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THE INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS OF CYPRUS

DECONSTRUCTION OF PILLAR TWO: IMPACT ON MNES

PRESENTATION BY
Christos Theophilou
Shee Boon Law

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November 2025

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CYPRUS AND THE GLOBAL MINIMUM TAX: A COMPREHENSIVE ANALYSIS OF THE NEW LEGAL FRAMEWORK

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OVERVIEW

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- On December 12 2024, Cyprus adopted the Global Minimum Tax of MNE Groups and Large-Scale Domestic Groups Law, commonly known as “Pillar Two.”
- Published in the Official Government Gazette on December 18 2024,
- This legislation implements the EU Directive issued on December 14, 2022
  - The law aligns with the EU Minimum Tax Directive, providing limited flexibility to member states in national implementation.
- The Cyprus Pillar Two law doesn’t amend the Cypriot Income Tax Law.
  - Instead, it establishes an additional tax framework that functions alongside the existing income tax law.

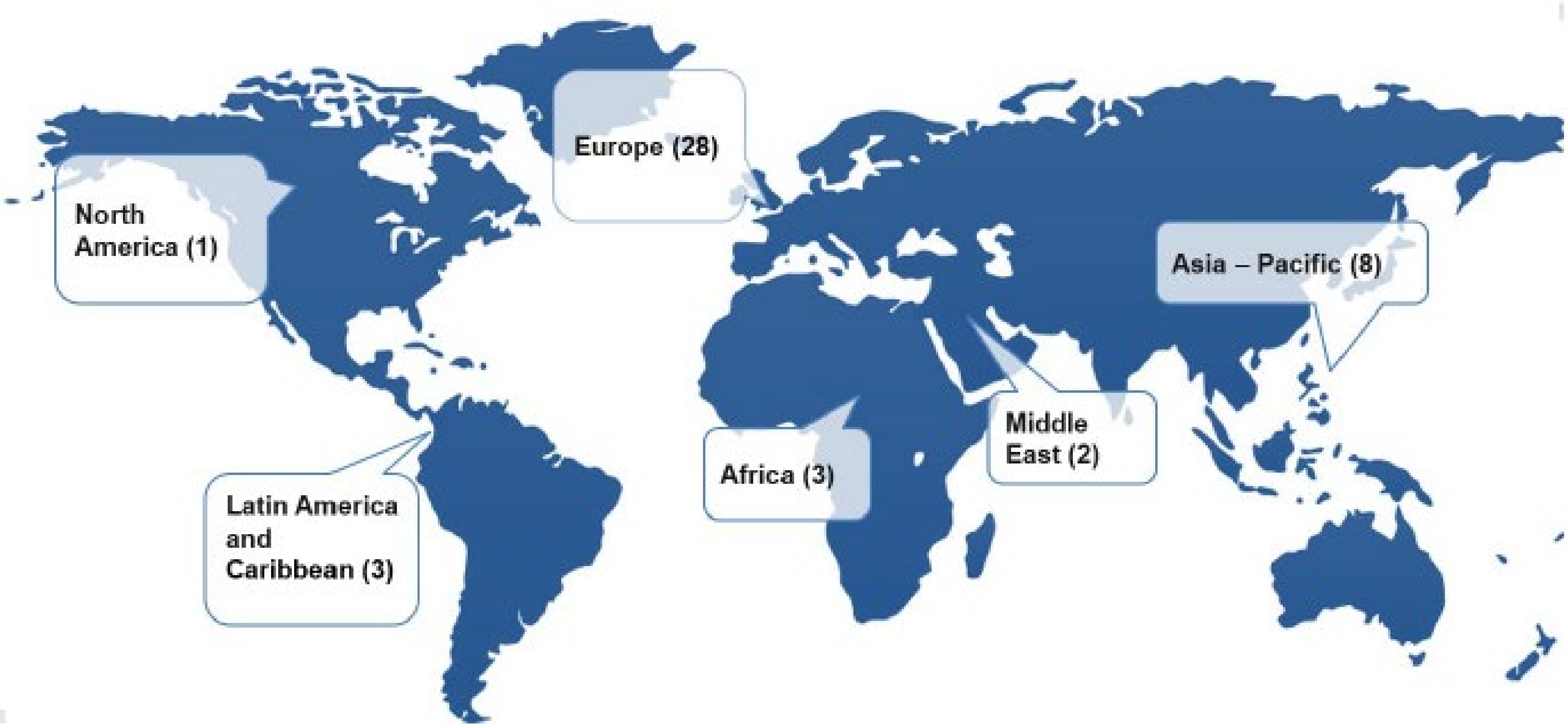
KEY PROVISIONS OF THE CYPRIOT PILLAR TWO LAW

- Income Inclusion Rule (**IIR**) is to apply to financial years beginning on or after **31 December 2023**.
  - The IIR requires a local parent company to ensure that its profits and those of its local subsidiaries are taxed at a minimum effective tax rate of 15%

- Under-Taxed Profits Rule (**UTPR**) will apply to financial years beginning on or after **31 December 2024**.
  - UTPR imposes a top-up tax to address any insufficient taxation not taxed by the QIIR by using a denial of deduction mechanism under corporate income tax

- Qualified Domestic Minimum Top-Up Tax (**QDMTT**) will apply to financial years beginning on or after **31 December 31 2024**.
  - This provision takes precedence over the QIIR and QUTPR, ensuring that all constituent entities meet the minimum tax requirements

IMPLEMENTATION STATUS GLOBALLY

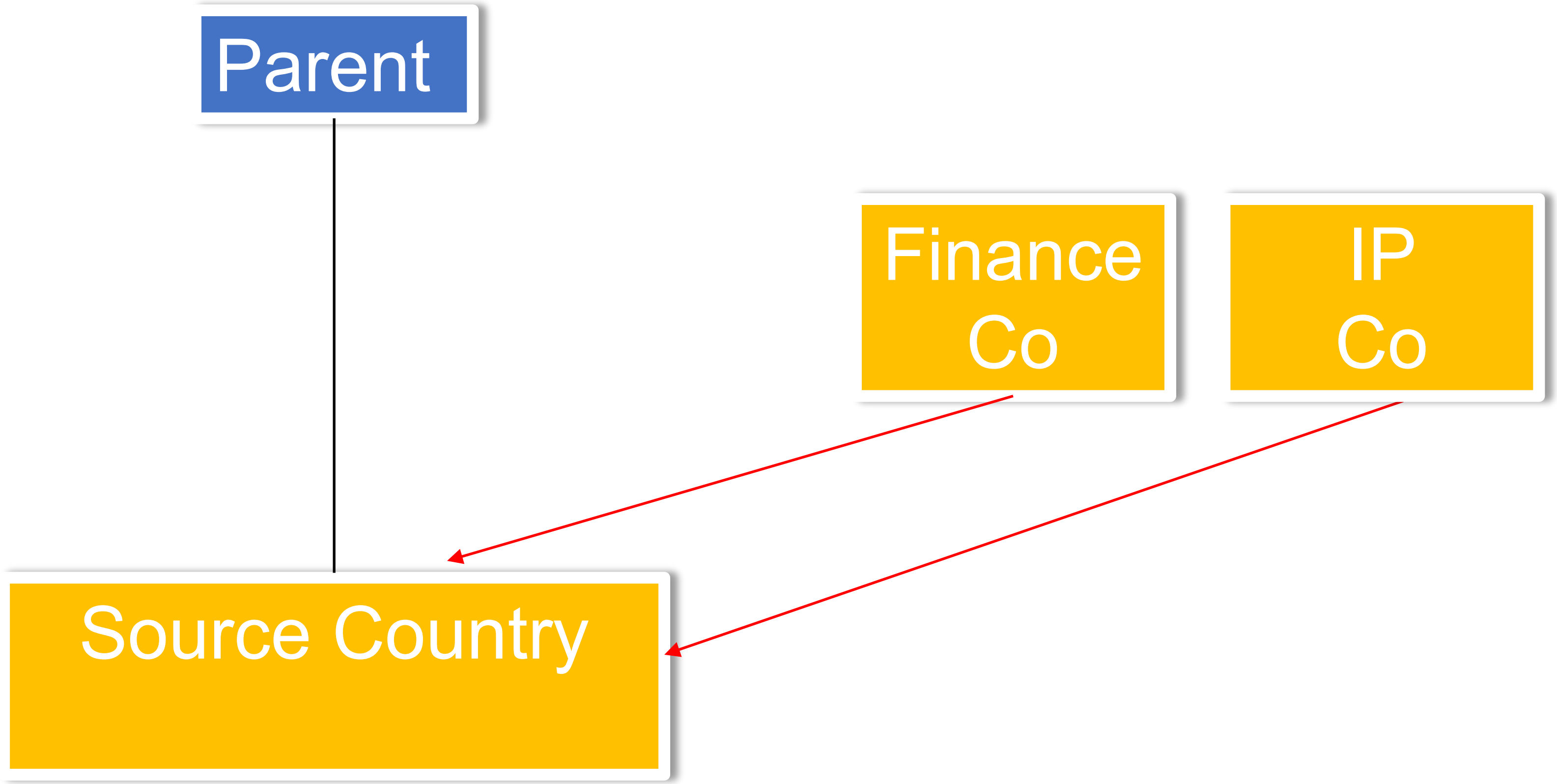


Current status of implementation of the global minimum tax by jurisdictions with final or draft legislation for 2024/25

Source: OECD

PILLAR TWO FUNDAMENTALS

WHAT WAS THE PROBLEM?



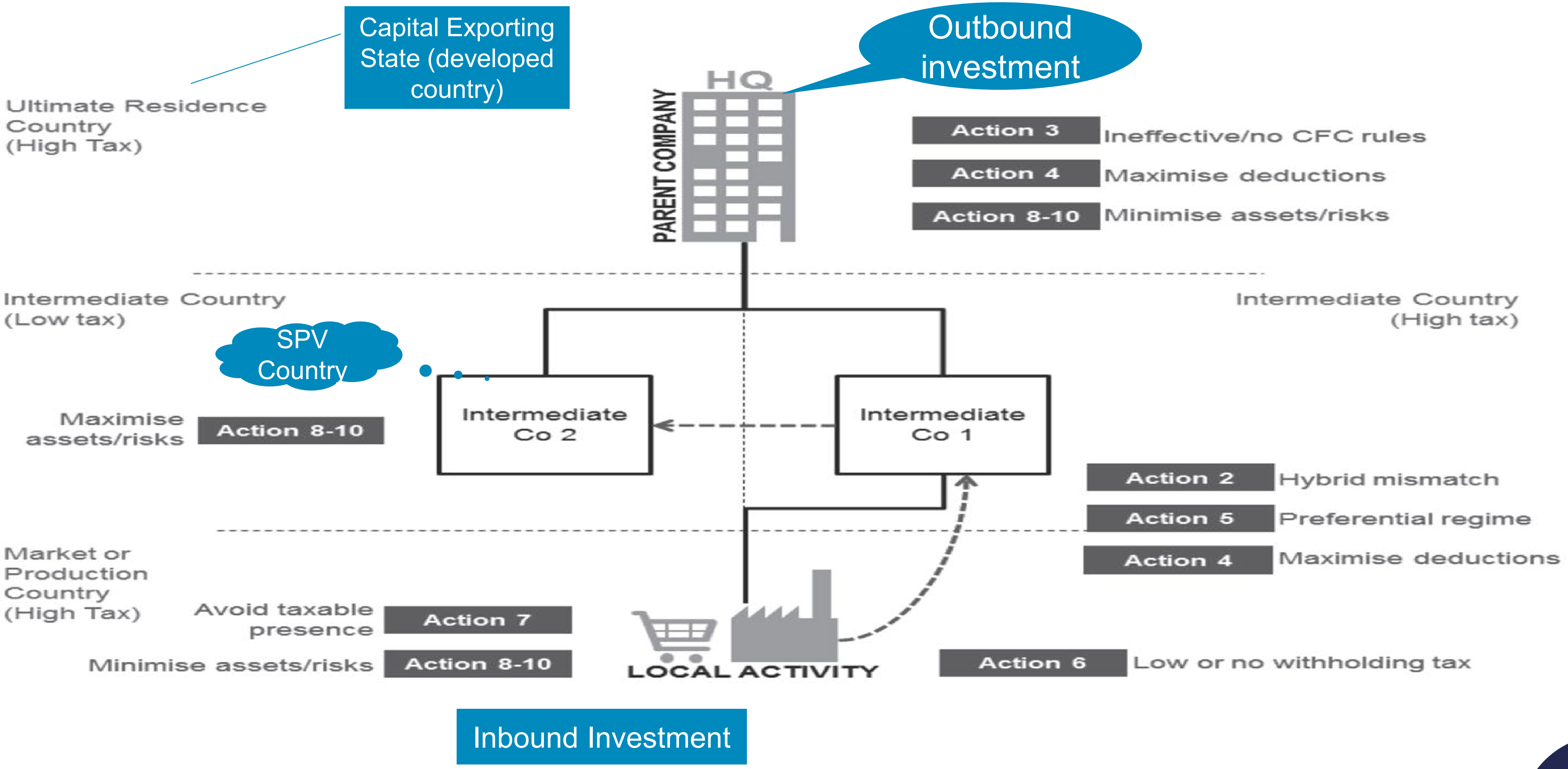
BEPS ACTION PLAN (OCTOBER 2015)

COHERENCE	SUBSTANCE	TRANSPARENCY
• AP2: No hybrid mis-matches • AP3: Better CFC rules • AP4: Interest deduction limitation rules • **AP5: No harmful tax practices**	• **AP6:Preventing Tax Treaty abuse** • AP7: Prevent artificial avoidance of PE • AP8: Transfer Pricing of Intangibles • AP9: TP/risk and Capital • AP10:TP high risk transactions	• AP11: Methodologies and data analysis • AP12: Disclosure of rulings • **AP13: TP Documentation** • **AP14:Dispute resolution**

Digital Economy AP 1

Multilateral Instrument AP15

BEPS ACTION PLAN EXAMPLE



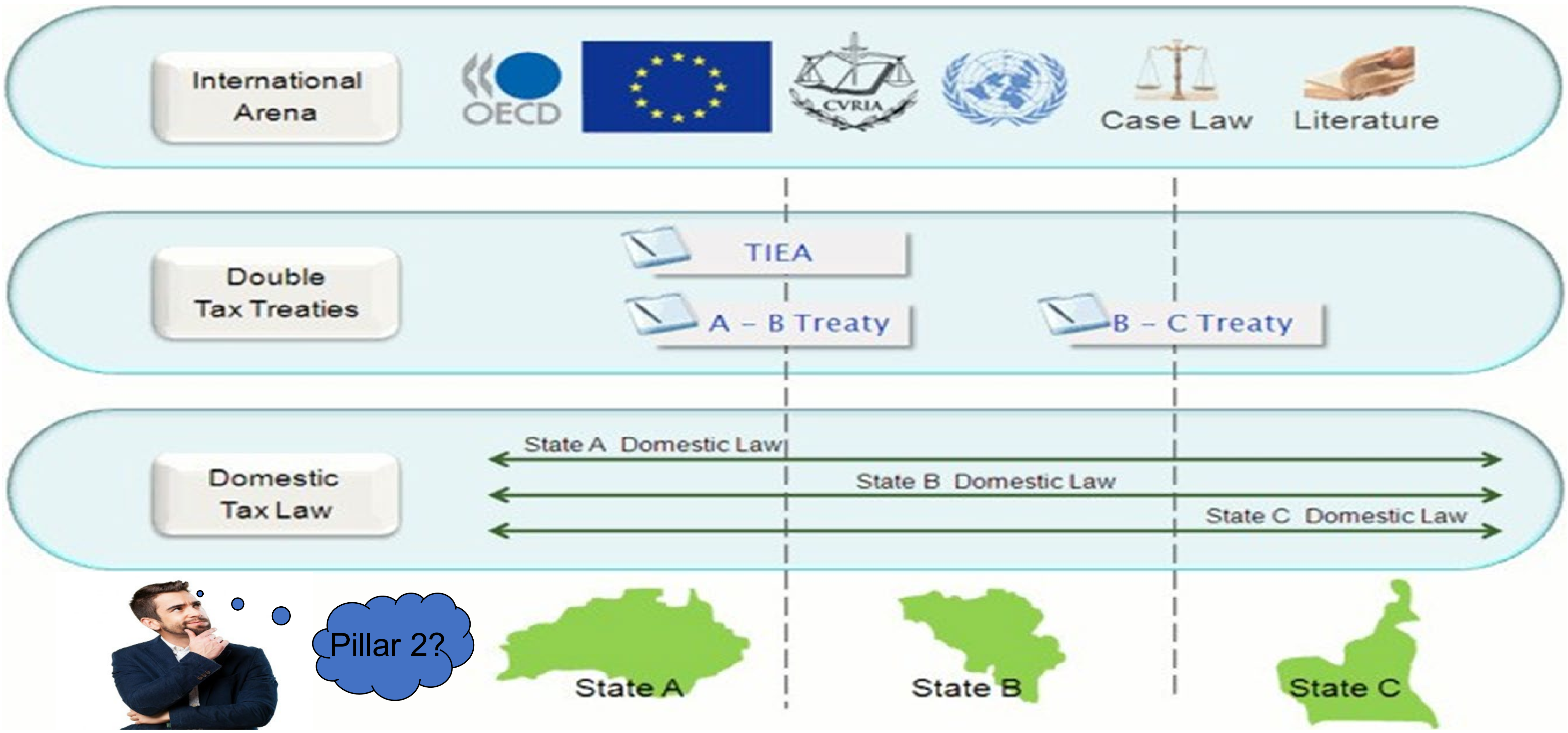
THE GLOBE MODEL RULES

- On 8 **October 2021**, over 135 Inclusive Framework (IF) members (today with over 140 members), representing more than 95% of global GDP, joined a **two-pillar solution** to **reform the international taxation rules** and ensure that **multinational enterprises pay a fair share of tax wherever they operate** and generate profits in today's digitalised and globalised world economy. [aims to end the '**race to the bottom**' on **tax rates**].

- On **20 December 2021** the OECD published The Global Anti-Base Erosion (GloBE) Rules ("GloBE Model Rules" or "Pillar Two Model Rules") as part of the Two-Pillar Solution.
  - The GloBE Rules are further explained by the [1] **Commentary**, [2] **Agreed Administrative Guidance**, and set of [3] **illustrative examples**.

- On **14 March 2022**: The Commentary to the GloBE Model Rules was approved and released by the Inclusive Framework and
  - On **9 May 2025** the Commentary was updated to incorporate the various pieces of Administrative Guidance (1-5) that were approved by the IF before the end of March 2025.

INTERNATIONAL TAX ENVIRONMENT: OVERLAP WITH PILLAR 2*



*Source IBFD

HIERARCHY OF LEGAL RULES IN CYPRUS (ΙΕΡΑΡΧΗΣΗ ΤΩΝ ΚΑΝΟΝΩΝ ΔΙΚΑΙΟΥ)

EU Law (Article 1A of the Constitution)

The Constitution is the supreme law of the Republic of Cyprus (Article 179 of the Constitution)

International Conventions such as Tax Treaties (Article 169 of the Constitution)

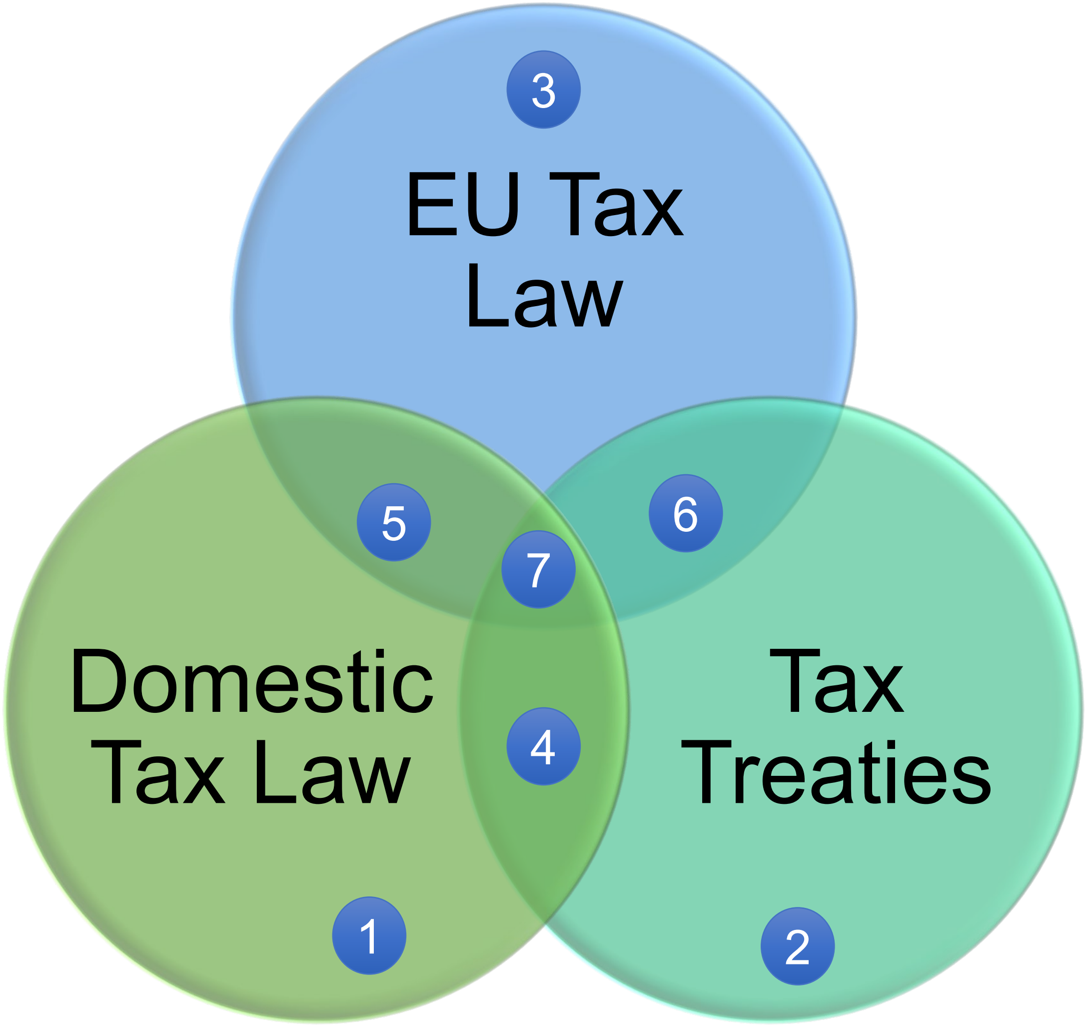
Laws, Primary Legislation (i.e. Legislation passed by the House of Representatives & colonial legislation)

Common law and equity principles

Secondary Legislation: Regulatory Administrative Acts (Κανονιστικές Διοικητικές Πράξεις ΚΔΠ)

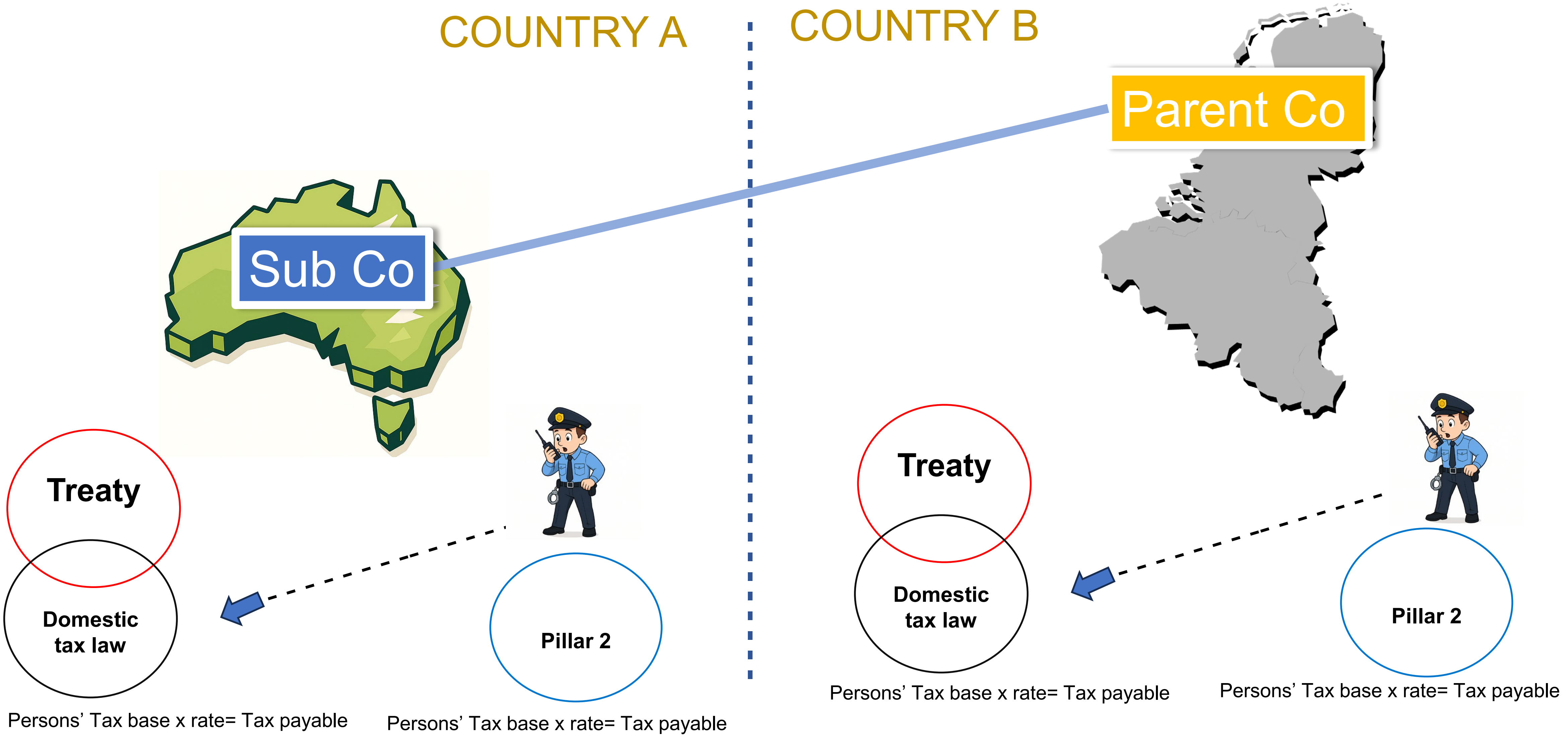
Tax Circulars?

OVERLAPPING BETWEEN DOMESTIC TAX LAW, TAX TREATIES AND EU TAX LAW



1. Domestic Law
2. Tax Treaties
3. EU Law
4. Overlap between Domestic Law & Tax Treaties
5. Overlap between Domestic Law & EU Tax Law
6. Overlap between Tax Treaties & EU Tax Law
7. Overlap Between Domestic Law, Tax Treaties & EU Tax Law

THE INTERPLAY BETWEEN PILLAR 2 AND OTHER TAX LAW SOURCES.



PILLAR 2: A NEW GLOBAL "COMMON TAX BASE" VS CURRENT DEFINITIONAL STRUCTURE AND INCOME CONCEPTS[1]

- **Tax Base**=Income (or revenue) less allowable deductions (expenses, losses)
- The **global income tax** structure provides a unitary definition of income **whereas** a pure **schedular tax** there is no single definition of income (i.e. different types of income are defined and taxed separately).
- **Three** general concepts of **Income**
  - **Accretion concept**: any realized accession to wealth is income
  - **Source concept**:* an item is income only if it flows from a source
  - **Trust concept**: distinguishes income (or "revenue") from capital.
- Expenses, deduction and losses?
- *Different from "source rule" (place/country where income originates)

Country	Definitional Structure	Income Concept
Australia	Global	Source, Trust
Canada	Global	Source, Trust
U.S.	Global	Accretion
France	Schedular	Source
Germany	Schedular	Source
Italy	Schedular	Source
Japan	Schedular	Source
Spain	Schedular	Source
U.K.	Schedular	Source, Trust

[1]Victor Thuronyi, Comparative Tax Law (2nd edn Kluwer Law International 2016) § 7.2.

INCOME TAX FUNDAMENTALS: SIX FUNDAMENTAL PRINCIPLES, OR QUESTIONS, THAT ARE CENTRAL TO THE APPLICATION OF INCOME TAX*

#	Question	Fundamental Principle	Pillar 2
1	Who is Taxed	Determine who is going to be taxed (i.e. persons covered)	**Wider in scope**: any legal persons & arrangements that prepare accounts (e.g. Partnerships or Trusts)
2	What is Taxed	Identify first the concept of income (i.e. Source, Trust or Accretion), and then the character of such income.	**Wider in scope**: **No Source** or **Trust concept**. Closer to Accretion concept.
3	When is Taxed	Determine when an item of income is taxed (i.e. timing, e.g. cash or accrual)	**Generally similar**
4	How Much is the Income	Quantify the income (e.g. transfer pricing rules)	**Generally similar**
5	Jurisdictional rules	Residence and Sourced based taxation	Residence based taxation, **limited/no source-based taxation** (e.g. **PE**)
6	Process of calculating the income tax base	Schedular or Global approach.	**Wider in scope**: Closer to Global approach

*Demis Ioannou: The British Colonial Income Tax Model: Lessons from Cyprus, in Studies in the History of Tax Law, Volume 10, Hart Publishing

ADJUSTMENTS UNDER ARTICLES 3.2 AND 3.3[1]

Category 1: REQUIRED Adjustments				*Category 2:* ELECTIVE/OPTIONAL Adjustments		
Type 1 *Common book-to-tax differences*	Type 2 *Other relevant adjustments*	Type 3 *Industry-specific*	Type 4 *Necessary to reflect provisions of other Chapters*	Type 1 *Five-year election*	Type 2 *Annual election*	Type 3 *Applies by default each year*
1. Net Taxes Expense (Art. 3.2.1(a)) 2. Excluded Dividends (Art. 3.2.1(b)) 3. Excluded Equity Gain or Loss (Art. 3.2.1(c)) 4. Included Revaluation Method Gain or Loss (Art 3.2.1(d)) 5. Gain or loss from disposition of assets and liabilities excluded under Article 6.3 (Art. 3.2.1(e)) 6. Asymmetric Foreign Currency Gains or Losses (Art. 3.2.1(f)) 7. Policy Disallowed Expenses (Art. 3.2.1(g)) 8. Stock-based compensation (Art. 3.2.2)	1. Arm's length requirement (Art. 3.2.3) 2. Qualified Refundable Tax Credits (Art. 3.2.4) 3. Intra-group financing (Art. 3.2.7) 4. Variations of Additional Tier One Capital (Art. 3.2.10)	1. Exclusion for insurance company income (Art. 3.2.9) 2. International Shipping Income 3. Ancillary International Shipping Income (Art. 3.3)</p:nl1_table>	1. Reflect the requirements of Chapter 6 2. Reflect the requirements of Chapter 7 (Art. 3.2.11)	1. Short-term Portfolio Shareholding (Art. 3.2.1(b)) 2. Excluded Equity Gain or Loss and hedges of investments in foreign operations (Art. 3.2.1(c)) 3. Equity Gain or Loss Inclusion Election (Art. 3.2.1(c)) 4. Stock-based compensation (Art. 3.2.2) 5. Election of realization method (Art. 3.2.5) 6. Election for domestic consolidation (Art. 3.2.8)	1. Election to spread gains and losses (Art. 3.2.6)	1. Debt Release (Administrative Guidance § 2.4)

[1] C. Theophilou and A. Loucaidou in C. Garbarino: Pillar Two of the Inclusive Framework on BEPS, Edward Elgar , Chapter 3 Individual Globe income or loss

STRUCTURE OF THE GLOBE MODEL RULES: SIX STEP APPROACH

CORE PROVISIONS OF THE GLOBE RULES

Step 1 – Determine whether the MNE Group is within scope

Identify Groups within scope

Step 2 –Allocate income of Constituent Entities on a Jurisdictional Basis

Identify the **location** of each Constituent Entity within the Group and **allocate the income** to these Constituent Entities

Step 3 – Calculate the GloBE Income

Determine **GloBE Income** of each Constituent Entity

Step 4 – Determine Adjusted Covered taxes

Determine **taxes** attributable to GloBE Income of a Constituent Entity

Step 5 – Compute the Effective Tax Rate and calculate the Top-up Tax

Calculate the Effective Tax Rate for all Constituent Entities located in the same jurisdiction and determine resulting **Top-up Tax**

Step 6 – Charge the Top-up Tax under QDMTT, IIR or UTPR

Impose Top-up Tax under QDMTT, IIR or UTPR in accordance with agreed rule order and allocation mechanisms

STEP 1: DETERMINE WHETHER THE MNE GROUP IS WITHIN SCOPE

Step 1.1: Determine whether there is an MNE Group

- Determine whether the Group has **entities** or **permanent establishments** in more than one jurisdiction **or** large-scale domestic groups

Step 1.2: Determine whether the MNE Group passes the revenue threshold

- Determine if the MNE Group has global revenues at or above **EUR 750** million by following the four-year test

Step 1.3: Identify excluded entities

- Identify any **excluded entities** to exclude them from the application of the rules, but do not exclude their revenue from the revenue threshold calculation

STEP 1.1: MNE GROUP TEST

- Two Entities will generally be treated as a member of the same Group where they are both under the common control of a UPE that is (or would be) required to include those entities in its consolidated financial statements

- The use of the accounting consolidation test to define the scope of a Group follows the approach taken in CbCR

- The requirement to be a member of a Group means that the GloBE rules cannot apply to standalone entities that do not consolidate with any other entity. However, the GloBE rules also apply to an internationally operating entity that has a Permanent Establishment in another jurisdiction as the main entity.

- **Entity**: means any legal person (other than a natural person) or an arrangement that prepares separate financial accounts, such as a partnership or trust.

- The Cypriot Pillar Two Law applies to large domestic groups as well.

STEP 1.2: REVENUE THRESHOLD TEST – EXAMPLE

The consolidated revenue for the current year is not factored in the four-year calculation.

2024 - Relevant Fiscal Year

Look-back period of four years:

The four-year test applies to any of the two of the four fiscal years (i.e. not cumulatively) immediately preceding the fiscal year being tested.

STEP 1.3: IDENTIFY EXCLUDED ENTITIES

An Excluded Entity is an Entity that is:		
	Category 1: Public Interest Entities	International Organisation
		Non-profit Organisation
		Governmental Entity
	Category 2: Tax neutral investment vehicles	Pension Fund
		Investment Fund that is an Ultimate Parent Entity
		Real Estate Investment Vehicle that is an Ultimate Parent Entity
	Category 3: Certain asset holding companies controlled by excluded Entities	Holding of assets and investment of funds
		Extraction of dividends and gains

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STEP 1 ADDITIONAL ISSUES TO CONSIDER

- While Excluded Entities are not subject to the operative provisions of the GloBE rules, they are still members of an MNE Group and therefore their revenue is four-year for purposes of assessing whether the MNE Group meets the revenue threshold of EUR 750 million.

- If no consolidated accounts exist, the definition of term “Consolidated Financial Statements” in Article 10.1 also includes a “**deemed consolidation test**” in paragraph (d)

- Is the MNE Group a Multi-Parented Group (i.e. Dual-listed arrangement or a Stapled Structure)?

- Article 6.1 supplements Article 1.1 by providing further rules for applying the consolidated revenue threshold in the case of **Merger and Demerger** transactions that took place in the prior four-year period.

STEP 2: ALLOCATE INCOME OF CONSTITUENT ENTITIES ON A JURISDICTIONAL BASIS

Step 2.1: Identify Constituent Entities within the MNE Group

- Identify all the entities, PEs and other arrangements within the MNE Group which are accounted for on a net income basis

Step 2.2: Determine the location of the Constituent Entities

- Follow the legal and tax treatment of each Constituent Entity to determine its location

Step 2.3: Determine FANIL of each Constituent Entity

- Use the same accounts that are used in preparing the consolidated financial statements to calculate the FANIL of each CE
- Where separate financial accounts are not maintained for a PE, use local tax rules as a basis for determining income to be allocated to PE

Step 2.4: Adjust for income of transparent entities

- Income of transparent entities is re-allocated to the owners of those transparent entities in proportion to their ownership and in line with local tax treatment

STEP 3: CALCULATE THE GLOBE INCOME

Adjustments to better align with taxable income

- e.g. net taxes, dividends, equity gains and losses, asymmetric FX gains and losses, pension expenses, stock-based compensation

Adjustments to ensure correct allocation of income between jurisdictions

- e.g. TP adjustments, intra-group financing

Other policy based adjustments

- e.g. bribes, international shipping income

ADJUSTMENTS UNDER ARTICLES 3.2 AND 3.3[1]

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STEP 4: DETERMINE ADJUSTED COVERED TAXES

Step 4.1: Covered Taxes

- Identify Covered Taxes in the current tax expense and compute the amounts

Step 4.2: Adjustments to Covered Taxes

- Adjust the Covered Taxes to take into account taxes that are not recorded in the tax line of the Profit or Loss statement and exclude taxes not related to GloBE Income or Loss
- Address temporary differences, which arise when income or loss is recognised in a different year for financial accounting and tax by deferred tax accounting
- Account for tax credits (if any) depending on their categorisation

Step 4.3: Cross-border allocation

- Adjust the amounts to allocate certain cross-border taxes to the proper Constituent Entity

Step 4.4: Post-filing adjustments

- In case of post-filing adjustments, generally a ETR recalculation is required for the relevant Fiscal Year

COMPUTATION OF THE JURISDICTIONAL TOP-UP TAX

1. Computation of GloBE Income or Loss (on a jurisdictional basis)

2. Computation of Adjusted Covered Taxes (on a jurisdictional basis)

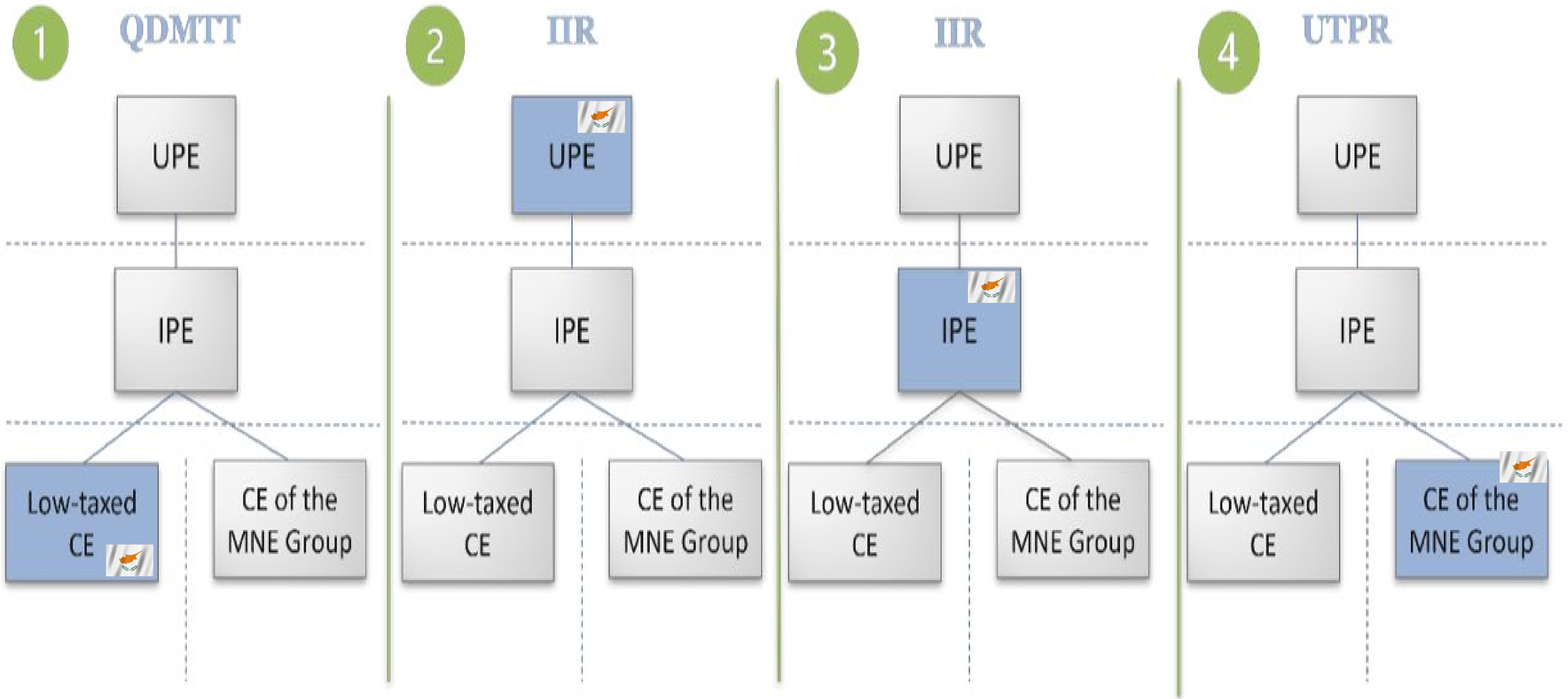
3. Jurisdictional ETR = Adjusted Covered Taxes ÷ GloBE Income

4. Top-up Tax %= 15% − Jurisdictional ETR

5. Jurisdictional Excess Profit = GloBE Income − Substance-based Income Exclusion

6. Jurisdictional Top-up Tax = (Top-up Tax % × Excess Profit) + Additional Current Top-up Tax − Qualified Domestic Minimum Top-up Tax

STEP 6: CHARGE THE TOP-UP TAX UNDER THE QDMTT, IIR OR UTPR (SIMPLIFIED ILLUSTRATION OF THE RULE ORDER)



CYPRUS VS. THE GLOBAL MINIMUM TAX: ALIGNMENT & DIVERGENCES

KEY DIFFERENCES OF THE CYPRIOT PILLAR TWO LAW TO OECD MODEL RULES & EU DIRECTIVE

The Cypriot Pillar Two Law largely aligns with the EU Directive, which limits flexibility in national implementation.

Key differences with the OECD Model Rules include:

- QDMTT
- The Law Cypriot Pillar Two Law GloBE rules to large domestic groups.
- Cypriot Pillar Two Law extends the IIR to all domestic entities, not just foreign subsidiaries, which is optional in GloBE Model Rules.
- For the UTPR, Cypriot Pillar Two Law opts for a top-up tax instead of denying deductions.
  - Therefore the provisions of article 2.4.2. of the OECD Model Rules and the corresponding provisions of the corresponding provisions of the EU Directive Article 12(2) and Article 13(2) are not included in the Cypriot Pillar Two Law
- Articles 10(2), 13(1), and 14(1) of the law provides that an MNE group may transfer the top-up tax amount due, either fully or partially, from one constituent entity to another constituent entity or entities within the same group located in Cyprus.

PROVISIONS FROM THE 1ST OECD ADMINISTRATIVE GUIDANCE INCLUDED IN THE CYPRIOT PILLAR TWO LAW

- Sovereign wealth funds and the definition of Ultimate Parent Entity (it also excludes the National Investment Fund from the UPE definition) (Article 1.4)
- Clarifying the definition of ‘Excluded Entity’ (Article 1.5)
- Forex hedge election (Article 2.2)
- Excluded Dividends – Asymmetric treatment of dividends and distributions (Article 2.3)
- Debt release election (Article 2.4)
- Accrued pension expenses (Article 2.6)
- Excess negative tax carry-forward guidance (Article 2.7)
- Substitute loss carry forwards (Article 2.8)
- Equity gain or loss inclusion election (Article 2.9)
- The extension of the taxable distribution method election to insurance investment entities (Article 3.1)
- Exclusion of Insurance Investment Entities from the definition of Intermediate Parent Entity and Partially-Owned Parent Entity (Article 3.2)
- Liabilities related to Excluded Dividends and Excluded Equity Gain or Loss from securities held on behalf of policyholders (Article 3.4)
- Portfolio shareholding election (Article 3.5)

IMPLEMENTING THE PROVISIONS OF THE CYPRIOT PILLAR TWO LAW

In the application of the Cypriot Pillar Two Law it shall be used as a source of examples or interpretations, to the extent that no inconsistency arises in the implementation of the EU Directive and this law the OECD guidelines as defined in Article 2:

- Commentary to the GloBE Rules (First edition) published on 14 March 2022: click here
- Examples originally published on 14 March 2022 and revised on 25 April 2024: click here
- Safe harbours and penalty relief published on December 2022: click here
- 1st Administrative Guidance published on 02 February 2023: click here
- 2nd Administrative Guidance published on 17 July 2023: click here
- GloBE Information Return published on 17 July 2023: click here
- 3rd Administrative Guidance published on 15 December 2023: click here
- Consolidated Commentary to the GloBE Rules published 25 April 2024: click here
- 4th Administrative Guidance published on 04 June 2024: click here
- **Subsequent documents published by the OECD as defined by Decree issued by the Minister pursuant to subsection (2) of Article 60 (secondary law)**
- Does not specifically include a General Anti-Avoidance Rule—aligning with the EU Directive and Model Rules

PROVISIONS FROM THE 2ND, 3RD, 4TH AND 5TH OECD ADMINISTRATIVE GUIDANCE ARE NOT INCLUDED CYPRIOT PILLAR TWO LAW

Examples include

- Blended controlled foreign company regimes
- Transferable tax credits
- Meaning of “ancillary” for Non-Profit Organisations
- The extension of the tax transparency election to mutual insurance companies
- Additional rules (such as the deemed 50% requirement where employees perform work outside the employer’s jurisdiction for the SBIE).

CYPRIOT PILLAR TWO LAW: ELECTIONS

The Cyprus Pillar 2 Law includes **all elections** from the OECD Model Rules and the EU Minimum Tax Directive, including elections from the 1st Administrative Guidance

- Article 4(4) Excluded Entity Election
- Article 17(3) Stock-Based Compensation Election
- Article 17(3)(a) Portfolio Shareholding Election
- Article 17(6) Election to use the Realization Method
- Article 17(7) Election to Spread Capital Gains
- Article 17(9) Consolidation Election
- Article 17(12) Foreign Exchange Hedge Election
- Article 17(13) Debt Release Election
- Article 22(5)(b) Excess Negative Tax Carry-Forward Election
- Article 22(6) Equity Investment Inclusion Election
- Article 23(1)(b) Unclaimed Accrual Election
- Article 24(1) GloBE Loss Election
- Article 26(1) Prior Year Adjustment Election
- Article 31(1) De minimis Election
- Article 29(2) Substance-Based Income Exclusion Election
- Article 36(5) Deemed Disposal of Assets Election
- Article 41(1) Distribution Tax Regime Election
- Article 43 Tax Transparency Election
- Article 44 Taxable Distribution Election

CYPRIOT PILLAR TWO LAW: QDMTT

Article 12(1)(b) Base Calculation: General GloBE top-up tax with specific adjustments as per Cypriot Pillar Two Law.

- Article 2 Exclusions: CFC push down, hybrids, PEs, and tax on distributions are excluded from DMTT calculations
- Article 12(1)(a) Ownership: Applies irrespective of shareholdings in group entities in Cyprus.
- Article 12(1)(c) UTPR Exemption: For Initial Phase of International Activity for large-scale domestic groups and certain joint ventures.
- Article 12(1)(d) Top-up Tax Transfer Option: MNE groups can transfer top-up tax within the same group in Cyprus, subject to consent and registration
- Article 12 (3) Safe Harbours & De Minimis Rule as adopted by EU/OECD
- Article 12 (4) Unpaid DMTT: Typically taken into account for top-up tax after four years.

CYPRIOT PILLAR TWO LAW: SAFE HARBOURS

- On 24 July 2024 Cyprus provided consent to all OECD Safe Harbor Rules, including the Transitional CbCR Safe Harbor and the Transitional UTPR Safe Harbor (other than the EU QDMTT safe harbour): click here

- Article 12(3) of the law applies the EU DQMTT safe harbour as well.

- Article 33 of the law: A filing constituent entity may elect for the top-up tax in a specific jurisdiction to be deemed zero for a financial year.

  - Conditions for Safe Harbour Treatment:
    - Constituent entities in the jurisdiction must comply with an “Accepted International Safe Harbour Agreement”.
      - A set of internationally agreed rules and conditions.
      - Consensus among all EU Member States.
      - Provides eligible groups the option to benefit from one or more safe harbours in a jurisdiction.

CYPRIOT PILLAR TWO LAW: COMPLIANCE REQUIREMENTS

- **Registration**: Local Constituent Entities must register with the Cyprus Tax Authorities within 15 months after the fiscal year ends (18 months for the transitional year).

- **Filing requirements**: The GloBE Information Return (**GIR**) must be filed within 15 months after the fiscal year ends (18 months for the first year). If a foreign Constituent Entity files a GIR, a notification is also required by the same deadline. Additionally, a local self-assessment tax return must be filed within 30 days after the GIR filing due date.

- **Penalties**:
  - Includes penalties for late filings, delayed payments, and other violations, aligning.

  - For fiscal years starting on or before December 31, 2026, and excluding any fiscal year ending after June 30, 2028, no administrative fines or penalties will be imposed if the Cyprus Tax Authorities confirms that the relevant MNE/Large-scale Domestic Group has made every effort to comply with the law.

CYPRUS PILLAR TWO: COMPLIANCE

CYPRUS IMPLEMENTATION OF PILLAR II –THE PROCESS

1. Determine Scope and Applicability
2. Compute GloBE Income or Loss
3. Determine Adjusted Covered Taxes
4. Compute the Effective Tax Rate (ETR) per Jurisdiction
5. Calculate the Top-up Tax per Jurisdiction
6. Apply the GloBE Taxing Mechanisms in Order
   - Qualified Domestic Minimum Top-up Tax (QDMTT) – The jurisdiction applies its own QDMTT first to retain taxing rights.
   - Income Inclusion Rule (IIR) – The UPE or intermediate parent applies the IIR to pick up any remaining Top-up Tax.
   - Undertaxed Payments Rule (UTPR) – If there are residual Top-up Taxes, they are allocated among UTPR jurisdictions based on economic presence.
7. Finalize Allocations and Compliance Reporting
   - Ensure correct allocations among affected jurisdictions.
   - Prepare the GloBE Information Return (GIR) and submit it per the jurisdictional requirements.

CYPRUS IMPLEMENTATION OF PILLAR II – THE LAW

- According to **Article 59** of the Law, the OECD guidelines should be used as a source of examples or interpretations, provided there is no inconsistency with the Directive and this Law.

- **Article 2** specifies the OECD Documents that are ancillary to the provisions of this law, including the document GloBE Information Return ("**GIR**") published on 17th July 2023.

- Future OECD Guidelines not specified in the Law may be included through a Ministerial Decree issued under Article 60(b).

- Revised GIR was published by the OECD on 15th January 2025.

- We expect that the Minister will issue a Decree accordingly, until then the previous GIR is applicable.

OBLIGATION TO SUBMIT INFORMATION RETURN

- The **Constituent Entity** located in Cyprus or a **Designated Local Entity** on its behalf must submit the Information Return to the Cypriot Tax Authorities.

- The **UPE** or **Designated Local Entity** must submit the GIR

- They are exempted from submitting, if the Information Return was filed by:
    - the **UPE** or a **Designated Filing Entity** located in a jurisdiction that has a Qualifying Competent Authority Agreement in effect with the Republic of Cyprus for the Reporting Fiscal Year.

    - In these case, the Cypriot Tax Authority should be informed about the Entity that completed the filing and the jurisdiction where it is located at.

NECESSARY INFORMATION FOR GIR

- **Part I: MNE Group Information**
  - Identification of the Filing Constituent Entity
  - MNE Group General Information
  - Corporate Structure
  - High-level summary of GloBE Information

- **Part II: Jurisdictional safe harbours and exclusions – Jurisdictional schedules**
  - Characteristics of the jurisdiction
  - Jurisdictional exceptions applicable in respect of this jurisdiction (Top-up Tax reduced to zero)
  - MNE Group in the initial phase of international activity (if applicable)

NECESSARY INFORMATION IN GIR

- **Part III: GloBE Computations**
  - Characteristics of the jurisdiction
  - ETR computation
    - ETR
    - Jurisdictional computations relating to deferred tax accounting
    - Jurisdictional elections (if any)
    - Constituent Entity Computations
  - Top-up Tax computation
    - Top-up Tax
    - Computation of Substance-based Income Exclusion (if applicable)
    - Additional Current Top-up Tax
    - QDMTT
  - Top-up Tax allocation and attribution (if any)
    - Application of the IIR in respect of this jurisdiction
    - Total UTPR Top-up Tax amount in respect of this Jurisdiction
    - Attribution of Top-up Tax under the UTPR

INFORMATION RETURN AS PER CYPRIOT LAW 151(I)/2024

- Constituent Entity details:
  - Entity names and tax identification numbers
  - Jurisdiction of establishment (if applicable)
  - Status under this Law (if applicable)

- Corporate Structure
  - Overview of the group’s structure
  - Controlling interests held by constituent entities

- Tax calculation data:
  - Effective Tax Rate (ETR) per jurisdiction and top-up tax for each entity
  - Top-up tax for joint venture group members
  - Tax allocation:
    - Under the IIR
    - Under the UTPR for each jurisdiction

- Record of Elections that took place pursuant to this Law.

- Information Returns must be filed within 15 months after the end of the Tax Period.

TAX LIABILITY AND PAYMENT

- The amount that will be taxes is based on the data in the Information Return.

- Payment should take place within 30 days after the deadline for submission.

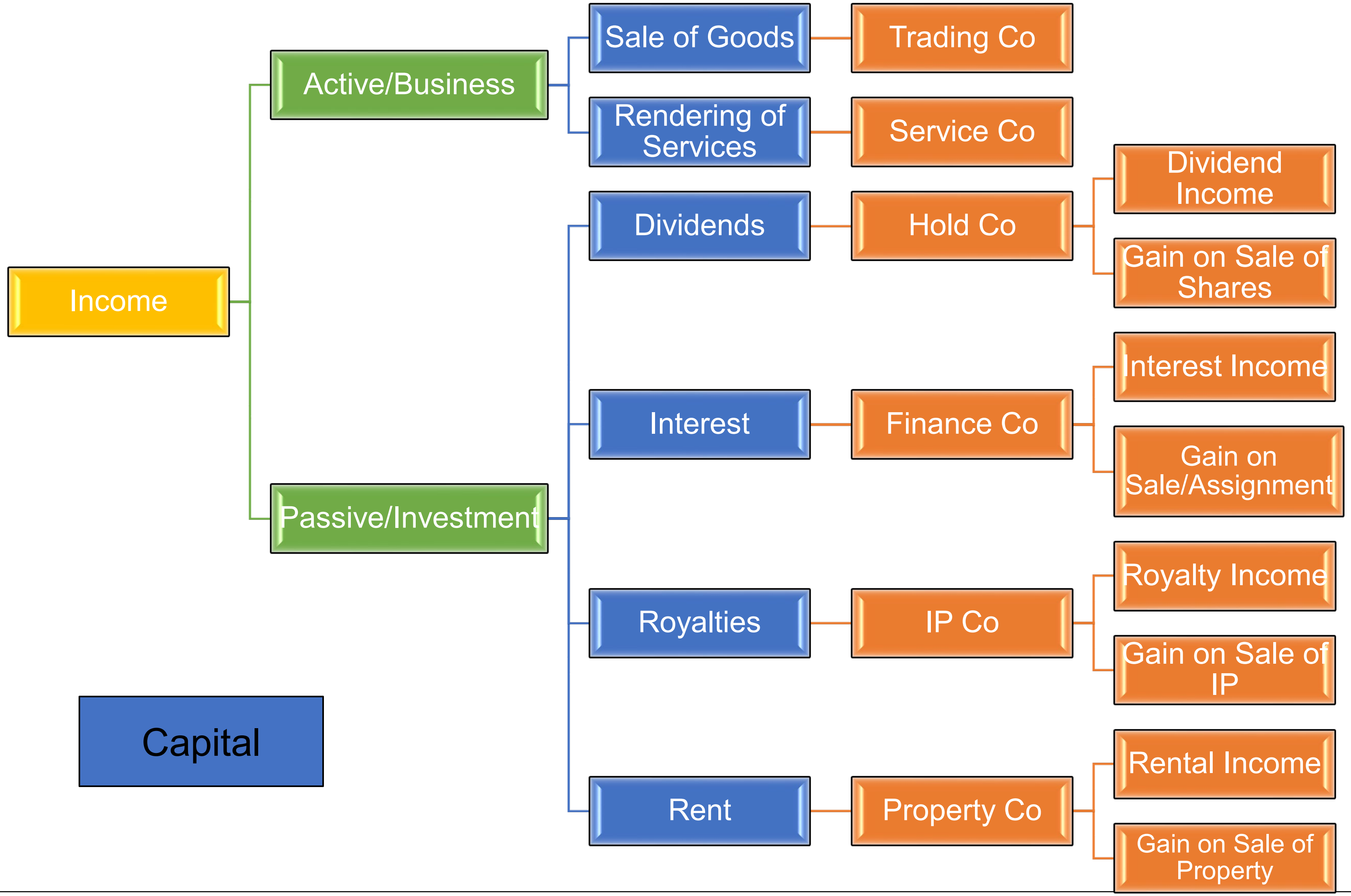
- If the amount is not paid within the deadline, then the following penalties are imposed:
  - 5% surcharge on unpaid tax,
  - Annual interest applied if not paid on time, based on the Unified Public Interest Rate Law (the interest calculated on completed months of delay).

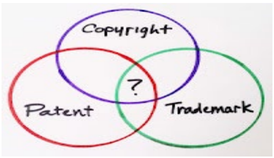
ADMINISTRATIVE PENALTIES

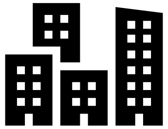
Violation	Penalty
Failure to submit the Information Return	Fine up to €10,000
Submission of incomplete or inaccurate Return	Fine up to €5,000
Failure to maintain required records as per Article 51	Fine up to €1,500
Denial of access to information for tax audit of documents maintained as per Article 45	Denial of Access to Information for Tax Audit
Non-Compliance with disclosure obligations of Article 47	Fine up to €5,000
Repeated violations or non-payment of fines	Fine may increase up to €20,000
Collection of unpaid fines	Tax Commissioner may take legal action to recover the amount

APPLICATION OF PILLAR TWO TO INTERNATIONAL TAX PLANNING STRUCTURES AND SUBSTANCE REQUIREMENTS

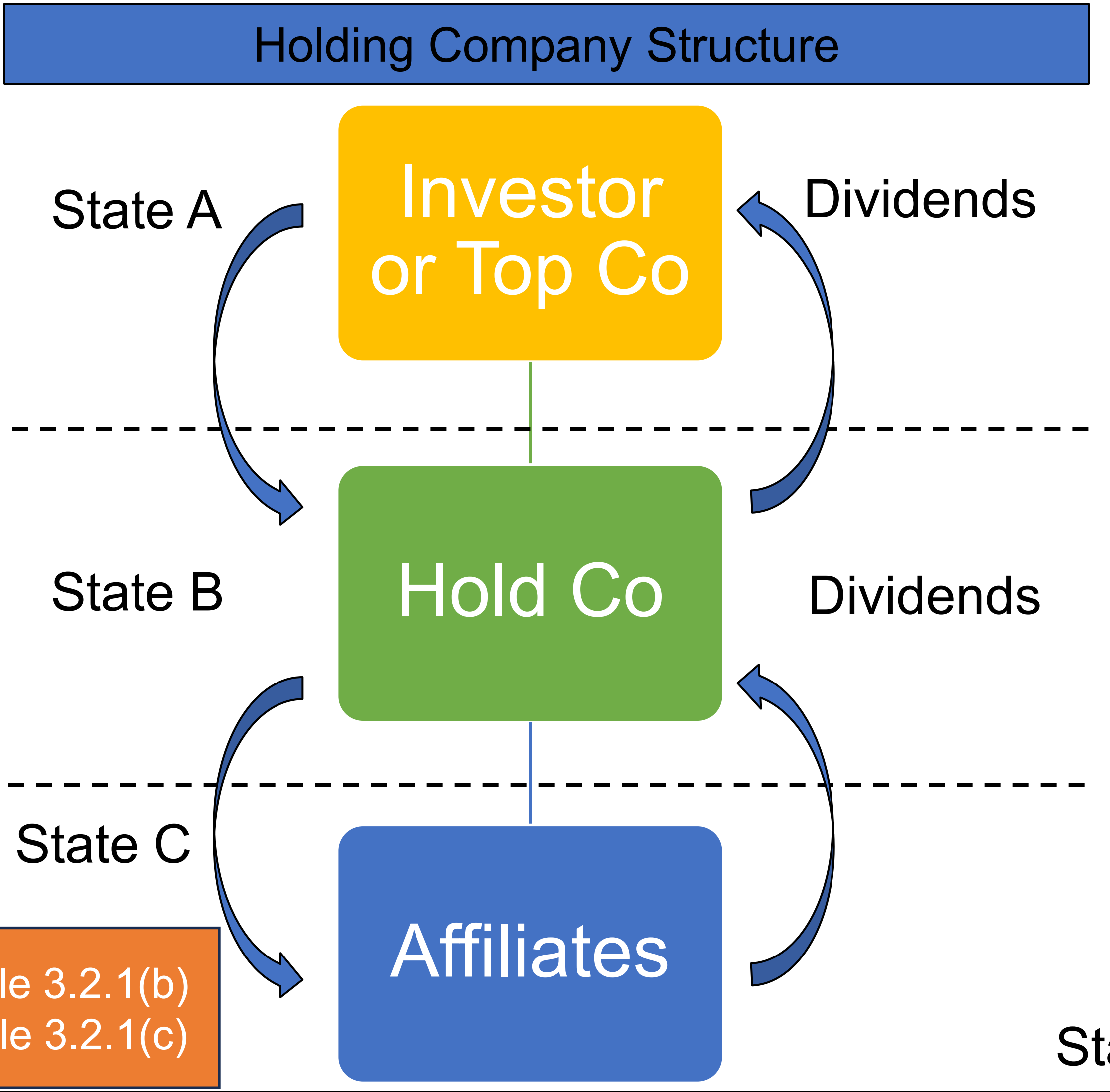
INTERNATIONAL TAX PLANNING: TAXABLE INCOME AND STRUCTURES



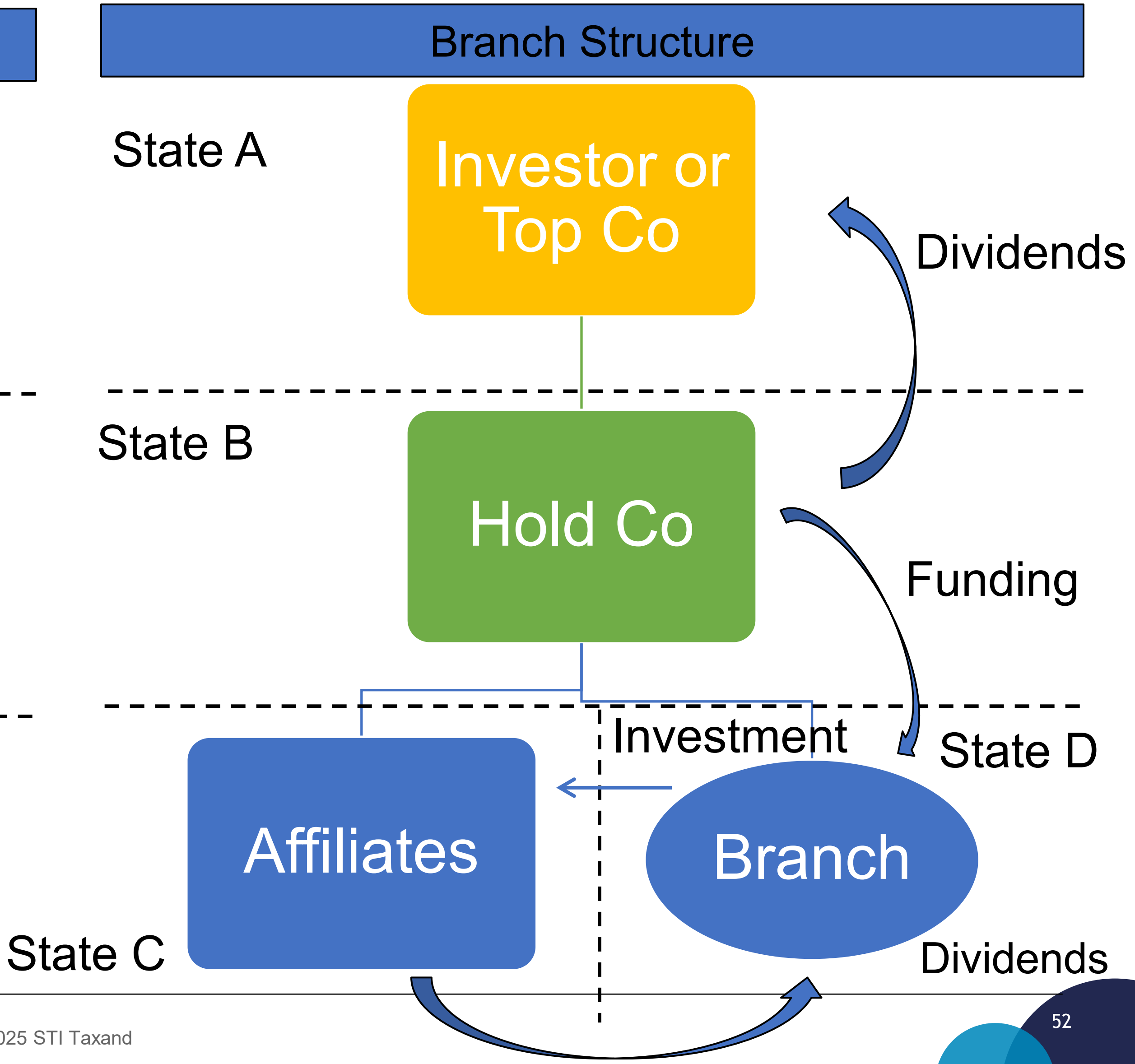




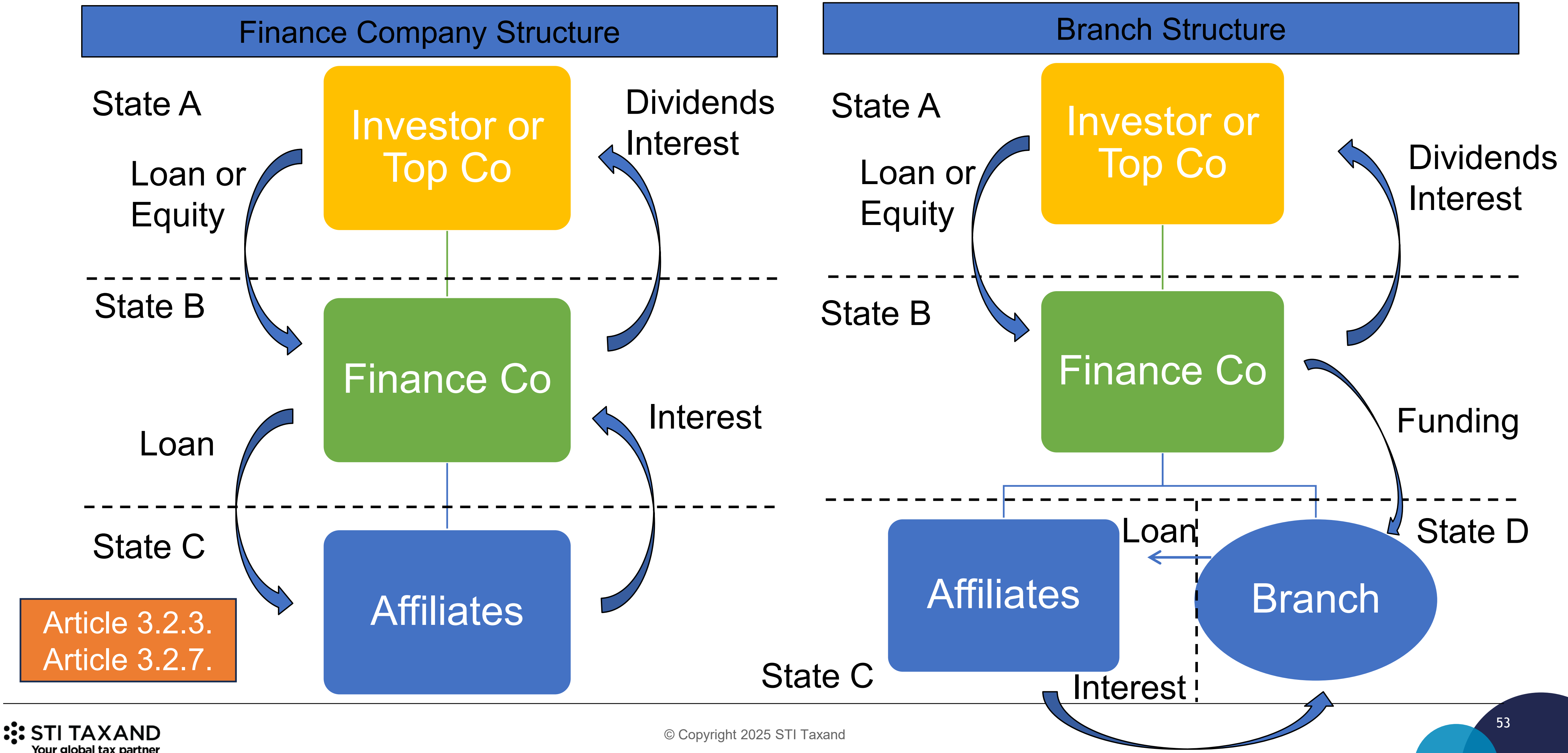
HOLDING COMPANIES GENERAL STRUCTURES



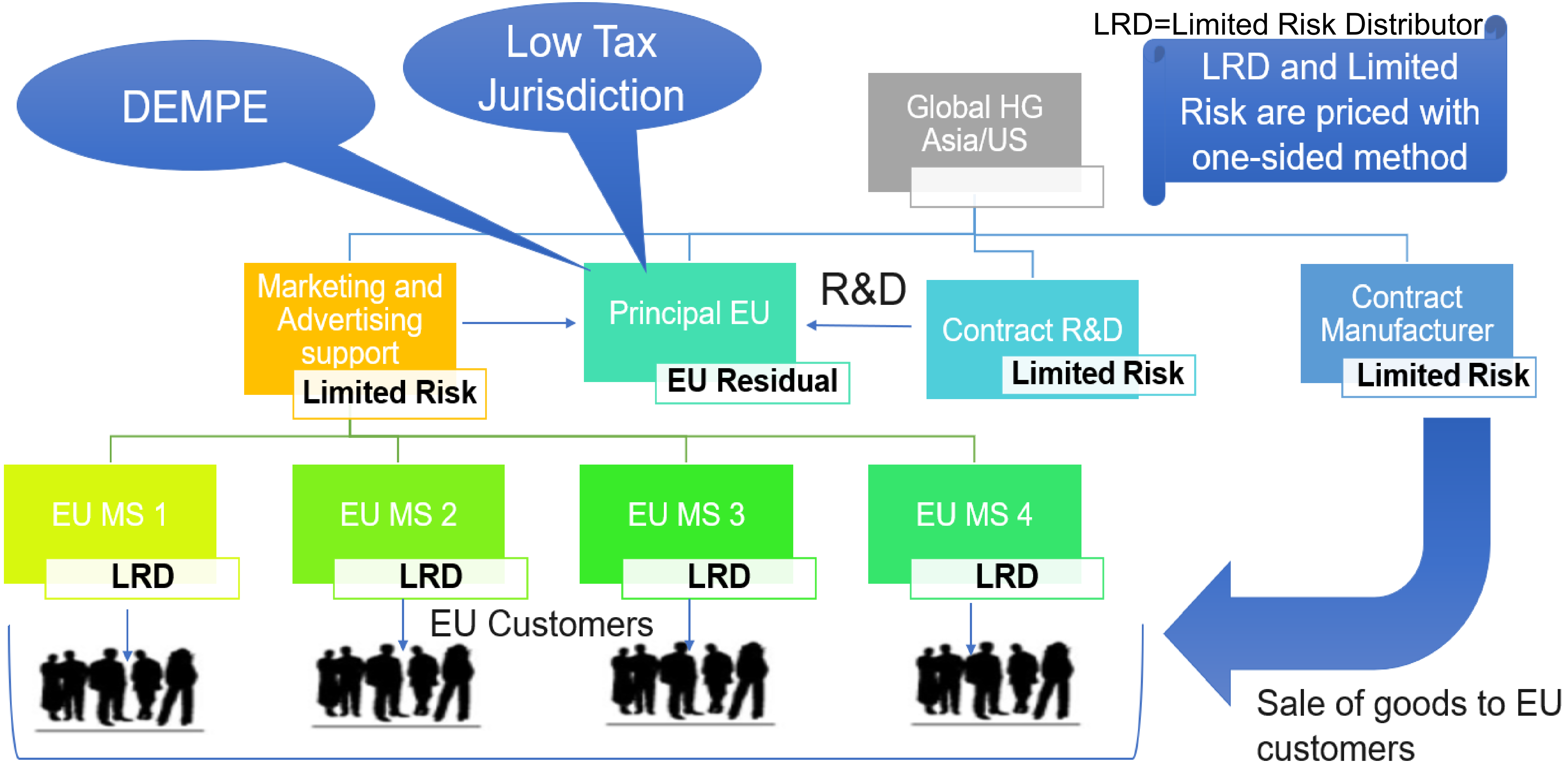
Article 3.2.1(b)
Article 3.2.1(c)



FINANCE COMPANIES GENERAL STRUCTURES



ENTREPRENEUR OR PRINCIPAL STRUCTURE

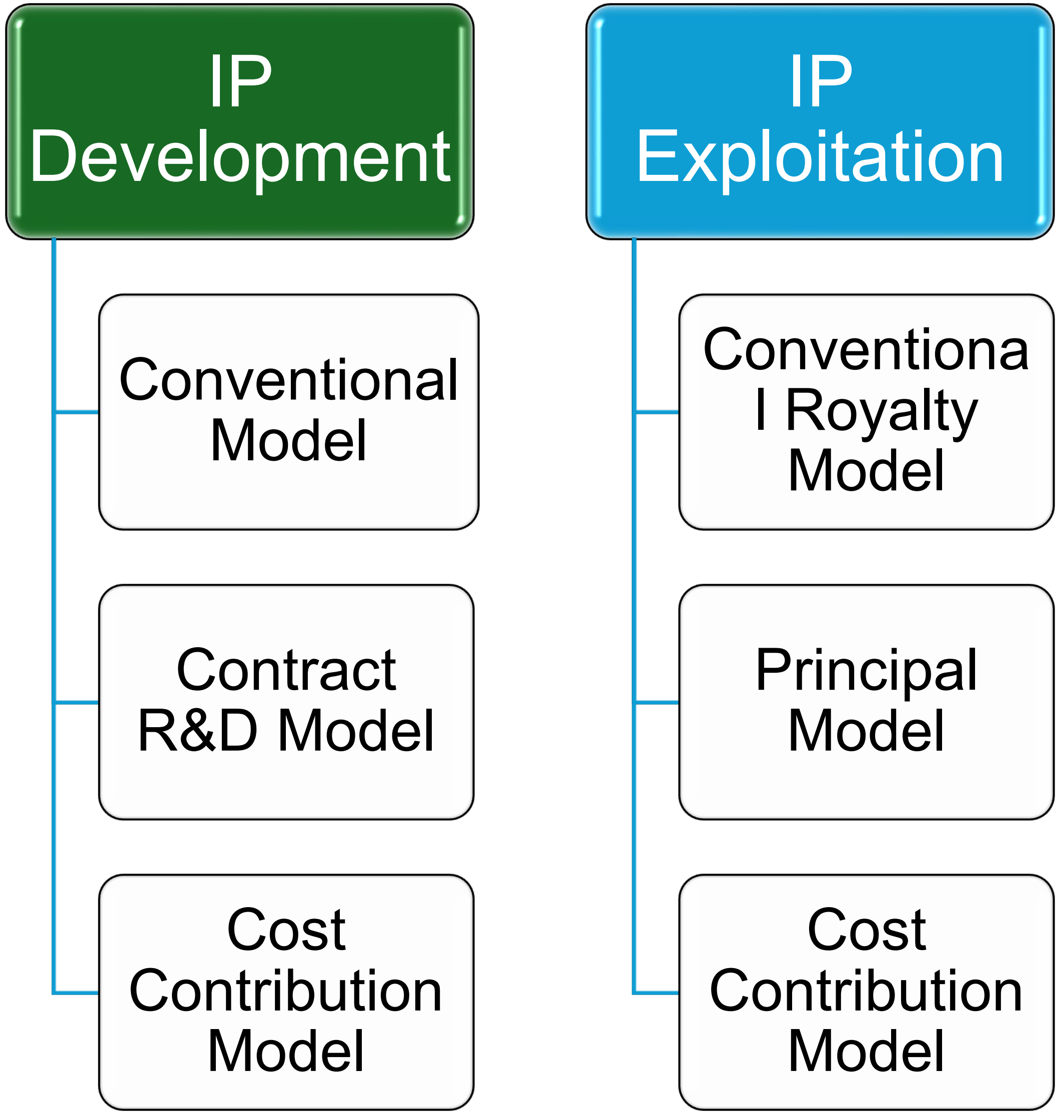


TYPES OF IP TAX STRUCTURING AND TAX INCENTIVES

- Businesses often face two crucial considerations when organizing their intellectual property:
  - Determining the location for IP **development**; and
  - Deciding where to own the IP for **exploitation**.

- Tax incentives for IP development
  - Accelerated Depreciation
  - Super-deduction
  - R&D Tax credits

- Tax Incentives for IP exploitation
  - IP Box



POTENTIAL IMPACT OF PILLAR 2 ON TAX INCENTIVES*

Table 1. Mapping the impact of tax incentive instrument design in the GloBE ETR calculation

The intensity of the colour reflects the likelihood with which the benefit of the tax incentives may be affected by the GloBE ETR calculation

Nature of relief	Type of instrument		Tax benefits affected by the GloBE ETR calculation (intensity of the colour indicates intensity of effect)	Effect on GloBE ETR: Numerator	Effect on GloBE ETR: Denominator
Income-based incentives		Full exemption	More likely	↓	
		Partial exemption	More likely	↓	
		Reduced rates	More likely	↓	
Expenditure-based incentives		Tax allowances[3]	More likely	↓	
	Tax deductions[1]	Immediate expensing and accelerated depreciation	Less likely	Adjusted for timing differences	
		For tangible assets: machinery, equipment, buildings	Unaffected	No recapturing applies	
		For short-lived intangibles	Less likely	Recapturing may apply	
		Other assets	More likely	Recapturing may apply	
	Tax credits	Qualifying refundable tax credits	Less likely	[2]	↑
		Other tax credits	More likely	↓	

* Source: OECD (2022), Tax Incentives and the Global Minimum Corporate Tax

TAX INCENTIVES AND TAX COMPETITION (SUBSTANCE-BASED INCOME EXCLUSION RULE)

- Routine profits from “substantive activities” in a jurisdiction are not subject to the top-up tax

- Benefits based on poorly designed tax incentives will be washed out by the GloBE Rules

- Tax policymakers can design new or redesign existing tax incentives to align them with the Substance-Based Income Exclusion Rule:
  - Provide expenditure tax incentives (e.g. accelerated depreciation or super deductions) primarily to payroll, tangible assets or both.
  - For example, countries with a notional interest deduction scheme (Belgium, Cyprus, Italy, Malta, Poland and Portugal) can provide the deemed deduction if the new equity increases the company’s payroll or is invested in tangible assets.
  - In this way, the Substance-Based Income Exclusion would be inflated; therefore, the Net GloBE Income would be reduced by the higher Substance-Based Income Exclusion.

TAX INCENTIVES AND TAX COMPETITION (SUBSTANCE-BASED INCOME EXCLUSION RULE)

Pillar Two rules on GloBe Income or Loss have two limitations:

Pillar Two computation rule to a **large extent does not take into consideration economic substance and value creation** (which was the objective of the BEPS project), with the exception of the Substance-based Income Exclusion Rule; rather, it takes the accounting income on a jurisdictional basis and provides certain adjustments to arrive at the GloBE tax base. Then such income is allocated based on a 'super CFC rule', namely the IIR, that again does not take into consideration where value is created.

Second, the **transfer pricing issues** under BEPS Action 8–10 **largely remain unresolved**, and the Pillar Two Rules do not address these issues, at least directly. Pillar Two tries to solve the tax arbitrage issue to deter taxpayers shifting profits to a lower tax jurisdiction. However, if Pillar Two proves to be a success, it will **solve this problem up to** the minimum tax (that is, **15 per cent**).

SIX DIFFERENT STRATEGIES (1)

- Do nothing and pay their taxes, even if this is not economically efficient.
  - However, such a strategy would typically be sensible in the jurisdictions where an MNE Group falls under the de minimis exclusion of the GloBE Rules under Article 5.5

- Taxpayers will still prefer to locate their activities in low-tax jurisdictions and pay a 15 per cent ETR, provided the alternative options are high-tax jurisdictions well above the 15 per cent ETR.

- Combine high-taxed profits (that is, taxed above 15 per cent ETR) with low-taxed profits (that is, taxed below 15 per cent ETR). However, as the blending rules of Pillar Two are on a jurisdictional basis, such blending should be per jurisdiction.

SIX DIFFERENT STRATEGIES (2)

- MNEs is to be located in a Low-Taxed Jurisdiction with a generous Qualified Refundable Tax Credit or a Substance-Based Income Exclusion or both.

- MNEs to transfer their activities to a Low-Tax Jurisdiction with a generous Substance-Based Income Exclusion and Qualified Refundable Tax Credit or a Substance-Based Income Exclusion or both.

- MNEs to transfer their activities from a High-Tax jurisdictions with an effective tax rate 20% to another High-Tax Jurisdictions with a lower effective tax rate (e.g. 16%) as Pillar 2 rules do not apply.

REFERENCES

REFERENCES

- Pillar 2 Model GloBE Rules published on 14 December 2021 click here
- OECD website for Pillar 2 updates click here
- EU Directive issued on December 14, 2022
- Cyprus Pillar 2 law published in the Official Government Gazette on December 18 2024
- Commentary to the GloBE Rules published on 25 April 2024 click here
  - This Consolidated Commentary incorporates Agreed Administrative Guidance that has been released by the Inclusive Framework since March 2022 up until December 2023
- Illustrative examples published on 25 April 2024 click here
- 4th Administrative Guidance published 17 June 2024 click here
- OECD (2022), Tax Incentives and the Global Minimum Corporate Tax: Reconsidering Tax Incentives after the GloBE Rules published on 6 October 2022 click here
- 5th Administrative Guidance published 15 January 2024
  - Central Record of Legislation with Transitional Qualified Status click here
  - Articles 8.1.4 and 8.1.5 of the GloBE Rules and Article 9.1 of the GloBE Rules

FURTHER READING

- For more detailed insights, you can refer to our previous articles published in Bloomburg tax:
  - Deconstructing Pillar Two – Impact on Multinational Enterprise and
  - Analysis of Pillar Two Primary Rule IIR – and Comparison With CFC Rules.
  - Cyprus' Pillar Two Adoption Calls for MNE Safe Harbor Testing

- BOOK: Pillar Two of the Inclusive Framework on BEPS (Global Minimum Taxation of the OECD – OECD)
  - This book is essential for anyone looking to navigate the Global Anti-Base Erosion (GloBE) rules. It provides a comprehensive and practical perspective on the challenges and solutions within the BEPS framework, making it a key resource for businesses, advisors, and policymakers.

Questions!

Thank you for your attention!

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STI TAXAND

Application of GloBE Rules to International Tax Structures

PRESENTATION BY
Shee Boon Law
Consultant: International Tax & Transfer Pricing

Your global tax partner

AGENDA

1. **GMT and International Tax Structures**

2. Application of GMT to holding structures

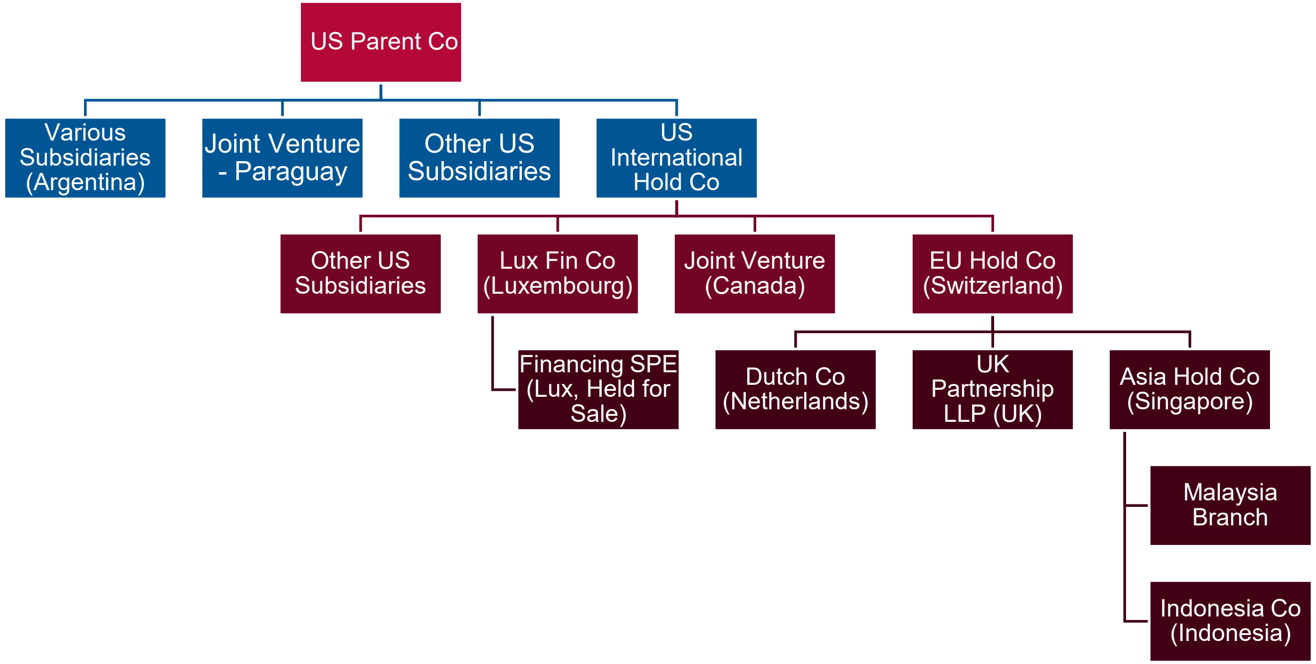
3. Financing structures under GMT

4. IP structures under GMT

CASE STUDY – IS THIS MNE GROUP IN-SCOPE?

MNE Group is exposed to possible application of Top-up Taxes:

- An MNE group has annual revenue of EUR 750 million or more in the consolidated financial statements of the ultimate parent entity (UPE)
- In at least two of the four fiscal years immediately preceding to the tested fiscal year
- Consolidated financial statements are the financial statements prepared under an acceptable financial accounting standard
  - IFRS
  - GAAPs (generally accepted accounting principles) of the world's main economies, such as the United States, Japan, India, China, Brazil, Russia and the EU Member States
- MNE group – At least one entity or PE outside the UPE jurisdiction
- Group – Consolidation on a line-by-line basis
- Constituent entity – Entity or PE included in a group
- Special cases – Held for sale entities? JV?



HOW DO I TREAT THESE GROUP ENTITIES IN MY GROUP?

MNE Group	GloBE Rules
Group Ownership Interest 90% + Control	CEs
Group Ownership Interest < 80% **Third parties have more than 20% Ownership Interest**	**POPEs/CEs**
Group Ownership Interest 60% + Control	POPEs/CEs
Group Ownership Interest 40% + Control	POPEs/CEs
Group Ownership Interest 30% or less + Control	**MOCEs**
Group Ownership Interest 50% or more + No Control	**JVs**
Group Ownership Interest 40% + No Control	Not in-scope
Group Ownership Interest 30% or less + No Control	Not in-scope

Can an entity be a MOCE for one MNE Group and a JV for another MNE Group?
If so, would the entity be subject to two top-up tax?

APPLICATION OF THE ORDERING RULES

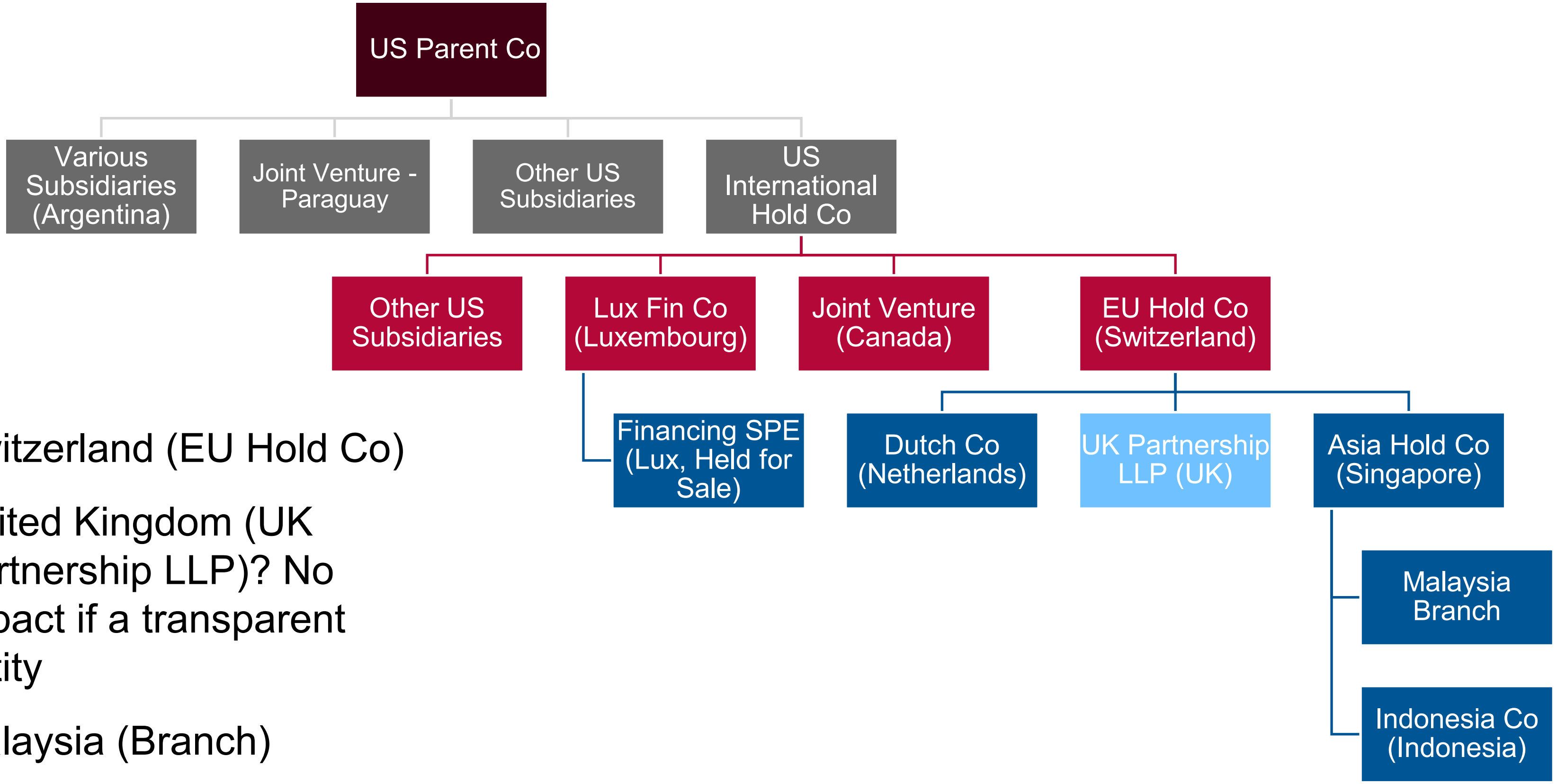
In the absence of a side-by-side arrangement, US MNE Group is exposed to the application of different types of top-up taxes in the following countries, depending on local implementation of the rules:

1. **Potential Application of DMTT in the following constituent entity jurisdictions**
   - Argentina, Canada, Indonesia, Luxembourg, Malaysia, Netherlands, Paraguay, Singapore, Switzerland
   - United Kingdom?
2. **Application of IIR** – even when the US does not apply the GloBE Rules, the US MNE Group is exposed to the application of IIR
   - by a POPE jurisdiction, which has priority over IIR in the UPE jurisdiction under the GloBE Rules;
   - Application of IIR in the IPE jurisdictions - Switzerland, Luxembourg and Singapore as an IPE jurisdiction, in case US does not apply IIR.
3. **Application of UTPR in the constituent entity jurisdictions** may impose top up taxes on any low-taxed constituent entities located in the other countries, in case DMTT is not applicable in those countries and IIR is not applied by the US or the IPE jurisdictions

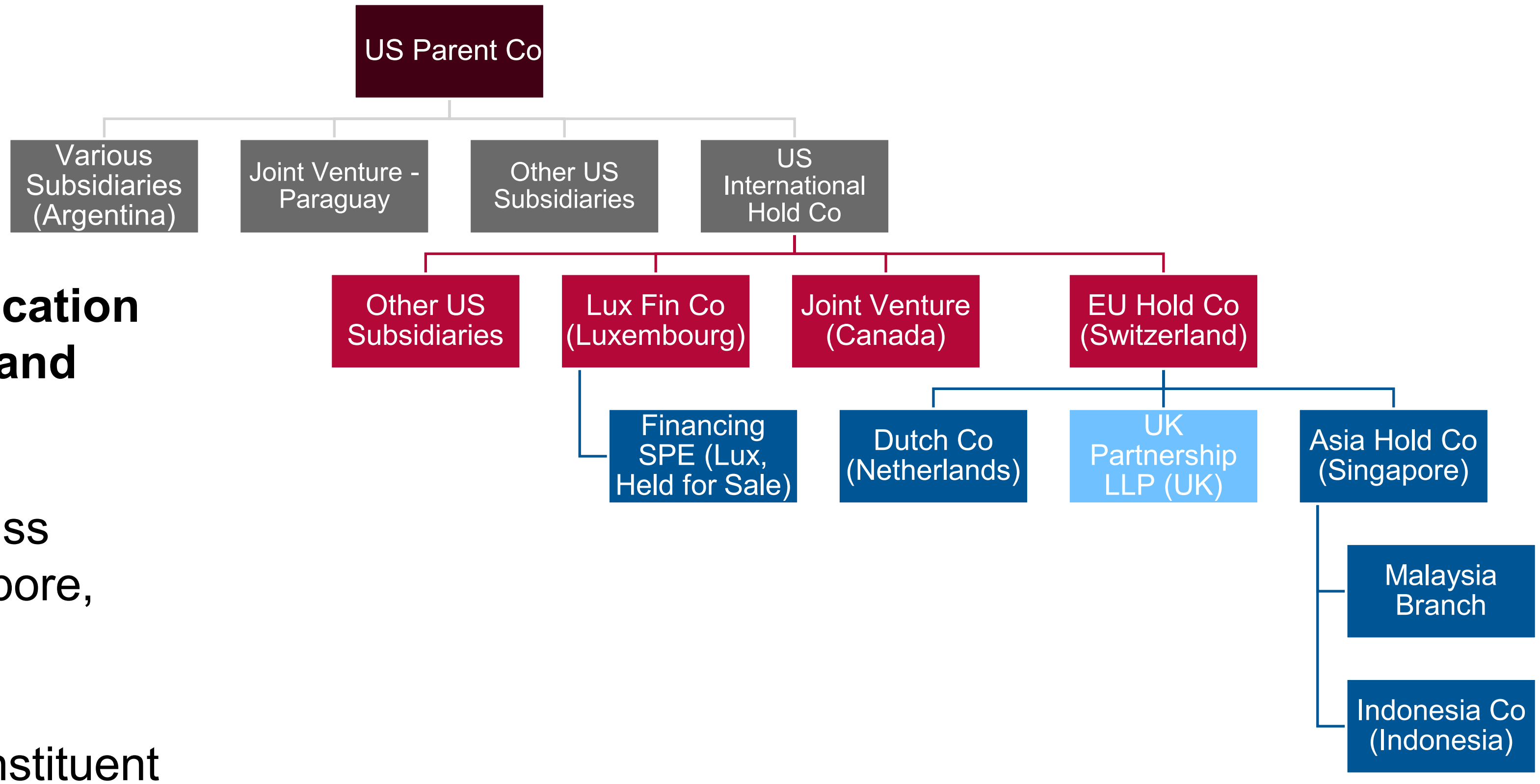
CASE STUDY – WHICH COUNTRIES MAY IMPOSE TOP-UP TAXES?

US Co is exposed to possible application of Domestic Minimum Top-up Taxes (DMTT) in the following countries:

- US (Various subsidiaries)?
- Argentina (Various subsidiaries)?
- Canada (JV entity)
- Luxembourg (Fin Co and Financing SPE)
- Netherlands
- Paraguay (JV entity)?
- Singapore (Asia Hold Co)
- Switzerland (EU Hold Co)
- United Kingdom (UK Partnership LLP)? No impact if a transparent entity
- Malaysia (Branch)
- Indonesia (Indonesia Co)



EXPOSURE TO IIR



US Co **is exposed to possible application of IIR in Switzerland**, **Luxembourg and Singapore as an IPE jurisdiction**:

- Application of Swiss IIR to non-Swiss subsidiaries in Netherlands, Singapore, United Kingdom(?), Malaysia and Indonesia
- Application of Singapore IIR to Constituent Entities in Malaysia and Indonesia
- Application of Luxembourg IIR to Financing SPE in Lux, to the extent that the IIR applies to domestic subsidiaries?

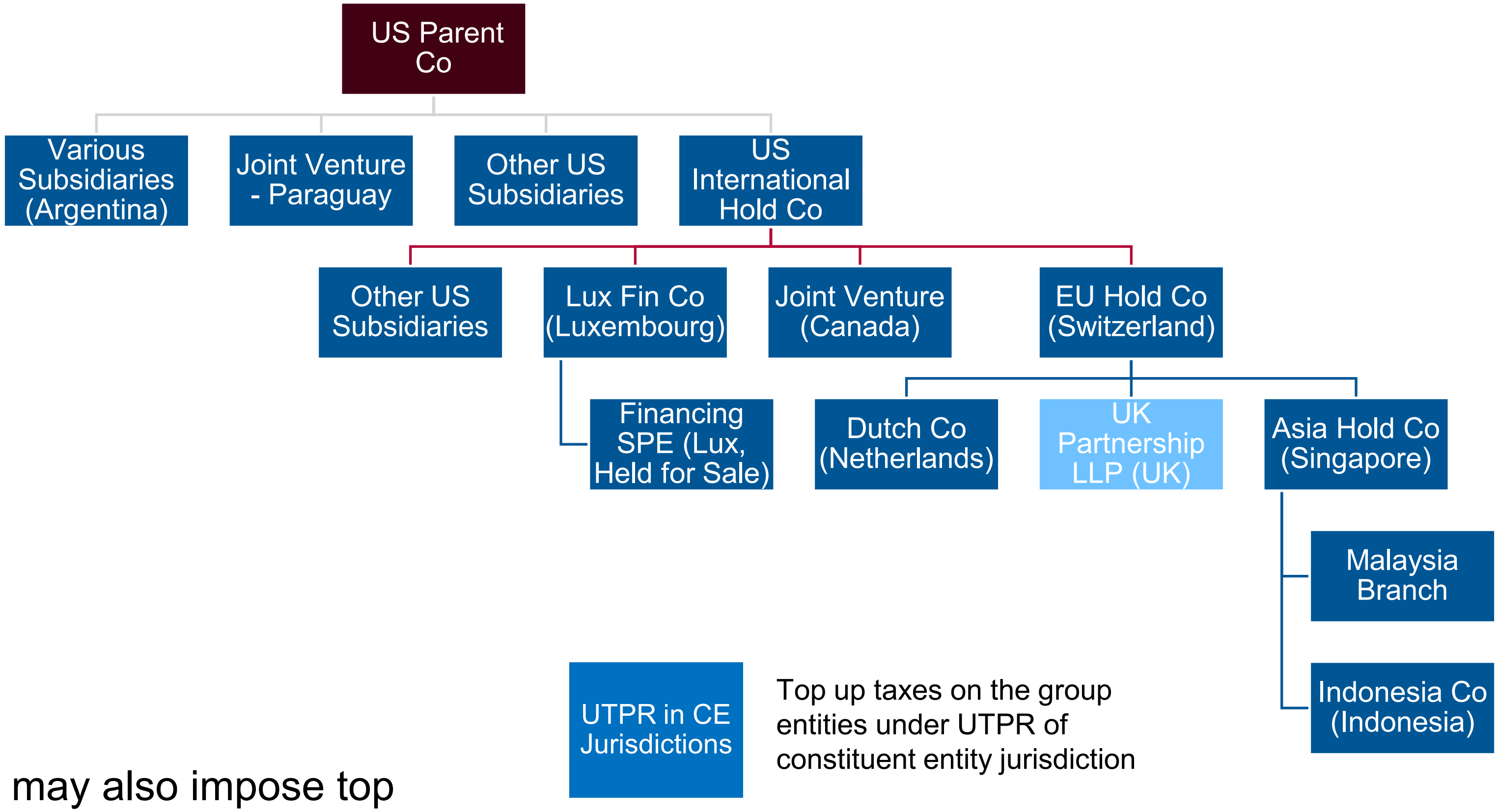
IIR in IPE Jurisdiction

Potential top up taxes on the group entities under IIR in Switzerland/Luxembourg

EXPOSURE TO UTPR

US Co **may be exposed to possible application of UTPR in the following countries:**

- Application of UTPR in the following jurisdictions may (to the extent they adopt the GloBE Rules) impose top up taxes on any low-taxed constituent entities located in the other countries, in case DMTT is not applicable in those countries and IIR is not applied by the US or the IPE jurisdictions:
  - Argentina
  - Canada
  - Indonesia
  - Luxembourg
  - Malaysia
  - Netherlands
  - Paraguay
  - Singapore
  - Switzerland
  - United Kingdom ?



- Application of UTPR in these jurisdictions may also impose top up taxes on low-taxed constituent entities located in the US!!

AGENDA

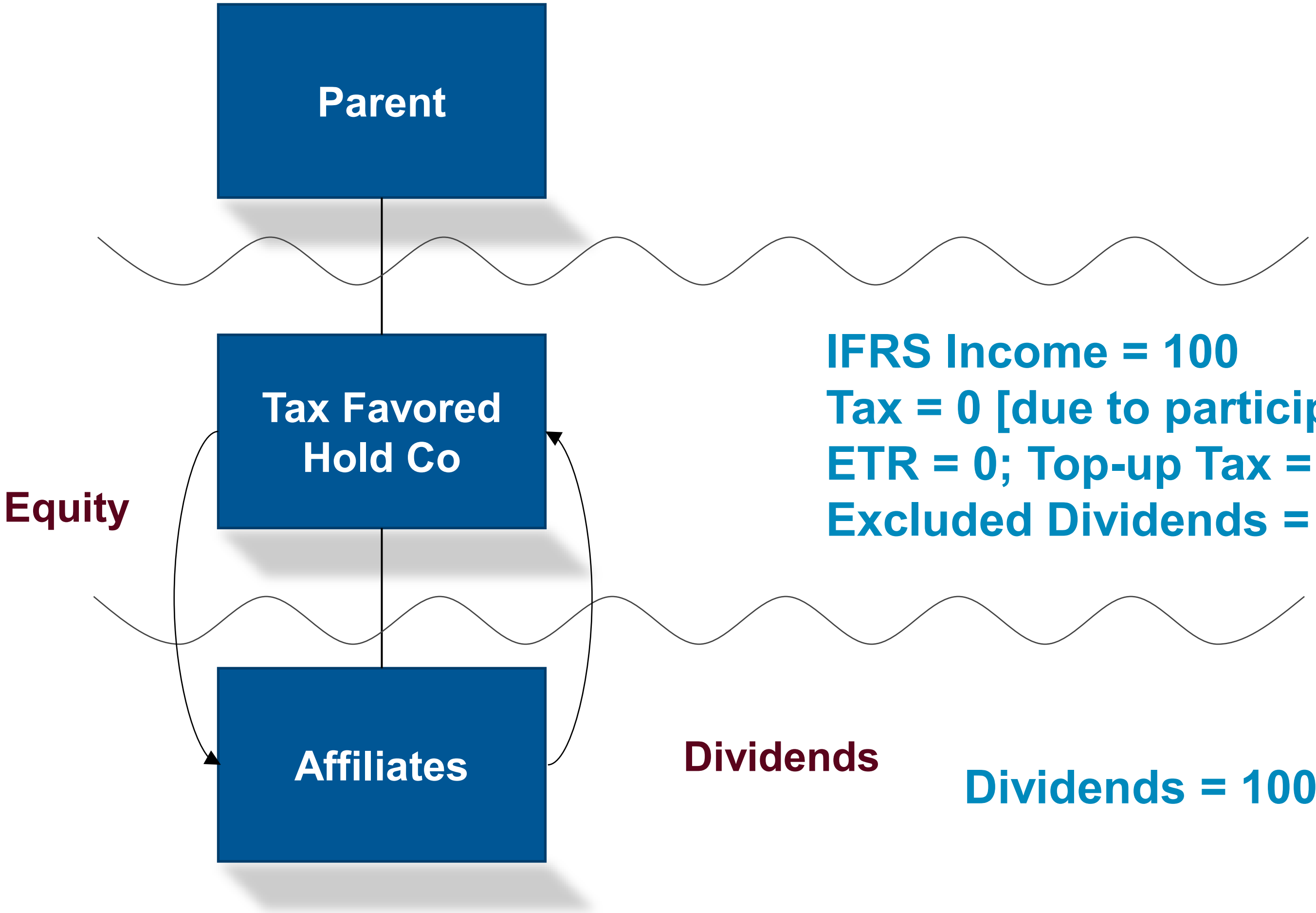
1. GMT and International Tax Structures

2. **Application of GMT to holding structures**

3. Financing structures under GMT

4. IP structures under GMT

HOLDING COMPANY UNDER GMT



IFRS Income = 100
Tax = 0 [due to participation exemption]
ETR = 0; Top-up Tax = 15% [pre adjustment]
Excluded Dividends = 100?

Dividends = 100

DEFINITION OF EXCLUDED DIVIDENDS: ARTICLE 3.2.1.(B)

Second adjustment item under Article 3.2.1, defined in Article 10.1

- Excluded Dividends means *dividends or other distributions received or accrued* in respect of an Ownership Interest, *except for* :
  - (a) a Short-term Portfolio Shareholding, *and*
  - (b) an Ownership Interest in an Investment Entity that is subject to an election under Article 7.6. [Emphasis added]

- Relevant Definitions (defined in Article 10.1):
  - Short-term Portfolio Shareholding
  - Ownership Interest
  - Portfolio Shareholding

SHORT-TERM PORTFOLIO SHAREHOLDING

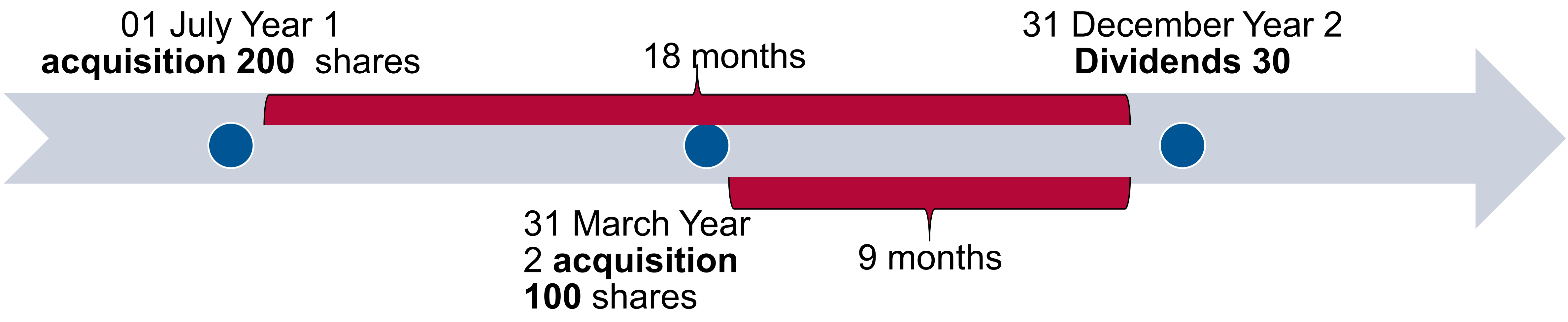
Dividends or other distributions received or accrued in respect of:	Portfolio Shareholding (i.e. carrying rights to less than 10% of the profits, capital, reserves or voting rights of the distributing entity)	Non-Portfolio Shareholding (i.e. carrying rights to at least 10% of the profits, capital, reserves and voting rights of the distributing entity)
Short-term shareholding (i.e. economically held **for less than one year)**	**Included dividends**	Excluded Dividend
Non- Short-term shareholding (i.e. economically held for at least one year)	Excluded Dividend	Excluded Dividend

EXCLUDED DIVIDEND AND SHORT-TERM PORTFOLIO SHAREHOLDING: EXAMPLE 1* - FACTS

- The 10% threshold needs to be checked at the MNE Group Level
- A Co is a constituent entity of a multinational enterprise (MNE) group.
- B Co, unrelated to A Co, has issued 10,000 ordinary shares, all of which have equal rights to profit distributions and capital.
- **1 July, Year 1:** A Co acquires 200 common shares in B Co.
- **31 March, Year 2:** A Co acquires an additional 100 common shares in B Co.
- **31 December, Year 2:** B Co distributes EUR 0.10 per share.
- A Co holds a total of 300 shares in B Co at the time of distribution.
- A Co is part of an MNE Group and holds less than 10% of B Co, classifying its holding as a **Portfolio Shareholding.**

*OECD (2024) Global Anti-Base Erosion Model Rules (Pillar Two) Examples: Example 3.2.1(b)- 1

EXCLUDED DIVIDEND AND SHORT-TERM PORTFOLIO SHAREHOLDING: EXAMPLE 1 - ANSWER



- Out of A Co's 300 shares in B Co, 100 shares are considered a Short-term Portfolio Shareholding since they were held for less than 12 months at the time of the dividend date.
- The dividends on the 100 short-term shares (€10 = 100 shares x €0.10 per share) will be included in A Co's GloBE income.
- For the remaining 200 shares, only 20 of the dividends will be treated as an Excluded Dividend under the GloBE Rules (Article 3.2.1(b))

DEFINITION OF EXCLUDED EQUITY GAINS OR LOSSES: ARTICLE 3.2.1.(C)

- Third adjustment item under Article 3.2.1, defined in Article 10.1
- Excluded Equity Gain or Loss means the *gain, profit or loss included* in the Financial Accounting Net Income or Loss of the CE arising from:
  - (a) gains and losses from *changes in fair value* of an *Ownership Interest*, except for a Portfolio Shareholding;
  - (b) profit or loss in respect of an *Ownership Interest* included under the *equity method* of accounting; and
  - (c) gains and losses from disposition of an Ownership Interest, except for a disposition of a Portfolio Shareholding. [Emphasis added]

GAINS OR LOSSES ON DISPOSITION

Gains and losses arising from the disposition of	Portfolio Shareholding (i.e. carrying rights to less than 10% of the profits, capital, reserves or voting rights of the distributing entity)	Non-Portfolio Shareholding (i.e. carrying rights to at least 10% of the profits, capital, reserves and voting rights of the distributing entity)
Short-term shareholding (i.e. economically held for **less than one year**	**Included gain/loss**	Excluded gain/loss
Non-Short-term shareholding (i.e. economically held for at least one year)	**Included gain/loss**	Excluded gain/loss

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IMPACT OF EXCLUDED EQUITY GAINS OR LOSSES

First type: Changes in fair value

- Excluded fair value **gains** require a **negative** adjustment
- Excluded fair value **losses** require a **positive** adjustment
- **No adjustment** is required if fair value gains and losses are recorded in the **OCI**.

Second Type: Equity method accounting

- Joint Ventures or Associates holds a significant but non-Controlling Interest in an Entity, ordinarily between 20% and 50%
- Equity method **net income** is a **negative** adjustment
- An equity method **loss** is a **positive** adjustment

Third Type: Gains or losses on disposition

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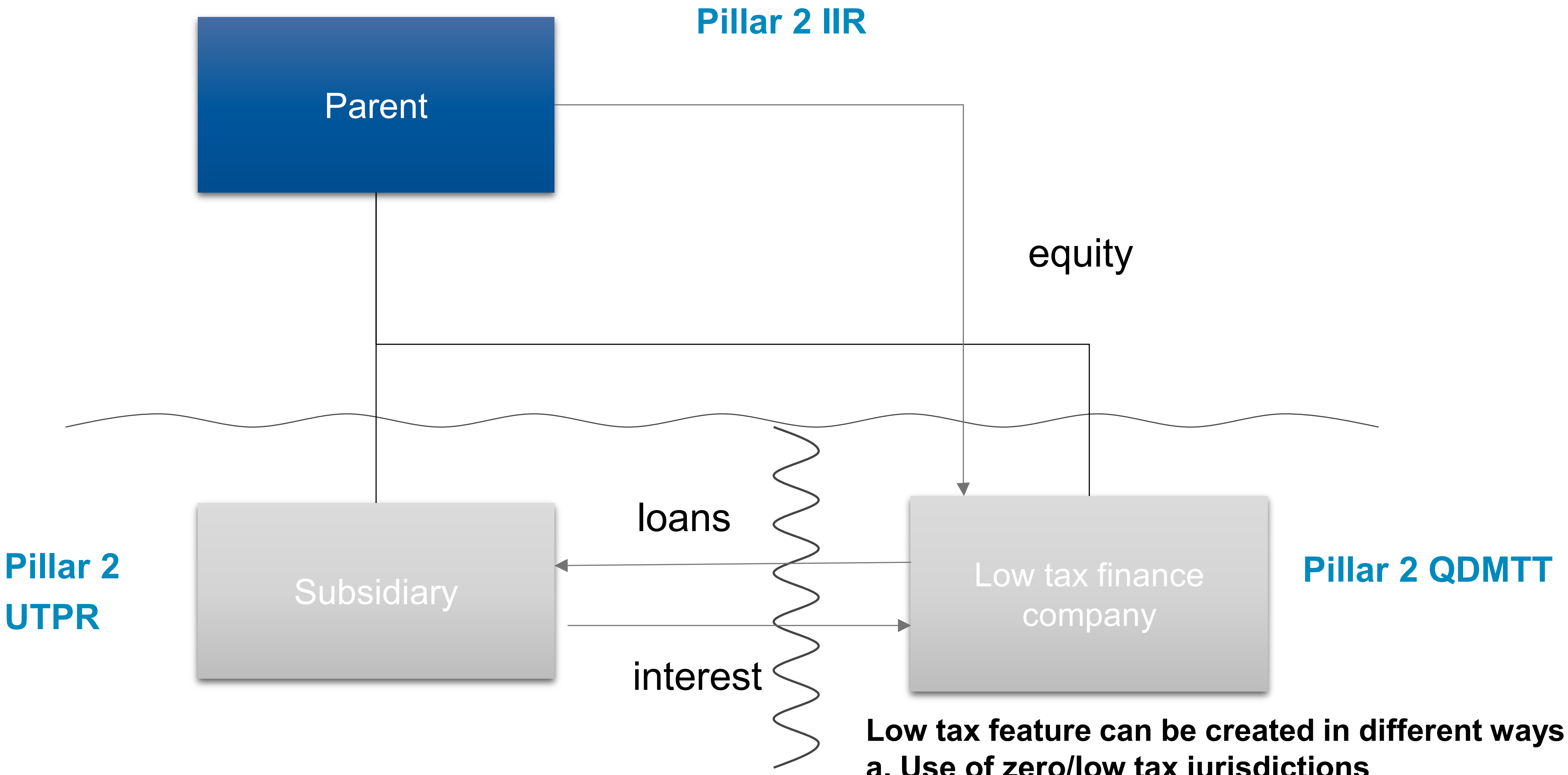
FINANCING STRUCTURES UNDER GMT



Low tax feature can be created in different ways:
a. Use of zero/low tax jurisdictions
b. Special deemed deductions e.g., interest over equity
c. Normal-taxed jurisdiction with refundable imputation tax credit e.g., the Malta regime

IMPACT OF GMT ON LOW-TAXED FINANCING REGIMES

Low taxed/zero tax regimes

Finance company subject to low or zero tax will have low or zero effective tax rate under Pillar Two rules

Top-up tax applies to increase effective tax rate to 15%

Interest over equity

Deemed interest deduction applicable to reduce taxable income, resulting in low effective tax burden for Finance company

The deemed interest deduction is not recognised for financial reporting purposes, so GloBE Income will be reported at the standard amount with no associated covered tax expense, resulting in low ETR.

Top-up tax applies to increase effective tax rate to 15%

Normal taxed with imputation tax credits refunded to shareholders

Disqualified Refundable Imputation Taxes are "…taxes that are initially imposed on the income of a CE but when that income is distributed by way of dividend to the owners of the CE, the tax is refunded to the CE or the owner or creditable against a tax liability of the owner other than a tax liability arising from the dividend…"

Disqualified Refundable Imputation Taxes are excluded from the definition of Covered Taxes and are added back to the calculation of GloBE income, resulting in lower ETR.

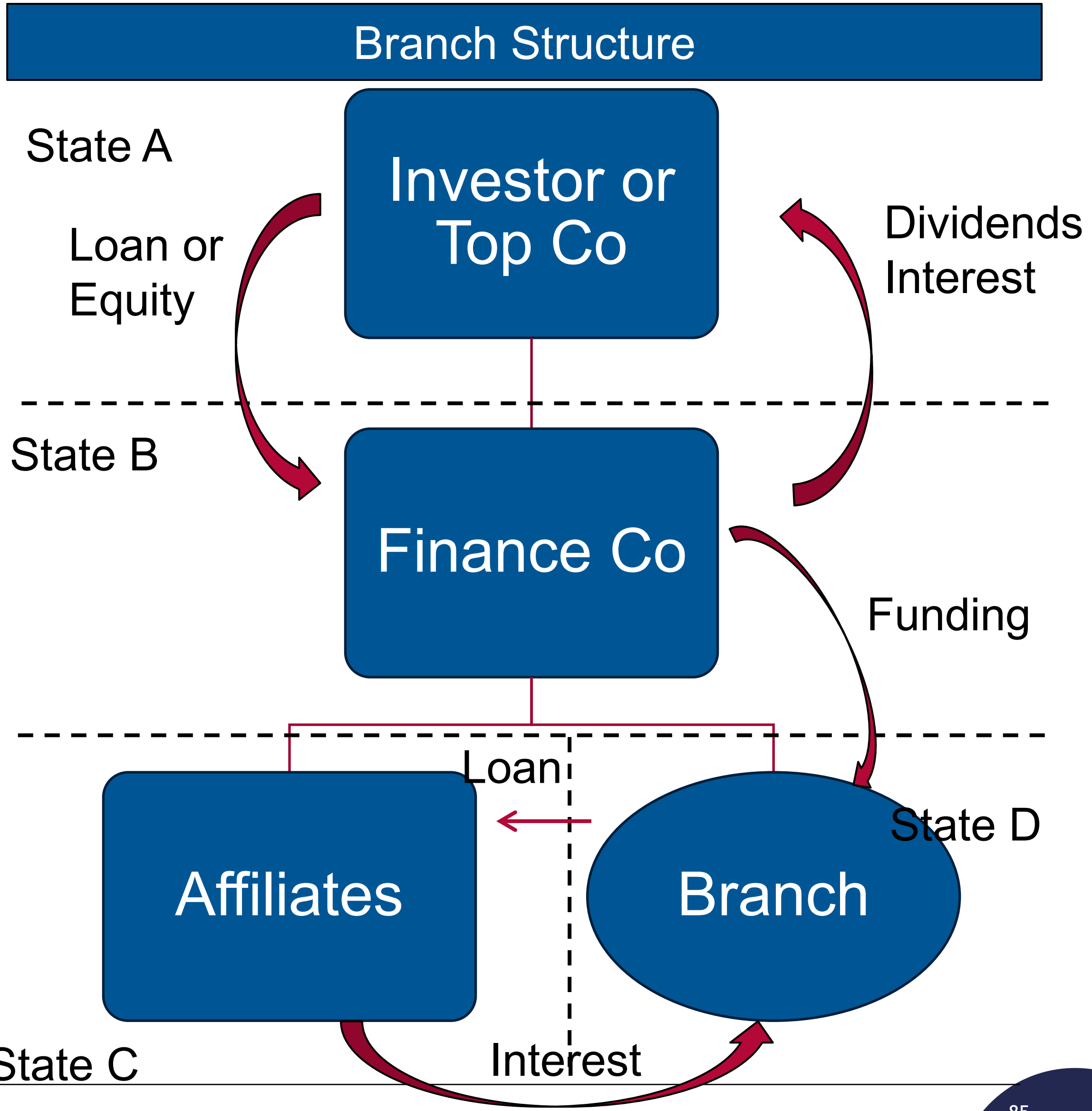
Top-up tax applies to increase the ETR to 15%.

FINANCE COMPANIES GENERAL STRUCTURES

Permanent Establishment (PE)

- PE is treated as a separate Constituent Entity than the Main Entity
- FANIL of PE is net income/loss as per (real/fictitious) separate financial accounts.
- Taxes in books of PE and taxes in books of Main Entity related to PE income are allocated to PE.
- Where Globe Loss of PE is treated as expense of Main Entity & subsequent income allocated to Main Entity as well – Covered Taxes on that income are also allocated to Main Entity.

FANIL & Taxes – normally allocated to PE



PERMANENT ESTABLISHMENTS

Permanent Establishment (PE)

- PE is treated as a separate Constituent Entity than the Main Entity
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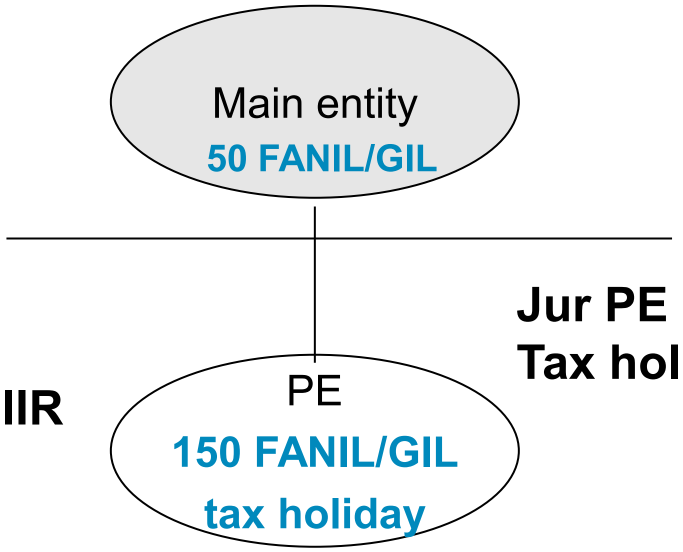
- Taxes in books of PE and taxes in books of Main Entity related to PE income are allocated to PE.
- Where Globe Loss of PE is treated as expense of Main Entity & subsequent income allocated to Main Entity as well – Covered Taxes on that income are also allocated to Main Entity.

FANIL & Taxes – normally allocated to PE

FANIL 200
Attributable to PE 150
Remainder 50

Tax in Jur I:
5% on 200 = 10
Tax in Jur PE = 0

Jur I
5% income tax rate



Jur PE
Tax holiday

Top-up Tax Under IIR

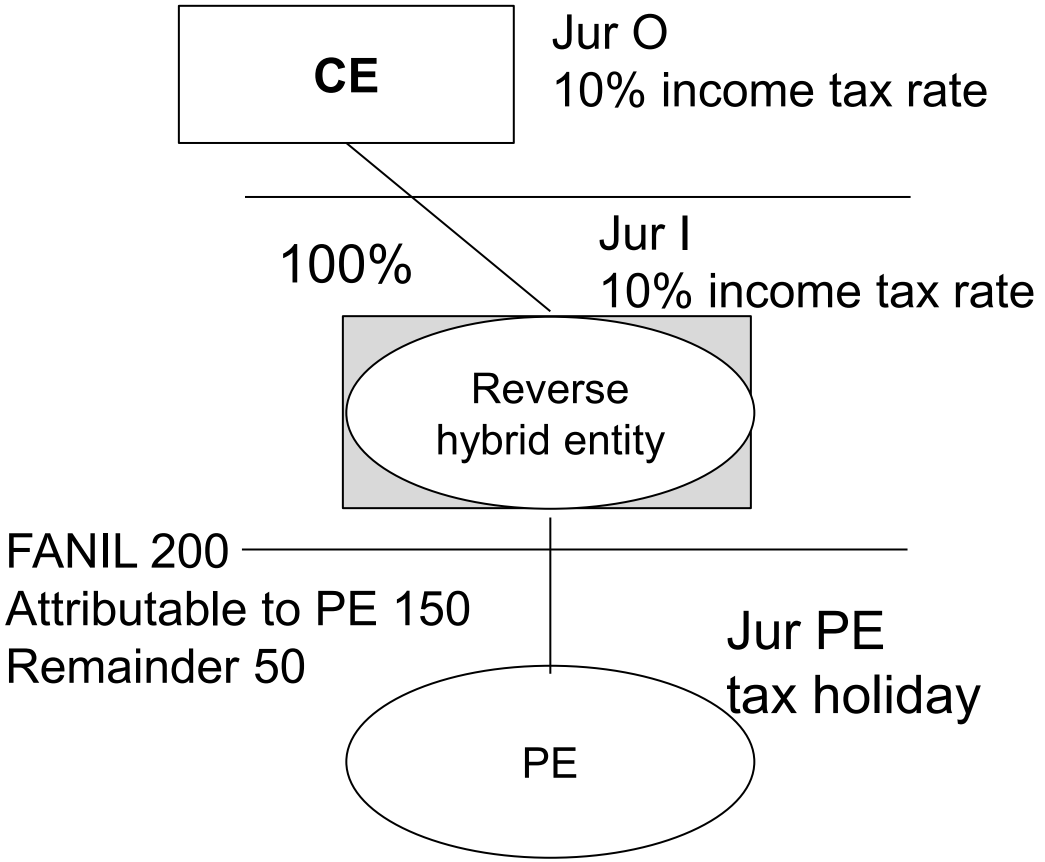
Jur I ETR = 2.5/50
Top-up tax = 5

Jur PE ETR = 7.5/150
Top-up tax = 15

* GIL = GloBE Income or Loss

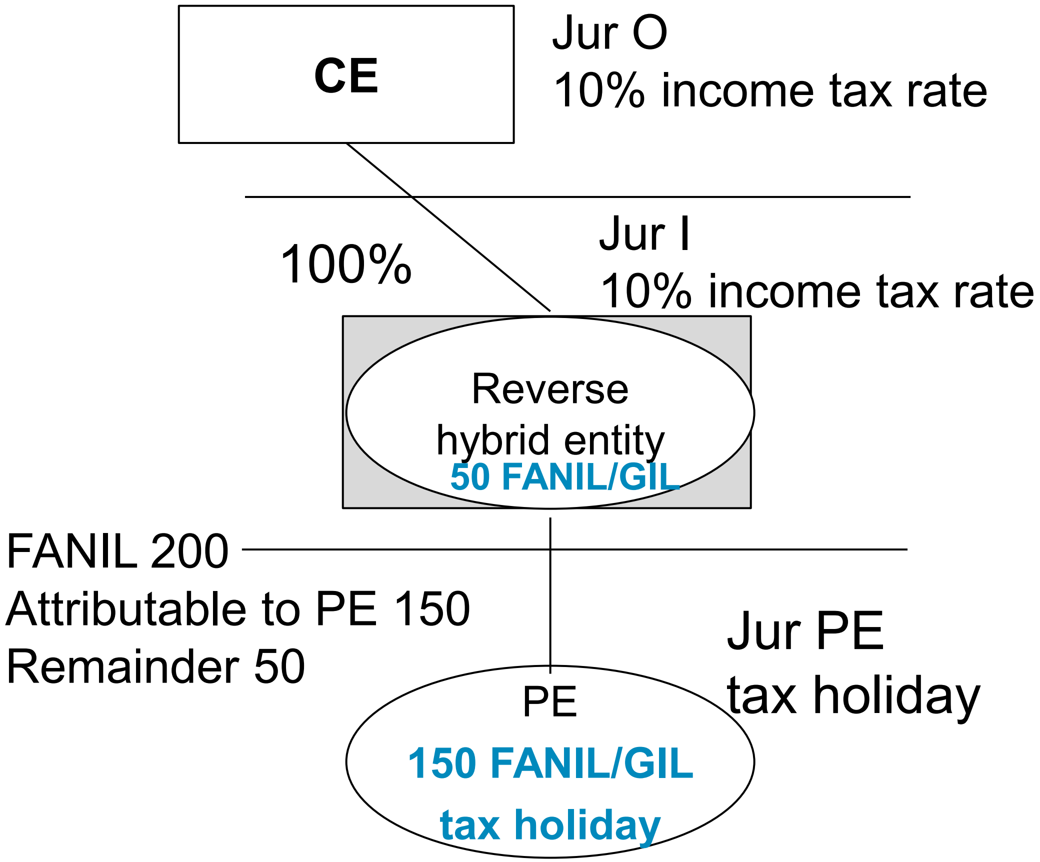
REVERSE HYBRID

- Reverse Hybrid entity in Jur I earns 200 FANIL
  - 50 from Head office
  - 150 from PE
- Income not taxed anywhere:
  - Tax holiday in jurisdiction PE: no tax
  - No taxation in jurisdiction I: treats 200 as income of the CE owner
  - No taxation in jurisdiction O: treats 200 as income of the Reverse Hybrid entity
- Question: How is the structure dealt with under the GloBE Rules?



MATCHING PRINCIPLES – REVERSE HYBRID

- FANIL is allocated first to the PE in accordance with the tax treaty or the domestic law. The remainder of FANIL is allocated to the Reverse hybrid
- Covered taxes follow FANIL
- PE income 150 allocated to the PE
  - Tax holiday in jurisdiction PE: no tax
  - No taxation in jurisdiction I or jurisdiction O on PE income
  - ETR PE: 0/150 = 0%; Top-up Tax = 15%
- Remainder income 50 allocated to the Reverse hybrid entity
  - In jurisdiction PE no tax
  - No taxation in jurisdiction I or jurisdiction O on this income
  - ETR 0/50 = 0%; Top-up Tax = 15%



* GIL = GloBE Income or Loss

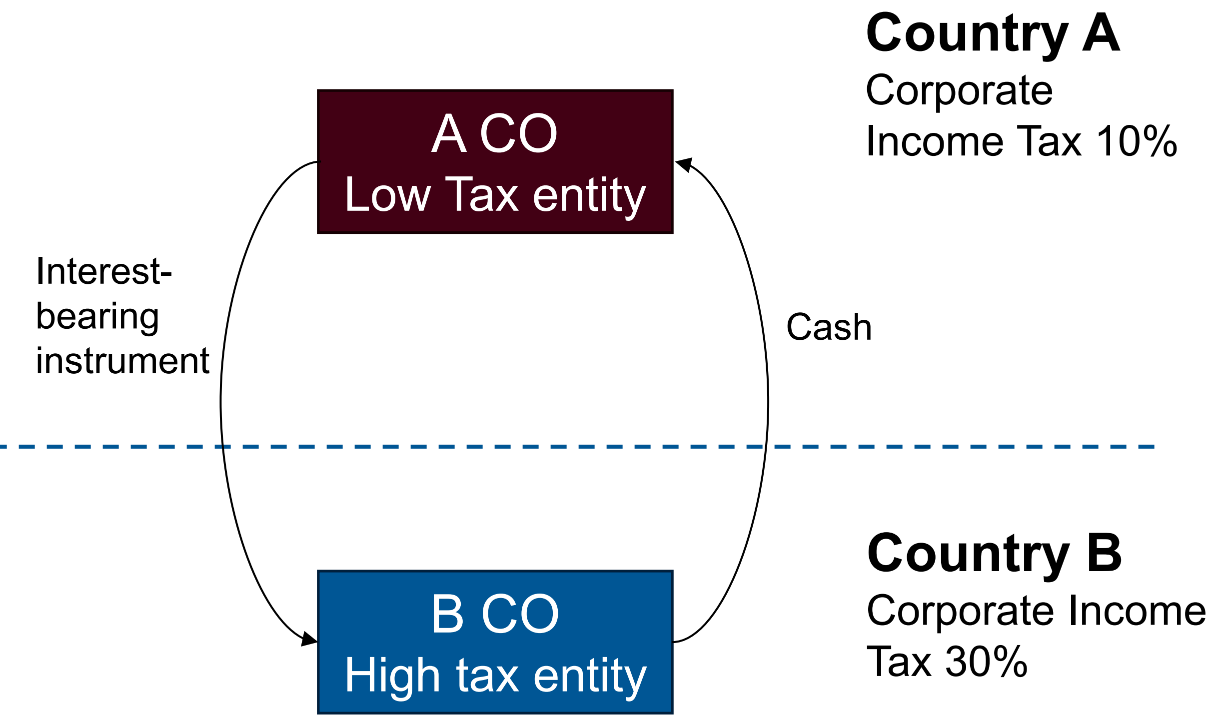
INTRAGROUP FINANCING ARRANGEMENTS: ARTICLE 3.2.7

The adjustment under Article 3.2.7 provides:

- The computation of a Low-Tax Entity's GloBE Income or Loss shall exclude any expense attributable to an Intragroup Financing Arrangement that can reasonably be anticipated, over the expected duration of the arrangement to:
  - (a) *increase the amount of expenses* taken into account in calculating the GloBE Income or Loss of the Low-Tax Entity;
  - (b) without resulting in a *commensurate increase in the taxable income* of the High-Tax Counterparty. [Emphasis added]

- Relevant Definitions (defined in Article 10.1):
  - Intragroup Financing Arrangement
  - High-Tax Counterparty
  - Low-Tax Jurisdiction
  - Low-Tax Entity
  - Low-Taxed Constituent Entity

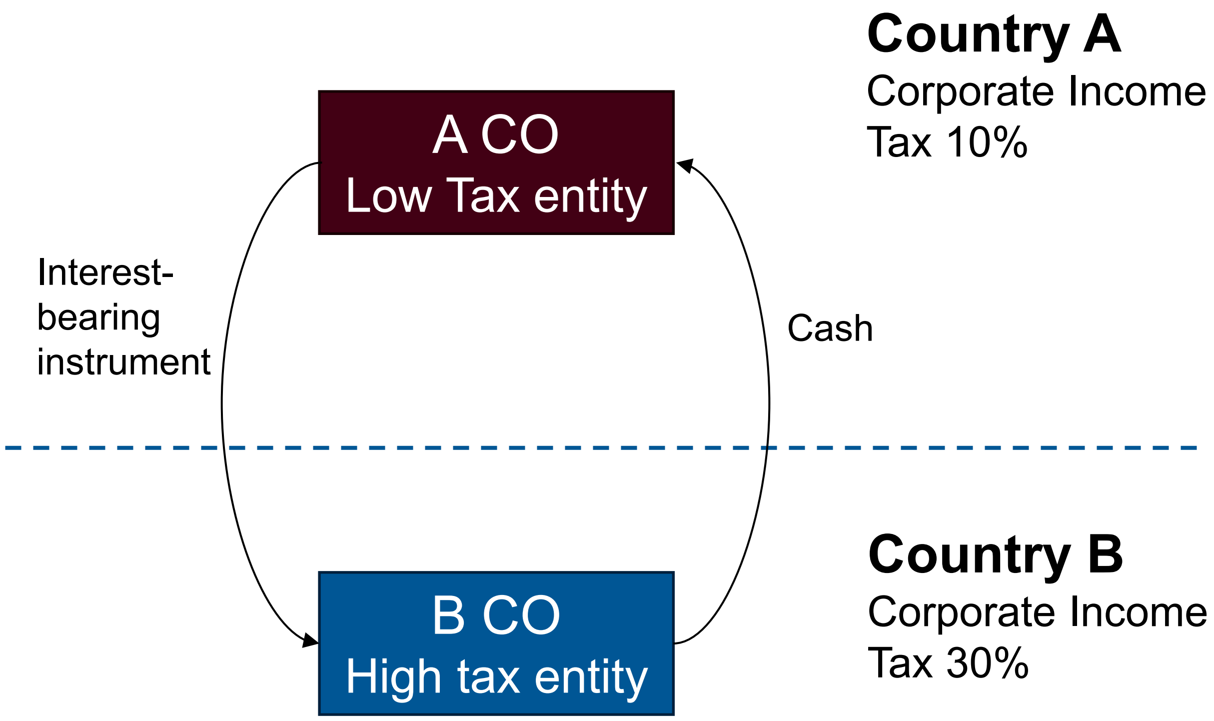
SPECIAL RULE FOR INTRA-GROUP FINANCING ARRANGEMENTS: EXAMPLE 1* - FACTS



- A Co is located in Country A with a 10% CIT rate, and B Co is in Country B with a 30% CIT rate.
- A Co issues an interest-bearing instrument to B Co in exchange for cash, **treated as equity for tax purposes** in both countries.
- The payments reduce A Co's GloBE Income but don't affect its Country A tax liability, and they increase B Co's GloBE Income without affecting its Country B tax liability.
- As a result,
  - A Co's GloBE ETR increases, and
  - B Co's GloBE ETR decreases.
- Under Article 3.2.7, the transaction is reviewed to determine if it's an Intragroup Financing Arrangement.

*OECD (2024) Global Anti-Base Erosion Model Rules (Pillar Two) Examples: Example 3.2.7- 1

SPECIAL RULE FOR INTRA-GROUP FINANCING ARRANGEMENTS: EXAMPLE 1 - ANSWER



- The first test of Article 3.2.7 is met since the arrangement increases expenses in A Co's GloBE Income calculation.
- The second test is met as B Co’s taxable income doesn't increase due to the equity treatment in Country B.
- Therefore, the interest expense from the instrument issued between B Co and A Co should be excluded from A Co’s GloBE Income or Loss computation.

AGENDA

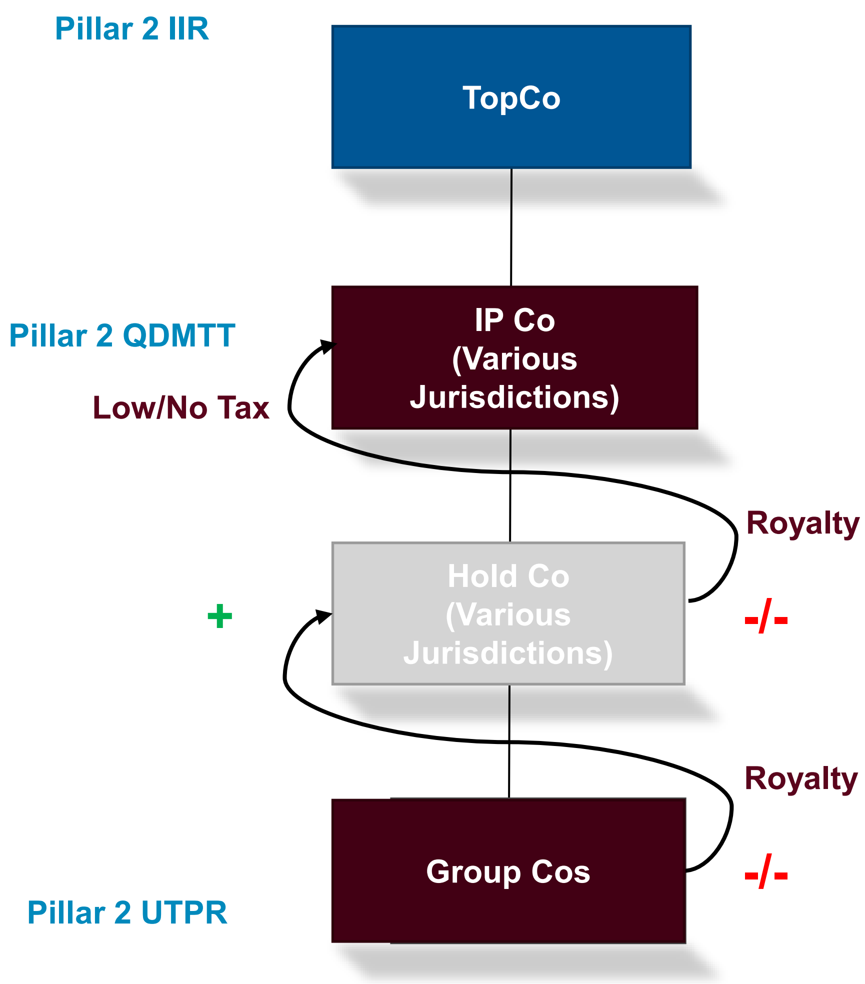
1. GMT and International Tax Structures

2. Application of GMT to holding structures

3. Financing structures under GMT

4. **IP structures under GMT**

IP PLANNING UNDER GMT



- Low tax IP regimes have been amended to conform with Action 5 of the OECD BEPS Action Plan
- Tax advantages can be supported only if there are qualifying R&D expenditures:

$$\frac{\text{Qualifying expenditure to develop IP}}{\text{Overall expenditure to develop IP}} \times \text{Overall IP income} = \text{Income receiving tax benefits}$$

- Many European countries offer preferential tax rates for certain IP income. Examples include: Ireland (6.25%), Luxembourg (5.2%), UK (10%), Cyprus (2.5%).
- GloBE Rules would impose Top-up taxes on IP Co, taking into account SBIE, but SBIE is not the same as Qualifying Expenditure under the ‘nexus approach’, even though both are related to substance.

INCENTIVES FOR R&D ACTIVITIES

Special capital allowances

- Accelerated depreciation: some capital assets can be depreciated immediately or over a shorter period of time compared with their economic useful life
- Super deduction: Czech Republic - a company performing R&D projects may deduct from its tax base an additional 110% of qualifying R&D costs

Reduced tax rates

- Example: China - High-new technology enterprises- reduced tax rate 15%

Tax credits

- Non-refundable credits: R&D costs and capital investments may generate tax credits to offset tax liability. The credits can not be refunded, but may be carried forward.
- Refundable credits: Australia - a tax offset between 30% and 45% of the eligible R&D expenditure depending on the turnover. The credits can be refunded as cash in case there is no tax liability to be offset.

GloBE Rules would claw back these incentives

QUALIFIED REFUNDABLE TAX CREDITS AND MARKETABLE TRANSFERABLE TAX CREDITS: A.3.2.4

The adjustment under Article 3.2.4 provides:

- Qualified Refundable Tax Credits **shall be treated as income** in the computation of GloBE Income or Loss of a Constituent Entity. Non-Qualified Refundable Tax Credits **shall not be treated as income** in the computation of GloBE Income or Loss of a Constituent Entity.

- Five categories of Tax Credits (defined in Article 10.1 and Commentary)
  - Qualified Refundable Tax Credits (refundable as cash or equivalent withing 4 years);
  - Non-Qualified Refundable Tax Credits (not a Qualified Refundable Tax Credit);
  - Marketable Transferable Tax Credits;
  - Non-Marketable Transferable Tax Credits (not a Marketable Transferable Tax Credit); and
  - All Other Tax Credits (residual category).

POTENTIAL IMPACT OF GMT ON TAX INCENTIVES

Table 1. Mapping the impact of tax incentive instrument design in the GloBE ETR calculation

The intensity of the colour reflects the likelihood with which the benefit of the tax incentives may be affected by the GloBE ETR calculation

Nature of relief	Type of instrument		Tax benefits affected by the GloBE ETR calculation (intensity of the colour indicates intensity of effect)	Effect on GloBE ETR	
				Numerator	Denominator
Income-based incentives		Full exemption	More likely	↓	
		Partial exemption	More likely	↓	
		Reduced rates	More likely	↓	
Expenditure-based incentives	Tax deductions[1]	Tax allowances[3]	More likely	↓	
		Immediate expensing and accelerated depreciation	Less likely	Adjusted for timing differences	
		For tangible assets: machinery, equipment, buildings	Unaffected	No recapturing applies	
		For short-lived intangibles	Less likely	Recapturing may apply	
		Other assets	More likely	Recapturing may apply	
	Tax credits	Qualifying refundable tax credits	Less likely	[2]	↑
		Other tax credits	More likely	↓	

TAX INCENTIVES THAT ARE UNAFFECTED BY THE GLOBE RULES

Table 1. Mapping the impact of tax incentive instrument design in the GloBE ETR calculation

The intensity of the colour reflects the likelihood with which the benefit of the tax incentives may be affected by the GloBE ETR calculation

Nature of relief	Type of instrument		Tax benefits affected by the GloBE ETR calculation (intensity of the colour indicates intensity of effect)	Effect on GloBE ETR	
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		Partial exemption	More likely	↓	
		Reduced rates	More likely	↓	
Expenditure-based incentives	Tax deductions[1]	Tax allowances[3]	More likely	↓	
		Immediate expensing and accelerated depreciation	Less likely	Adjusted for timing differences	
		For tangible assets: machinery, equipment, buildings	Unaffected	No recapturing applies	
		For short-lived intangibles	Less likely	Recapturing may apply	
		Other assets	More likely	Recapturing may apply	
	Tax credits	Qualifying refundable tax credits	Less likely	2	↑
		Other tax credits	More likely	↓	

- GloBE adjusts Covered Taxes to account for tax incentives that are based on timing differences by including the deferred tax asset
- By doing so, the GloBE ETR will be unaffected (Art. 4.4)
- Where these differences are maintained over a period of more than five years a recapturing mechanism may apply (Art. 4.4.4)
- The recapture mechanism does not apply to a Recapture Exception Accrual (Art. 4.4.5)
- e.g. research and development expenses

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TAX INCENTIVES REGARDING R&D EXPENSES ARE UNAFFECTED BY THE GLOBE RULES

4.4.5. Recapture Exception Accrual means the tax expense accrued attributable to changes in associated deferred tax liabilities, in respect of:

(a) Cost recovery allowances on tangible assets

(b) The cost of a licence or similar arrangement from the government for the use of immovable property or exploitation of natural resources that entails significant investment in tangible assets;

(c) Research and development expenses;

(d) De-commissioning and remediation expenses;

(e) Fair value accounting on unrealised net gains;

(f) Foreign currency exchange net gains;

(g) Insurance reserves and insurance policy deferred acquisition costs;

(h) Gains from the sale of tangible property located in the same jurisdiction as the Constituent Entity that are reinvested in tangible property in the same jurisdiction; and

(i) Additional amounts accrued as a result of accounting principle changes with respect to categories (a) through (h).

- Paragraph (a): Tangible assets that reflect the principle of accelerated depreciation and immediate expensing regimes
- Paragraph (c): jurisdictions generally permit the deduction of research and development costs, whereas some of such costs may be capitalised for financial accounting purposes.

Questions!

Thank you for your attention!

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