Frequently Asked Questions on the implementation of the Global Minimum Tax (GMT) in Malaysia

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General Issues		
1.	The (GMT) in Malaysia will take effect on 1 January 2025. What does it really mean when we say 1 January 2025 is the implementation date?	The GMT will take effect for MNE groups with a financial year beginning on or after January 1, 2025. Therefore, the first financial year for the MNE group in scope with 12-months accounting period will end on 31st December 2025. The initial submission of GIR and TTR (Top-up Tax Return) will be 18 months from the last day of financial year, i.e., 30 June 2027 (transition year). [The submission deadline for Form C remains the same, i.e., 31 July (with a grace period 1 month)]
2.	What should businesses do to get ready for the implementation of GMT?	We would advise businesses to: • Determine if your businesses or companies are members of an MNE Group within the scope of GMT. • Since the GMT threshold is similar to the Country-by-Country Reporting (CbCR) threshold, businesses or companies who are part of an MNE Group subject to the CbCR Rules may also be subject to GMT. • Perform an impact assessment to evaluate whether your businesses or companies on the entity and jurisdictional level are expected to be liable for the top-up tax under GMT. • If the businesses or companies are subject to GMT, particularly if they are part of a foreign MNE Group, they have to inform their parent entity of the implementation of Pillar Two in Malaysia beginning in 2025. Calculating the top-up tax requires information at the group and jurisdictional levels that the businesses or companies may not have access to. Be alert and equipped with the latest information on the mechanism of Pillar Two. As a start, HASiL has a

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		dedicated page on the GloBE Rules on our official website, which compiles the relevant documents for reference. The link to the page is: https://www.hasil.gov.my/antarabangsa/global-minimum-tax-gmt/
3. New!	Are there any guidelines on GMT published by HASIL?	HASIL published Guidelines on Implementation of GMT in Malaysia on 02/12/2024. The document can be access through HASIL's official website. The link to the page is below: https://www.hasil.gov.my/media/zzzivm2x/guidelines-on-the-implementation-of-global-minimum-tax-in-malaysia_2122024.pdf
Chapter 2 of Part XI of the ITA – Scope of application		
4. New!	MNE Groups with consolidated revenue of at least EUR 750 million in at least two of the four preceding Financial Year will be in scope of GloBE Rules. Will the Group must be an MNE Group or can it be a purely domestic group within these the two out of four preceding Financial Year?	The Group must be an MNE Group in the tested year and it does not necessary to have MNE status for two out of four preceding Financial Year. When testing the revenue threshold for two out of four financial year, the Group can be a purely domestic group.
Chapter 6 of Part XI of the ITA – Computation of Adjusted Covered Taxes		
5.	Would the zakat on business in Malaysia be considered a Covered Tax?	Zakat on business in Malaysia is not covered by the GloBE Rules, as giving zakat is a religious duty for Muslims and is not a compulsory payment to the general government.
6.	Please clarify whether Real Property Gains Tax in Malaysia would be considered as part of Covered Taxes?	Real Property Gain Tax (RPGT) is part of the covered taxes, as this tax is related to GloBE Income and is a tax expense included in the Consolidated Financial Statement.

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Chapter 7 of Part XI of the ITA – Computation of Effective Tax Rate and Top-up Tax		
7.	Whether a Constituent Entity (CE) is allowed to claim substance-based income exclusion (SBIE) on its tangible assets that are not put in use during the financial year?	CE is not allowed to claim SBIE on its tangible assets that are not put in use during the financial year.
8.	Can a CE claim the "work-in-progress" as part of its SBIE claims?	Assets under work-in-progress represents assets not ready for use during the year, hence they are not entitled to be part of the SBIE claims.
Chapter 11 of Part XI of the ITA – Transition Rules		
9.	To elect for Simplified ETR calculations for the first 3 years, we understand that we can use the Qualified CbCR for GMT. However, does Qualified CbCR means we have to match consolidation package figures against the final Audited Financial Statements with qualified Accounting Standard?	A CbCR that is prepared and filed using Qualified Financial Statements is a Qualified CbCR for GMT. Under the Transitional CbCR Safe Harbour, all data used to perform the safe harbours computations for entities in a Jurisdiction just need to ensure come from the same type of Qualified Financial Statements (or the accounts used to prepare those Qualified Financial Statements). Qualified Financial Statements means: a. the accounts used to prepare the Consolidated Financial Statements of the UPE; b. separate financial statements of each Constituent Entity provided they are prepared in accordance with either an Acceptable Financial Accounting Standard or an Authorised Financial Accounting Standard if the information contained in such statements is maintained based on that accounting standard and it is reliable; or c. in the case of a Constituent Entity that is not included in an MNE Group's Consolidated Financial Statements on a line-by-line basis solely due to size or materiality grounds, the financial accounts of that Constituent Entity that are used for preparation of the MNE Group's CbC Report.

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		In order words, the MNE Group use either the following for Simplified ETR computation: 1) the accounts used to prepare the CFS of the UPE for all Entities in the Tested Jurisdiction; or 2) separate financial statements of each Constituent Entity for all Entities in the same Tested Jurisdiction provided that they are prepared in accordance with an Acceptable Financial Accounting Standard or Authorised Financial Accounting Standard if the information contained in such statements is maintained based on that accounting standard and it is reliable.
10.	Would the utilisation of tax losses which arises from unrecognized deferred tax asset be treated as an increase in Adjusted Covered Taxes under section 196(1) ITA? Section 196(1) ITA stated: “When determining the Effective Tax Rate for a jurisdiction in a Transition Year, and for each subsequent year, the Multinational Enterprise Group shall take into account all of the deferred tax assets and deferred tax liabilities reflected or disclosed in the financial accounts of all of the Constituent Entities in a jurisdiction for the Transition Year.”	Yes. In the transition year when the entity first subject to GMT, the deferred tax attributes in the financial statements (including unrecognised deferred tax) to be used to compute Effective Tax Rate (ETR). The deferred tax asset must bring into account at the lower of the minimum rate (15%) or the applicable domestic tax rate.
11. **New!**	MNE Groups have operations in other	The MNE Group in Malaysia will still eligible for transition filing relief in FY 2025 even when the

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	jurisdictions which implement Pillar Two a year earlier, i.e., for financial years beginning on or after 1 January 2024. Will the MNE Group in Malaysia still eligible for transition filing relief in FY 2025?	Group's first in-scope FY 2024. For the first transition year in Malaysia, the MNE Group will be eligible to submit the Top-up Tax Return and tax payable, which are due on last day of 18-month after the end of Reporting Financial Year.
Chapter 13 of Part XI of the ITA – Returns		
12.	Constituent Entities (CE) of MNE groups are required to file two (2) separate returns for each Reporting Financial Year, namely: a. The information return, and b. The Top-up Tax return (TTR) What are the differences between the two. For example, whether: • The information return is intended to be the implementation of the OECD's GloBE Information Return (GIR); and • The TTR is intended to be a return with different or simplified reporting requirements, e.g. to specify tax liability to HASiL.	The information return is the GloBE Information Return (GIR). This information return should be filled by the UPE or designed filling entity to disclosed the details of the top-up tax calculation and is to be submitted to HASiL. HASiL will then exchange such information with relevant tax jurisdictions. Where else, the TTR needs to be submitted by each CE in Malaysia which discloses the tax liability of each CE. The top-up tax return is intended to be a simplified return as compared to the GIR.
13.	When will HASiL release the template or guidance notes for GIR and TTR?	The template and guidance for the GIR has been published by the OECD. The document can be access through HASiL's website. The link to the page:

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		https://www.hasil.gov.my/media/i2yfo5z4/globe-information-return-published-17-july-2023.pdf The TTR is intended to be a simplified return as compared to the GIR. It functions to disclose the tax liability of each CE. As the very first TTR is only expected to be filed in 2027, guidance notes on this tax return will be issued in due time.
Chapter 17 of Part XI of the ITA – Offences and Penalties		
14.	In Malaysia, will HASiL provide some leeway in the initial years of implementation?	With reference to the Finance (No. 2) Bill 2023, we can observe the types of offences and relevant penalties which will be imposed if MNE groups fail to comply with the GMT legislation such as penalties for late or non-compliance with the requirement for the submission of relevant returns. As for the current approach that HASiL took to promote tax compliance through its awareness, education and services (AES) initiative, HASiL will gladly follow the penalty relief provision proposed by OECD under a Transitional Penalty Relief. Under this Transitional Penalty Relief, no penalties or sanctions should apply in connection with filing a GloBE Information Return during the transition period (i.e. financial year beginning on or before 31/12/2026 but not including a financial year that ends after 30/6/2028) where a tax administration considers that an MNE has taken "reasonable measures" to ensure the correct application of the GloBE Rules. A tax administration may consider that an MNE has taken reasonable measures where the MNE can demonstrate that it has acted in good faith to understand and comply with the relevant domestic application of the GloBE Rules and the QDMTT. HASiL will concentrate more on the AES approach while implementing compliance activities on this new tax legislation. The penalty relief will be provided in a GMT guideline that HASiL will publish. Therefore, we

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		can expect some leeway in the early phase of GMT implementation in Malaysia.
15.	In your enforcement strategy, will there be any difference in your compliance strategy? How does HASiL plan to ensure compliance amongst the affected stakeholders?	Our enforcement strategy will remain the same, using AES (Awareness, Education and Services) as our base approach. “HASiL mengajar bukan mengejar”. The taxpayers affected by GMT are typically large MNEs with high tax compliance rates, HASiL believes they will not encounter significant difficulties in fulfilling their obligations under GMT. However, HASiL will continue to organize engagement sessions with the affected taxpayers, assisting them in gaining a technical understanding of the GloBE Rules, as well as the operational aspects of GMT, including the preparation and submission of the Global Information Return (GIR) Part of our initiatives in ensuring a ‘soft landing’, HASiL will implement a transitional penalty relief regime, in accordance with OECD’s guidance during the initial years of the implementation of the GloBE rules. The penalty relief is designed to provide MNE groups with transitional support when the GloBE rules come into effect. In the meantime, HASiL will continue to organize engagement sessions with affected taxpayers, assisting them in gaining a technical understanding of the GloBE Rules Model and the operational aspects of the Global Minimum Tax (GMT), including the preparation and submission of the Global Information Return (GIR). Taxpayers can access documents related to GloBE Rules via a dedicated page on the HASiL official website and send in any queries related to GMT via email at tf2p@hasil.gov.my.