Minimum Tax: Developments and Recommendations for Action

The implementation of the Pillar 2 Rules concerning a global minimum tax is putting new tax rules into play worldwide. In Germany the Minimum Tax Act came into force as of the 1st of January 2024, and corporate groups operating internationally have been feeling noticeable changes resulting from the adjustments triggered by the Minimum Tax Act.

Objective of global minimum taxation
By implementing global minimum taxation (the so-called Pillar 2 Rules), the OECD and the G20 countries have ensured an international uniform minimum corporate tax rate of 15 % for large, multinational corporate groups.

Minimum taxation should ensure that corporate profits are taxed where they are economically generated. This strengthens both tax fairness and competitive neutrality.

Current legal situation in Germany
Germany has already implemented the EU Minimum Taxation Directive by having passed and put into force the Minimum Tax Act [Mindeststeuergesetz (MinStG)]. Fundamentally, this law is valid and applicable for all financial years beginning after the 31st of December 2023.

The Minimum Tax Act is to be applied to all corporate groups with a consolidated annual turnover of at least EUR 750 million in at least two of the previous four financial years. It provides for levying a so-called top-up tax if the effective tax burden of a corporate group in a particular country is below the minimum tax rate of 15 %.

A distinction exists between a primary top-up tax, generally levied by the ultimate parent company and the secondary top-up tax if no minimum tax rules exist in the country where the parent company is based.

In addition, the Minimum Tax Act contains detailed provisions for determining the tax base, for the documentation requirements, for the reporting deadlines and for complying with transitional and safe-harbour rules. This means that global minimum taxation has fully been transposed into German law.

Change owing to the Minimum Tax Adjustment Act (MinStAnpG)
By adopting the Minimum Tax Adjustment Act [Mindeststeueranpassungsgesetz (MinStAnpG)], the German government is pursuing the goal of adapting the Minimum Tax Act, which came into force on the 1st of January 2024, to the OECD Directive, which had, in the meantime, been further developed, and to the initial experiences gained by having already applied it

On the 13th of November 2025 this law was passed by the German Parliament in the version amended by the Financial Committee.

Implementing the current OECD Administrative Guidelines

The core of this law is to implement the new OECD Administrative Guidelines, which specify numerous technical details, including how to treat deferred taxes, how to make entities more transparent and how to account for joint ventures as well as providing safe-harbour regulations. Such adjustments are to ensure that the German regulations continue to completely be in conformance with the OECD regulations and in compliance with internationally recognised calculation methods for guaranteeing an effective tax burden.

Clarifying how to determine the effective tax burden

Another focus is to clarify how "adjusted taxes" are to be recorded when they are calculated and how to determine the effective tax rate (ETR). In addition, § 50 (1) of the Minimum Tax Act specifies the conditions under which deferred tax assets and deferred tax liabilities are to be considered when determining the total amount of the adjusted deferred taxes.

By having introduced the new § 50a of the Minimum Tax Act and by having amended § 50 (5) of the Minimum Tax Act, the additions to the back-taxation mechanism provided for in the OECD Administrative Guidelines have now been anchored into law. The previous provisions of § 50 (4) of the Minimum Tax Act on subsequent taxation have been combined with the new provisions as stated in § 50a of the Minimum Tax Act forming a uniform regulatory framework. Along with the prevailing principle for assessing deferred tax liabilities individually for subsequent taxation purposes, the amendment to the law opens up a possibility of bundling several deferred tax liabilities under certain conditions. This should considerably simplify the practical handling of additional tax payments.

Expanded safe-harbour regulations

The country-by-country safe harbour provision as stated in § 87 of the Minimum Tax Act should be expanded. What is new is the guidelines for the basis of data on qualified accounting information – including the use of so-called reporting packages – as well as regulations on the handling of effects of consolidating capital in accordance with the purchase price allocation method. In addition, correction mechanisms were introduced in order to avoid inconsistencies in the reporting data. These changes are in line with the current OECD Administrative Guidelines.

Should a business unit not be included in the consolidated financial statements owing to its insignificance and should no formal financial information such as separate financial statements or internal reporting documents be available, all data sources deemed permissible in the framework of preparing a corporate group's country-by-country report may be used.

In the future, additional requirements will need to be met in order to qualify for the domestic minimum top-up tax safe harbour. It may not be used should securities firms not be subject to a minimum tax or should specific deferred tax liabilities be taken into consideration. Even in cases where a supplementary tax has been recognised at the national level, it is still necessary to check in each individual case whether the requirements have been met – which in practice may involve increased audit expenses.

Clarification on no relief from exit taxation upon a return

An amendment to § 21 (39) of the Foreign Tax Act [Außensteuergesetz (AStG)] already contained in a draft bill was reintroduced by request of the German Federal Council. This amendment will codify a prior administrative interpretation. This will clearly regulate that the act of a company returning to Germany does not result in a reversal of exit taxation, provided that substantial profit distributions or considerable repayments of contributions had already been made.

Changes in procedures and reporting

The drafts also contain editorial and procedural amendments. For example, it will be possible to amend a minimum tax report in order to allow inaccurate information to be corrected. Additionally, deadlines and responsibilities are precisely given in order to simplify and speed up the procedure for companies and for the tax authorities.

Accompanying amendments in other tax laws

Along with the amendments to the Minimum Tax Act, the draft states consequential amendments to the Foreign Tax Act, the Financial Administration Act and the Income Tax Act. The objective is to harmonize the minimum tax regulations with other provisions, in particular concerning additional taxation.

The introduction of an investment limit for additional taxation on capital investment income as prescribed by § 13 of the Foreign Tax Act should reduce the administrative burden, particularly those involving indirect investments.

Under § 4j of the Income Tax Act [Einkommensteuergesetz (EstG)], expenses for transferring rights to related parties may, currently, only be deducted to a limited extent or not at all if the corresponding income is received by a recipient of a country with a harmful tax benefit – i.e. where it is taxed at less than 15 % – and the recipient does not carry out any genuine economic activity. From 2025 on these so-called license barriers will be abolished in order to reduce bureaucratic burdens on companies.

The exemption limits for additional taxation (§ 9 and § 13 of the Foreign Tax Act) should also be adjusted. The relative limit will increase from the current 10 % to a third, supplemented by a new absolute exemption limit of EUR 100,000 per company. The new regulations should become effective for the financial years beginning after the 31st of December 2025.

Application and transitional regulation

Most of the regulations are to be applied for the 2025 assessment period. For certain provisions, particularly for safe harbours and reporting duties, transitional deadlines are scheduled so that companies will have sufficient time for adjusting their processes.

Valuation and practical tips

Companies face considerable organisational and taxation challenges with such complex requirements, which are ever-increasingly being developed further. It is recommended to review internal calculation models, reporting systems and documentation processes in order to implement the new requirements in a timely and error-free manner.

With this background in mind, it is important to watch how these new requirements are being implemented in different stages in the various countries.

Some EU member states, such as Estonia, Latvia, Lithuania and Malta, have made use of the transitional regulation provided for in the EU Minimum Taxation Directive and have postponed full implementation of the global minimum tax until 2029 at the latest. In these countries no minimum tax regulations apply for now. Nevertheless, certain administrative duties already exist, in particular reporting and documentation requirements, with which affected companies should be sure to comply.

In the near future further changes to the Minimum Tax Act may be necessary owing to the expected agreement on a "side-by-side system" of a global minimum tax alongside the US minimum tax regulations.

Do you have any questions on this topic?

Do you need support? Please contact our experts. They will be pleased to support you.

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