction) 2. IIR (collected at parent level) 3. UTPR (collected in other jurisdictions—only if residual remains)

11.2 Worked Example: QDMTT Reduces UTPR

Scenario: - Low-taxed jurisdiction Top-Up Tax: €500,000 - QDMTT collected locally: €500,000 - IIR Allocable Share: €0 (QDMTT already collected full amount) - **UTPR Top-Up Tax Amount: €0**

The QDMTT fully addresses the undertaxation, leaving nothing for IIR or UTPR.

12. Stratos Example: Complete UTPR Analysis

Scenario: Stratos has identified a UTPR Top-Up Tax Amount of €200,000 arising from a low-taxed entity where Stratos has only 60% ownership (minority interest not subject to IIR).

12.1 Stratos's UTPR Jurisdictions

Jurisdiction	Employees	Tangible Assets (€M)	Qualified UTPR?
UK	450	85.0	Yes
Germany	200	25.0	Yes
France	150	20.0	Yes
Singapore	180	30.0	No
Ireland	100	5.0	Yes

Note: Singapore is excluded as it has not implemented a Qualified UTPR.

12.2 UTPR Calculation (Excluding Singapore)

Jurisdiction	Employees	Assets (€M)	Employee %	Asset %	UTPR %
UK	450	85.0	50.0%	63.0%	56.5%
Germany	200	25.0	22.2%	18.5%	20.4%
France	150	20.0	16.7%	14.8%	15.8%
Ireland	100	5.0	11.1%	3.7%	7.4%
Total	900	135.0	100%	100%	100%

12.3 UTPR Allocation

Jurisdiction	UTPR %	Allocated Amount
UK	56.5%	€113,000
Germany	20.4%	€40,800
France	15.8%	€31,600
Ireland	7.4%	€14,800
Total	100%	€200,200*

*Rounding difference

12.4 Impact on Stratos's UK Subsidiary

SG Holdings Ltd (UK) will have a deduction denied: - UTPR allocation: €113,000
- UK tax rate: 25% - Deduction denied: $€113,000 \div 25\% = €452,000$

This increases SG Holdings Ltd's UK taxable income by €452,000, generating €113,000 additional UK corporation tax.

13. Common Pitfalls

13.1 Pitfall 1: Including Non-UTPR Jurisdictions

Only jurisdictions with a **Qualified UTPR** are included in the allocation. Exclude entities in jurisdictions without UTPR legislation.

13.2 Pitfall 2: Using Wrong Asset Base

Tangible assets means **net book value** of property, plant, and equipment only. Do not include intangibles, financial assets, or goodwill.

13.3 Pitfall 3: Forgetting the Carve-Out

If a jurisdiction did not collect its UTPR allocation in the prior year (no cash tax expense), exclude it from the current year calculation.

13.4 Pitfall 4: Ignoring QDMTT Priority

Always check if the low-taxed jurisdiction has a QDMTT. If so, calculate UTPR only on the residual after QDMTT.

13.5 Pitfall 5: Applying UTPR During Transition Period

During the transition period (through 2025/2026), the UTPR safe harbour applies to UPE jurisdictions with $\geq 20\%$ tax rate. Don't calculate UTPR for the UPE jurisdiction in these years.