



# Tax Cases and Interpretation

*Global Minimum Tax Demystified: What it means  
for taxpayers*

13 February 2025

YOUR KEY TO THE TAX COMMUNITY

# Agenda

- 1 Meet the Speakers
- 2 Background and Process
- 3 Pillar Two – How it Works
- 4 Questions and Answers



## Ruben Johannes CA (SA)

---

Mcomm (Taxation), Master Tax Practitioner

Ruben is a registered Tax Practitioner in South Africa and an active member of the SAIT International Tax Technical workgroup and regularly imparts valuable thought leadership to the technical workgroup. In addition to this role, Ruben has participated in large scale SAIT events.

Ruben is a Director and Pillar Two Leader in the Deloitte Africa Tax & Legal practice. He has over 17 years of tax-related experience and specialises in international tax and mergers & acquisitions. Ruben has advised several South African as well as foreign clients on Pillar Two readiness, corporate acquisitions, restructures and mergers.

He regularly represents Deloitte Africa Tax & Legal in the media and is responsible for producing tax-related collateral, including publications on the annual South Africa National Budget Speech and regularly contributes to submissions on proposed corporate tax amendments.

Ruben holds a Master's Degree in South African Tax.



## Keitumetse Sesana MTP (SA)

---

LLM (Tax Law) and registered SARS Tax Practitioner

Keitumetse Sesana is Strategic Lead for Stakeholder Engagement Legislation at SAIT.

Keitumetse currently specialises in tax legislative policy engagement and leads strategic initiatives aimed at shaping and refining the tax legislative framework. She plays a key role in managing key stakeholder relations, including facilitating collaboration with key government departments such as Parliament, National Treasury, SARS, and other key entities. Her strategic oversight extends to leading the SAIT Tax Technical workgroups, ensuring that tax specialists within the group collaborate effectively to draft and submit policy proposals that influence legislative reform.

In addition to her policy and stakeholder engagement responsibilities, Keitumetse leads webinars and curates content aimed at supporting tax practitioners' Continuous Professional Development (CPD). She is dedicated to helping tax professionals stay ahead in an ever-evolving tax landscape through insightful webinars and contributions to various SAIT publications.

Keitumetse holds a Master of Laws (LLM) specialising in Tax Law, a Bachelor of Laws (LLB), and a Bachelor of Commerce (BCom) Law degree.





**POLL**

# Background and Process



## OECD BEPS – Inclusive framework (now 145 countries)



- top-up tax to ensure minimum taxation/ address tax competition/ limit effectiveness of incentives
- Based on Commentaries and Guidelines issued by OECD (Ambulatory Approach but NB countries (incl SA) can amend)

## **Applies to:**

Groups with:

- At least 1 entity or PE in more than one country **(MNE)**
- Annual Revenue **≥ EUR 750 million** (+- ZAR 14,5 bn) in 2 of 4 preceding consolidated AFS years.
- Entities consolidated or would be if reqd.

## **Requires:**

- **Minimum Tax of 15%** on 'excess profits' per country for MNE



## Excludes:

- (a) a Governmental Entity;
  - (b) an International Organisation;
  - (c) a Non-profit Organisation;
  - (d) a Pension Fund;
  - (e) an Investment Fund that is an Ultimate Parent Entity; or
  - (f) a Real Estate Investment Vehicle that is an Ultimate Parent Entity.
- Specific entities held by these (95% /85%) depending on circumstances
- NB: Can elect not to treat as excluded (5-year election)

## Excludes:

- Net income derived from International Shipping and qualified ancillary services;
- Jurisdiction exemption: EUR 10mn revenue + EU1mn profits (current and last 2 years) (optional- annually)
- Substance based carve out applies

# Pillar Two and South Africa

- Year of assessment commencing on/after 1/1/2024;
  - Income Inclusion Rule (IIR) Per OECD
  - Domestic Minimum Top Up Tax (DMTT) (Per ATAF)
- Tax Return and payment: 15 months after year end (18 months first time);
- MCAA EOI also applies



# Pillar Two and South Africa (continued)

## Penalties:

- Administrative non-compliance penalty:
  - ZAR 50,000 per month per constituent entity.
- For unpaid top-up tax exceeding ZAR 5 million:
  - ZAR 100,000 per month per constituent entity.
- For unpaid top-up tax exceeding ZAR 10 million:
  - ZAR 150,000 per month per constituent entity.

The TAA applies in respect to other penalties and interest.

# Pillar Two and CFC Interaction

- **IIR:**
- **SA: Foreign business establishment 9D(9)(b):**
- Premises, equipment management employees suitable to conduct primary business – *Coronation case*;
- If not, tax paid on income attributed to SA sh/holder (subject to adj's for 'jurisdictional blending').
- Position is similar for PE's

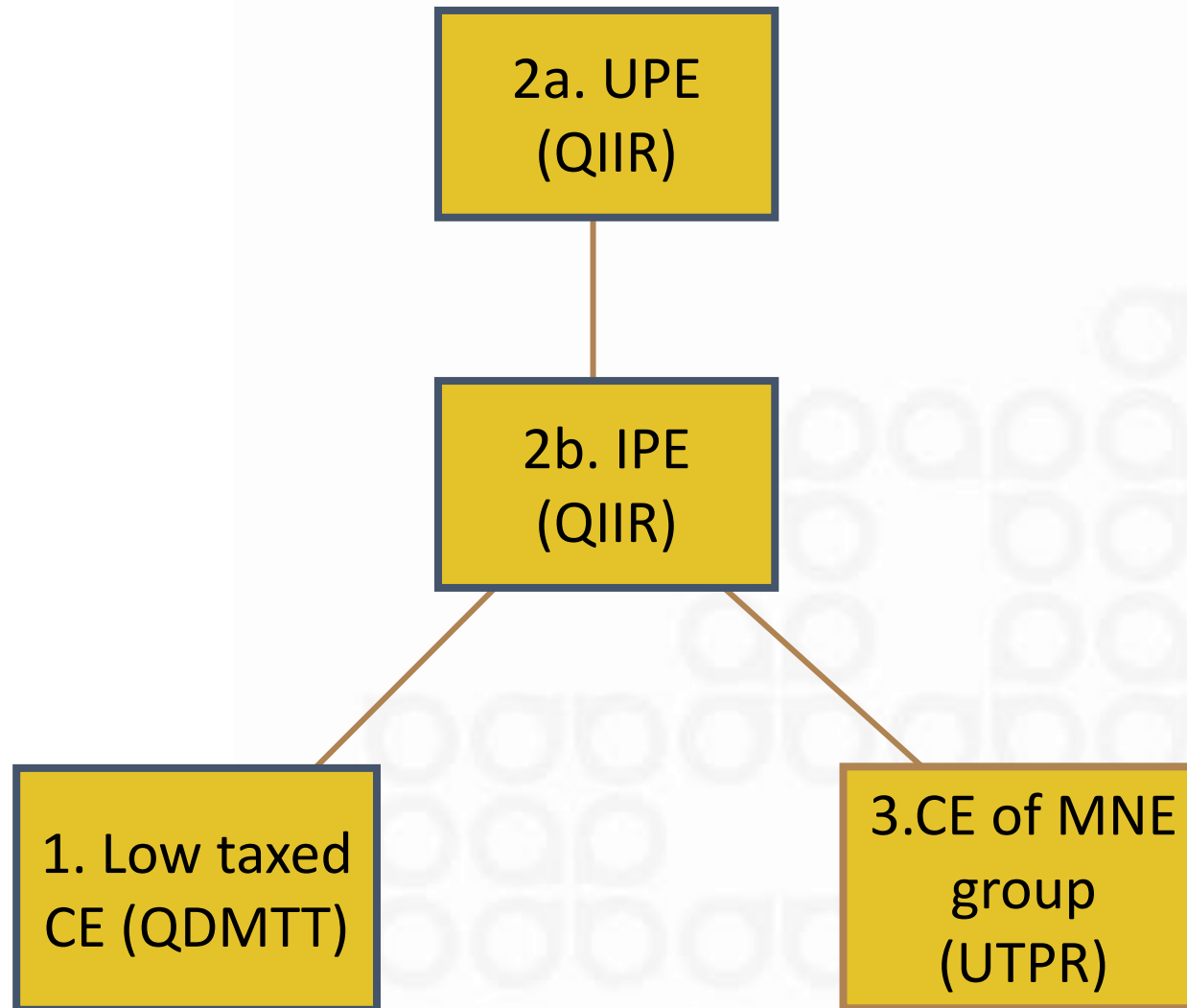
# Pillar Two: How it works – Specific points

## Order of application

1. QDMTT
2. QIIR
3. UTPR



# Pillar Two: How it works – Specific points



# Pillar Two: How it works – Specific points

**By country not by company**

Includes Permanent Establishments

**Adjustments:**

Local taxes; Def tax assets; losses; Globe taxes; dividends /share gains/losses (iro subs); revaluations; excluded gains and losses; exchange gains and losses (not matching); TP adjs; certain financing arrangements etc.

**Adjustments to tax amounts:**

CFC/PE; deferred taxes (5 year unwind limit with (exceptions))/ or simplified option.

# Pillar Two: How it works – Specific points

**X% of tangible assets**

(currently 8% -reducing to 5% by 2033)

**X% of eligible payroll costs**

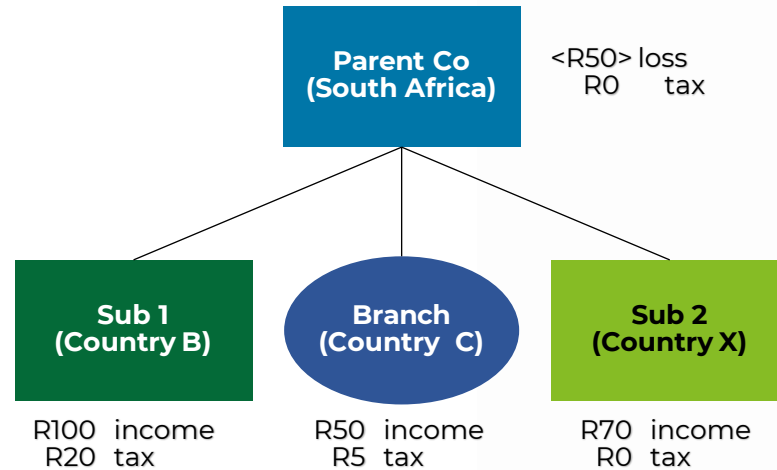
(currently 10% -reducing to 5% by 2033)



# Pillar Two- Let's Explore the Details with Examples

# IIR Basics – Illustrative Example

## Parent Country Adopts IIR

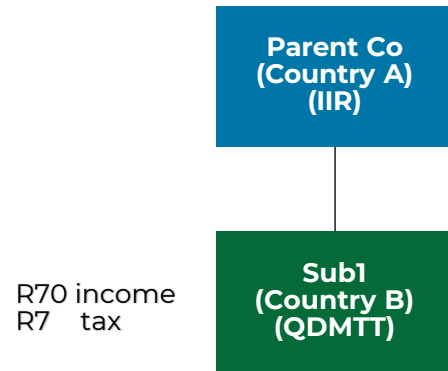


### IIR Impact on Parent Co

- Sub 1: No top-up tax on Sub 1's income because Sub 1's ETR exceeds 15%.
- Country C Branch: Additional R2.5 top-up tax.  
 $((R50 * 15\%) - R5)$ 
  - Country C Branch treated as a corporation for purposes of the IIR.
- Sub 2: Additional R10.5 top-up tax.  
 $((R70 * 15\%) - €0)$
- Parent Co: Parent Co incurs additional South African taxes under the IIR for Country C and Country X above even though it has a loss for the year.

# QDMTT Basics – Illustrative Example

## Low-Taxed Subsidiary Jurisdiction Adopts QDMTT



- Country B ETR = 10%.
- There is a R3.5 top-up tax with respect to Country B's Income.
- Because Country B has adopted a QDMTT, Sub 1 pays the R3.5 tax to Country B.
- Parent Co does not pay any top-up tax on its Country B income to Country A under the IIR.

### Qualified domestic minimum top-up tax

- Many countries will want to collect the top-up tax for their jurisdiction that would otherwise be allocated to other countries under the IIR and/or UTPR.
- Top-up taxes due for a jurisdiction are directly reduced by a “qualified domestic minimum top-up tax” in that jurisdiction.
- A qualified domestic minimum top-up tax is a tax that:
  - a. Determines the excess profits in the jurisdiction under the GloBE rules (e.g., using adjusted book income).
  - b. Increases the domestic tax liability for entities within the jurisdiction up to 15%.
  - c. Is otherwise consistent with the Pillar Two rules.



# Process

$$\text{Effective tax rate} = \frac{\text{Covered taxes jurisdiction}}{\text{GloBE Income jurisdiction}}$$

$$\text{Top up tax percentage} = 15\% - \text{Effective tax rate}$$

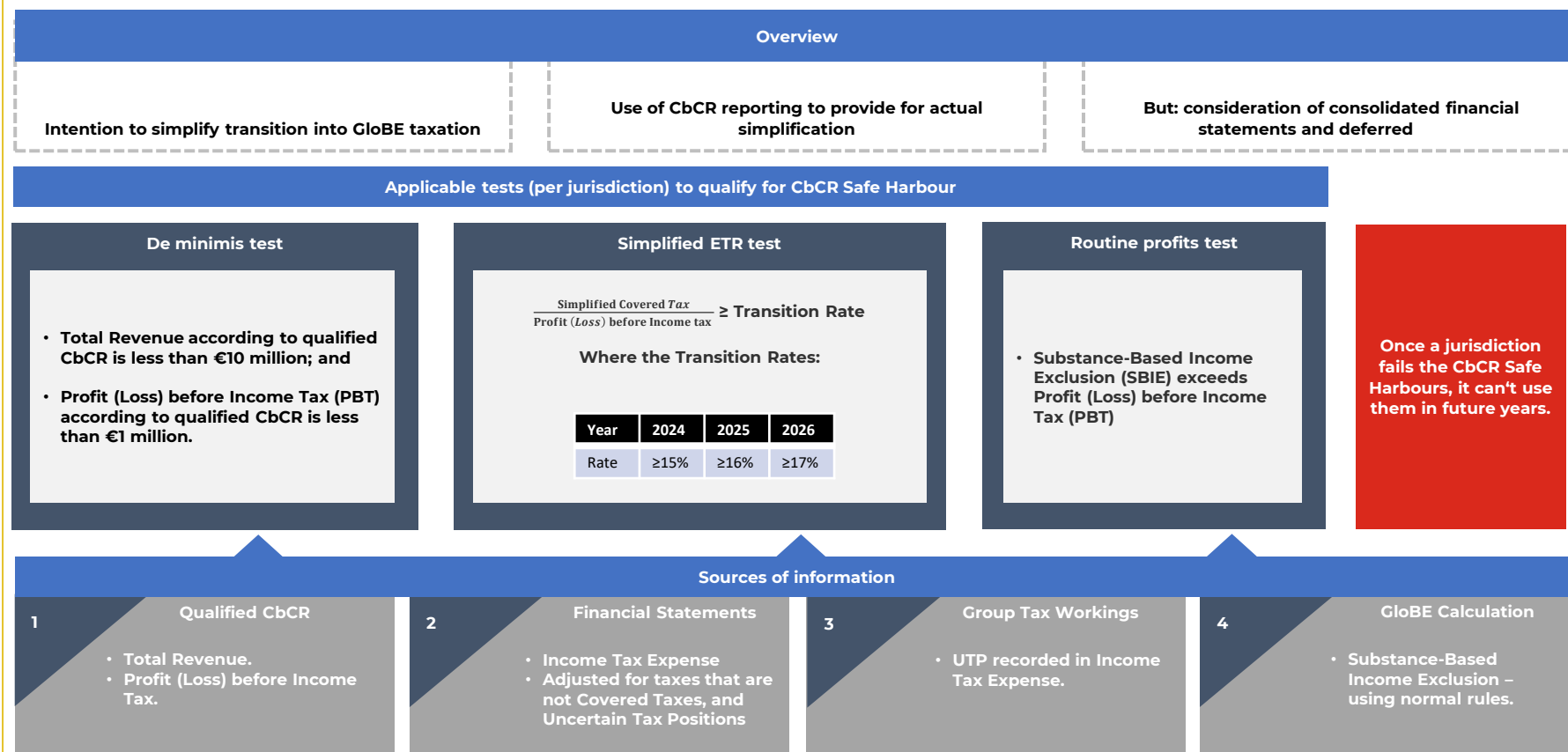
$$\text{Jurisdictional top up tax} = (\text{Top up tax percentage} \times \text{Excess profits}) + \text{Additional top up tax} - \text{QDMTT}$$

$$\text{Excess profits} = \text{GloBE Income jurisdiction} - \text{Substance based carve out}$$

$$\text{Substance based carve out}^* = (\text{Tangible assets} \times 5\%) + (\text{Payroll costs} \times 5\%)$$

\*Note: Tangible assets carve-out increased to 8% and Payroll carve-out increased to 10% during transitional period

# Pillar Two Overview – Transitional Safe Harbours





POLL

# Special acknowledgement

*SAIT wishes to acknowledge that these slides have been meticulously prepared in collaboration with **Professor Deborah Tickle, Adjunct Associate Professor: Tax Masters UCT** whose expertise and insight have been invaluable in shaping the content. SAIT is deeply grateful for her generous collaboration and for the opportunity to work together on this presentation.*



## Professor Deborah Tickle

---

CA(SA), CHARTERED TAX ADVISOR

Deborah Tickle, (CA(SA)) and Chartered Tax Advisor is currently an adjunct associate professor at the University of Cape Town where she lectures tax Masters students. Previously, as managing partner of the tax department at KPMG (Cape Town), she led the team for ten of the 31 years she spent consulting to large, listed and global clients of the firm. She now provides technical support to a number of smaller and boutique tax firms.

She served on the Davis Tax Committee from 2015 to 2020 and has also served on the Southern Region (25 years) and National (9 years, one of which as deputy chair) tax committees of SAICA. She sits on the SAIT International Tax committee and assists SAIT in providing comment to Treasury on new legislation, as well as present seminars with SAIT.



# Questions and Answers



Thank you