Multinational top-up tax draft guidance manual

Contents

Introduction

The following draft guidance manual is being published to provide technical guidance on certain areas of the multinational top-up tax (MTT) and domestic top-up tax (DTT) legislation, which is contained in Parts 3 and 4 of the 2023 Spring Finance Bill.

These measures constitute the UK's adoption of a qualifying Income Inclusion Rule and a Qualifying Domestic Minimum Top-up Tax (part of the Pillar 2 or GloBE rules).

This draft guidance is partial and consists of three chapters of the HMRC guidance manual on multinational top-up tax, which exists as a standalone manual.

The three chapters are:

- Introduction, which includes an overview of the taxes and guidance on chargeability.
- Scope, which includes guidance on excluded entities, the revenue threshold test, and the transitional CbCR safe harbour.
- Administration.

Additionally, the Introduction chapter includes a map between the legislation and the OECD Model Rules (at MTT09990).

The draft guidance is intended to reflect the legislation in the Finance Bill. The guidance will be updated to reflect any amendments to the legislation.

You should not assume that the guidance is comprehensive or that it will provide a definitive answer in every case. HMRC will use their own reasoning, based on their training and experience, when applying the guidance to the facts of particular cases.

Domestic top-up tax

The guidance manual has been designed to cover both multinational top-up tax and domestic top-up tax. It should be made clear in the guidance when there is a different application for domestic top-up tax purposes compared to multinational top-up tax.

Further guidance

Further technical guidance on the calculations needed to compute the top-up tax chargeable under multinational top-up tax and domestic top-up tax will be released in due course, along with an updated version of the three chapters contained in this draft guidance.

The additional guidance will take the following approximate structure:

- MTT20000 – Calculating the Effective Tax Rate
- MTT21000 – The adjusted profits
- MTT22000 – The underlying profits
- MTT25000 – Covered Taxes
- MTT30000 – Calculating the top-up charge
- MTT40000 – Particular types of entity, structures, and adjustments
- MTT99000 – Index of terms

Comments

HMRC welcomes comments on the guidance manual. This includes both comments on the draft guidance being published, as well as comments on what stakeholders may find useful in forthcoming guidance.

Please submit comments to the inbox: pillar2.consultation@hmrc.gov.uk. Include "HMRC guidance" in the subject line and refer to the page number (MTTxxxxx) and page title if applicable.

00100 Introduction to Multinational top-up tax

Multinational top-up tax (MTT) is being introduced in the UK as part of Pillar 2, an initiative developed as part of a broader agreement made by the G20 to reform the international tax framework to tackle base erosion and profit shifting, in response to challenges raised by the digitalisation of the economy. The UK has worked closely with international partners to develop the Pillar 2 Model Rules at the Organisation of Economic Co-operation and Development, as part of the Inclusive Framework of nations.

Pillar 2 consists of two mechanisms for collecting tax: the Income Inclusion Rule (IIR), which is the main rule, and the Undertaxed Profits Rule (UTPR), which is the backstop to the IIR and ensures that the charge will be collected in every jurisdiction. Collectively, these are known as the “GloBE” rules (Global Base Erosion).

Together, the GloBE rules will ensure that large groups will pay an effective rate of tax of at least 15% in every jurisdiction in which they operate.

UK implementation

The IIR is being implemented in the UK as Multinational top-up tax, and will apply for accounting periods beginning on or after 31 December 2023. The UTPR is expected to be implemented in the UK at a later date, but will not applier to periods beginning before 31 December 2024.

Many of the countries that are signatories to Pillar 2 will also be implementing a Qualifying Domestic Minimum Top-up Tax (QDMTT). The UK is implementing a QDMTT, called Domestic top-up tax (DTT). This will ensure that the UK operations of the largest groups will be subject to the minimum effective tax rate and therefore face no additional top-up charges as a result of Pillar 2.

DTT shares the implementation date of MTT.

See MTT05000 for an overview of MTT, and MTT06000 for an overview of DTT.

00110 Background to Pillar 2

Pillar 2 has its origins in a 2013 OECD report entitled Addressing Base Erosion and Profit Shifting. Under a G20 mandate, it outlined 15 actions to be taken to address these issues. Action 1, Addressing the Tax Challenges of a Digital Economy, was elaborated in a 2015 paper.

In 2019, the G20/OECD Inclusive Framework announced plans to further develop a proposed two-pillar solution to address the tax challenges arising from the digitalisation of the economy. Pillar 1 consists of a partial reallocation of taxing rights between jurisdictions, in order to adapt the international tax system to better reflect the modern global economy. Pillar 2 consists of the implementation of a global minimum corporate tax rate.

In October 2021, the jurisdictions of the Inclusive Framework reached an agreement on Pillar 2 to ensure that the largest MNEs will be subject to a minimum rate of tax, by enacting a global minimum corporate tax rate of 15%.

On 20 December 2021, the OECD released the Pillar 2 Model Rules, which set out how the Income Inclusion Rule (IIR) and its backstop, the Undertaxed Profits Rule (UTPR), will operate. Further details were provided in the Commentary to the Model Rules which was published in early 2022.

Multinational top-up tax (MTT) implements the IIR in the UK. MTT, in implementing the IIR, seeks to reduce the incentive for the largest MNEs to shift profits to low- or no-tax jurisdictions, and to restrict harmful tax competition between jurisdictions. These aims will be achieved by applying a top-up charge where a MNE has an Effective Tax Rate (ETR) below the minimum of 15% in each jurisdiction in which they operate.

Example

The ABC multinational group consists of three companies. A Ltd is the ultimate parent and is located in the UK. B Ltd is an intermediate parent and is located in Country Y, which has implemented Pillar 2, including an IIR. C Ltd is located in Country Z, which has no Pillar 2 rules.

C Ltd has £100m profits in an accounting period, on which it pays tax at an effective rate of 13%. Under the Pillar 2 rules, a top-up amount of up to £2m will be charged to bring it to the effective rate. This amount will be collected by the UK, through MTT, as the UK is the jurisdiction in which the ultimate parent is located.

If the UK had not implemented MTT, the amount would have instead been collected by Country Y, the jurisdiction of the intermediate parent.

If Country Z had implemented the Pillar 2 rules, including a Domestic Minimum Top-up Tax, it would have been able to collect the top-up amount itself.

00115 Background to Multinational top-up tax

In its presidency of the G7, as part of the G20, and as a participant in the OECD Inclusive Framework, the UK has been a leading figure in the advance of international tax reform. The UK has worked closely and continuously with the OECD from the earliest stages of Pillar 2, with input provided by HMRC on the design and technical analysis of the rules.

A consultation on implementation was launched in January 2022. A draft of the legislation was published in July of that year, ahead of a second consultation round in September.
In the 2022 Autumn Statement, the government confirmed that the UK would legislate an Income Inclusion Rule and a Qualifying Domestic Minimum Top-Up Tax in the Spring Finance Bill of 2023. It also announced its intention to implement the Undertaxed Profits Rule one year later.

The Chancellor of the Exchequer, Jeremy Hunt, said:

“The Prime Minister successfully negotiated a landmark international tax deal to make sure multinational corporations – including big tech companies – pay the right tax in the countries where they operate. I will implement these reforms, making sure the UK gets our fair share.”

00120 Relationship between Multinational top-up tax legislation and OECD documents

OECD documents

The Model Rules and related OECD documents (altogether, the “OECD documents”) are not binding international law, but have been developed as a template for territories to use when implementing Pillar 2 in domestic law. The OECD documents are designed to be comprehensive so that all implementing territories will arrive at a consistent outcome even though they are each applying their own legislation.

The OECD documents include the Commentary to the Model Rules, papers on Qualified Domestic Top-up Taxes and Safe Harbours and Simplifications, and Agreed Administrative Guidance which amends the Commentary.

The UK legislation will not correspond exactly to the Model Rules because it incorporates rules presented across these different OECD documents.

UK legislation

The MTT legislation has been designed to implement the OECD Model Rules In line with the intention to achieve consistency between territories. The legislation also incorporates additional rules that have been agreed and published in other OECD documents, where necessary.

The legislation adapts the Model Rules into the style and structure of UK legislation, and provides further details on the steps that businesses must take to calculate their liabilities under the MTT.

Additionally, there are some parts of the legislation that are particular to the UK legislation and do not have their origin in the OECD documents – for example, Schedule 14, which provides the rules for administration.

This guidance manual includes a map to cross-reference the Model Rules to the UK legislation at MTT09990.

MTT is designed to be consistent with the OECD documents, and therefore it is unlikely that conflicts will arise. However, in the event they do, HMRC should ensure compliance with the MTT legislation as this provides the legal basis for imposing the charge. If these situations arise, staff should contact the Base Protection Policy team in Business, Assets and International (BAI).

Use of OECD documents by officers of HMRC

The OECD documents do not have legal effect. Nonetheless, Section 121(1) establishes that the purpose of MTT is to implement those documents into domestic law.

Consequently, HMRC officers may consult the OECD documents as an aid if the application of the law to a particular set of facts is unclear. For example, as with the Model Rules, the MTT legislation does not define certain terms, and these terms should take their ordinary meaning. The OECD documents may provide additional understanding of the purpose of the rules which they set out (and by extension, the MTT legislation, which is intended to give effect to those rules).

Purpose of HMRC guidance manual

This HMRC guidance manual is designed to provide guidance on HMRC's interpretation of the UK legislation and the administration of MTT in the UK. It does not have precedence over OECD documents.

00130 Jurisdictions with a qualifying Pillar 2 tax

Domestic taxes that are intended to implement the OECD Model Rules will be assessed by the Inclusive Framework, through a peer review process, to determine whether they are qualifying taxes. This will include taxes that are intended, under the common approach, to achieve the objectives of the Income Inclusion Rule, the Undertaxed Profits Rule, and the Qualified Domestic Minimum Top-up Tax.

Where a tax is deemed to be a qualifying Pillar 2 tax, this will be specified in secondary legislation and included in a table on this page of guidance.

05000 Overview of Multinational top-up tax

Multinational top-up tax (MTT) is a top-up tax that will be charged on members of the largest multinational groups where they do not meet the minimum effective tax rate (ETR) in each territory in which they operate. The minimum rate is 15%.

The amount of the charge will be the amount required to raise the ETR for that territory to the minimum rate. This is why it is described as a ‘top-up tax’.

The charge will be collected through one of several mechanisms, including Multinational top-up tax (MTT) and Domestic top-up tax (DTT). This guidance manual will apply to both of these taxes, unless otherwise specified.

See MTT06000 for an overview of Domestic top-up tax.

Scope

A multinational group will be in scope of MTT where it has annual revenue exceeding EUR750m in any two out of the four periods preceding the tested period, according to the group’s consolidated financial statements. See MTT11000 for guidance on the revenue threshold test.

Some entities in a qualifying group will satisfy the criteria for being an excluded entity (see MTT10200). These entities will be excluded from the MTT calculations.

Wholly-domestic groups cannot be in scope of MTT but can be in scope of Domestic top-up tax.

De minimis exclusion

The top-up amount for a territory is deemed to be nil if, for that territory:

- Average revenue is less than €10 million, or
- Average profit is less than €1 million.

The amounts are averaged over the three accounting periods ending with the tested period.

Determining the effective tax rate

To determine if a top-up amount is due for a territory the ETR for each territory must be calculated. The rate is expressed as a percentage and is determined by the following computation:

- Covered tax balance, divided by
- Adjusted profits.

The ETR is calculated for each accounting period. The accounting periods of the group’s Consolidated Financial Statements are used.

Adjusted profits

Adjusted profits is the denominator in the ETR computation. To arrive at this figure, we start with the underlying profits, which are generally the profits in the group's Consolidated Financial Statements. A series of adjustments are then made to determine the adjusted profits.

In some cases, the underlying profits can be taken from the accounts of a member of the group.

Covered tax balance

Covered tax balance is the numerator in the ETR computation. This includes the net amount of covered taxes attributable to the income earned in the tested period.

The covered taxes include taxes on profit, but does not include indirect taxes, payroll, or property taxes.

Adjustments are made for some permanent differences, such as amounts relating to income excluded from the adjusted profits. Temporary differences are adjusted for by using deferred tax accounting.

Substance-based income exclusion

Groups are allowed a deduction in proportion to the amount of tangible assets and payroll expense they have in a territory. This deduction corresponds to the estimated return on investment the group might expect from those assets and employees.

The deduction is made from the net profits of the territory when determining the amount of top-up tax chargeable. It does not have an effect on the ETR.

Special provisions

Special provisions apply to certain entities, groups, and sectors, including:

- Joint ventures and their subsidiaries
- Transparent entities
- Permanent establishments
- Investment entities and investment funds
- Minority owned members
- International shipping

Special provisions also apply where there is a merger or demerger.

There are also special rules for the period in which a group first becomes a qualifying group.

Chargeability

The top-up charge is calculated on the level of a group for each territory in which it operates. However, the tax is charged to individual members of the group.

See MTT05100 for guidance on identifying chargeable persons for MTT, and MTT54000+ for guidance on payments.

Administration

Multinational groups which are in scope and have a member in the UK must register for MTT with HMRC. They must file information returns and self-assessment returns.

MTT is applied to groups, but a single ‘filing member’ will be responsible for most administrative obligations. If the ultimate parent does not nominate a filing member, the ultimate parent will be the filing member by default.

See MTT50000+ for further information on administration of MTT.

05100 The charge - Chargeable persons

Where a top-up amount arises for a group, an individual member of the group (a 'responsible member') will be chargeable to MTT.

In some cases, persons other than the responsible member are chargeable. These are explained below.

Guidance on these pages is not applicable for Domestic top-up tax. For guidance on DTT chargeability, see MTT06100.

See MTT05110 for guidance on identifying the responsible members.

Responsible member is neither a body corporate nor a partnership

Another person may be chargeable to tax in respect of a responsible member if the responsible member is:

- Neither a body corporate nor a partnership, and
- Located in the UK.

A person will be chargeable if the responsible member's profits would be the profits of that person for the purposes of Income Tax or Corporation Tax. This will be the case if:

- The responsible member has profits chargeable to Income Tax or Corporation Tax, and
- The person is resident in the UK for the purpose of that tax.

Where more than one person is chargeable in respect of the same responsible member, these persons are jointly and severally liable.

Responsible member is a partnership

Where a partnership is a responsible member, all persons who are members of the partnership at any time in the accounting period (the 'responsible partners') are chargeable to MTT. The responsible partners are jointly and severally liable.

For the purpose of chargeability, a partnership will be viewed as continuing to be the same partnership, regardless of a change in membership, if at least one member before the change in membership remains a member after the change.

Group payment notice

If a chargeable person fails to pay their MTT liability, HMRC may issue a notice to another member of the group to make it liable for the amount. See MTT54200+ for more information on group payment notices.

05110 The charge - Responsible members

An entity can be a responsible member if it is:

- The ultimate parent,
- An intermediate parent, or
- A partially owned parent (POPE).

A group may have more than one responsible member.

A responsible member will be chargeable for all of the members of the group in which it has a direct or indirect ownership interest, except for those located in its own territory.

Guidance on this page is not applicable for Domestic top-up tax, which does not include the concept of a responsible member. See MTT06100 for further guidance on DTT chargeability.

Ultimate parent

The ultimate parent will be a responsible member if it is subject to MTT or another qualifying Income Inclusion Rule applied by another territory.

See MTT00130 for a list of qualifying rules.

Intermediate parent

An intermediate parent will be a responsible member if:

- It is subject to MTT or another qualifying Income Inclusion Rule,
- No other member of the group that is subject to such a rule has a controlling interest in it, and
- It has a direct or indirect ownership interest in a member of the group that has a top-up amount.

A member will be an intermediate parent if it has an ownership interest in another member of the group and is not:

- A permanent establishment,
- An investment entity,
- A partially owned parent, or
- The ultimate parent.

Partially owned parent

A partially owned parent will be a responsible member if:

- It is subject to MTT or another qualifying Income Inclusion Rule,
- It is not wholly-owned by another partially owned parent of that group that is subject to such a rule, and
- It has a direct or indirect ownership interest in a member of the group that has a top-up amount.

A member will be a partially-owned parent if:

- It has an ownership interest in another member of a group,
- More than 20% of the ownership interest in its profits are held by persons other than members of the group, and
- It is not a permanent establishment, investment entity, or the ultimate parent.

Examples

In these examples, Countries 1 and 2 have implemented a qualifying Income Inclusion Rule, but Country 3 has not.

Example 1

Q Ltd is the ultimate parent of a group. It is located in Country 1 and has one subsidiary, Q-2, located outside of Country 1. It also has a subsidiary located in Country 1.

Q Ltd will be the responsible member as it is subject to a qualifying Income Inclusion Rule. It will be responsible for Q-2 as Q-2 is located in another territory.

Example 2

X Ltd is the ultimate parent of a group. It is located in Country 3. It has a holding company, X-1, in Country 1, and another holding company, X-2, in Country 2. Each holding company has a subsidiary in another foreign territory.

Both of the holding companies may be a responsible member because:

- They are intermediate parents,
- They are subject to a qualifying Income Inclusion Rule, and
- X Ltd, which is the only member of the group which has a controlling interest in them, is not subject to a qualifying Income Inclusion Rule.

Each holding company will be the responsible member for its own foreign subsidiaries. Therefore, X-1 will be the responsible member for its subsidiary, but not for the subsidiary of X-2, and vice versa.

05120 The charge - The amount charged

The amount of MTT for which a responsible member is liable is determined by a four-step process:

Step 1: Of the group's members for which the responsible member is responsible, determine which have top-up amounts or additional top-up amounts, and the extent of those amounts.

Step 2: Determine how much of each of those amounts should be attributed to the responsible member.

Step 3: Add together the amounts attributed to the responsible member.

Step 4: If the total amount is not in sterling, convert it to sterling.

Domestic top-up tax

Guidance on this page is not applicable for Domestic top-up tax, which does not include the concept of responsible members. See MTT06110 for the equivalent page for DTT.

06000 Overview of Domestic top-up tax

Domestic top-up tax (DTT) is a separate tax charge to Multinational top-up tax (MTT). Under DTT, qualifying entities located in the UK with an aggregate effective tax rate below 15% will be charged a top-up amount. This ensures that they will meet the minimum rate and not pay any other Pillar 2 charge. This means the UK, rather than any other jurisdiction, will collect all of the top-up taxes in respect of UK profits.

DTT is calculated and administered in a largely similar way to MTT, with some exceptions. The guidance in this manual is generally applicable for both DTT and MTT, and references to MTT will also be references to DTT unless specified.

In the legislation (FA23/PART4), the MTT provisions are replicated for DTT purposes with certain modifications.

See MTT06010 for a summary of the differences between DTT and MTT.

Scope

As well as the UK operations of multinational groups, wholly domestic groups and single entities can be in scope of DTT. Consequently, for DTT purposes, references to "multinational group" will mean any group or entity that qualifies for DTT.
Aside from this, the scope remains the same as it is for MTT, with the €750m revenue threshold applying in the same way to DTT. See MTT10000+ for guidance on scope and MTT11000+ for guidance on the revenue threshold.

Substance based income exclusion

The substance based income exclusion will apply under DTT as well as MTT.

Treatment of DTT

DTT is designed to be treated as a Qualified Domestic Minimum Top-up Tax (QDMTT) by the OECD Inclusive Framework. As a QDMTT, any DTT liability will be fully offset against any Pillar 2 liabilities that may arise in other jurisdictions.

06010 Differences between Domestic top-up tax and Multinational top-up tax

This page provides a summary of the differences between domestic top-up tax and multinational top-up tax.

Chargeability

There is no concept of responsible members in DTT, so such parts of MTT will not be relevant for DTT. Generally, each qualifying entity will be chargeable (see MTT06100).

Scope

Only specific entities are in scope of DTT, rather than a group as a whole.

There is no requirement that a qualifying entity be part of a multinational group. Therefore, if a wholly domestic group would be in scope of MTT but for the fact that it does not have a foreign entity, it will be in scope of DTT but not MTT.

Any references in the guidance to multinational groups should be considered to include wholly domestic groups in the context of DTT.

It is also possible for an individual entity to be in scope of DTT. In such a case, references to a group, members of a group, or the filing member of a group, should be considered to be references to the individual entity.

A qualifying transformer vehicle (see MTT10130) will be an excluded entity for DTT purposes unless it is a member of a multinational group.

Elections

Any election that applies in respect of MTT (or an equivalent foreign version of the Income Inclusion Rule) also has effect for DTT, if the election would have an effect on the top-amount calculated for DTT.

For example, if an investment entity tax transparency election has been made in respect of an investment entity located in the UK, its profits should be allocated to its owners for the purposes of both DTT and MTT.

This ensures that the amount charged under DTT is the same as the amount that would have been charged under MTT.

Election for wholly domestic group to use UK GAAP

A group can use UK GAAP as an alternative accounting standard to determine the underlying profits and covered tax balance of its members if:

- All the group members are located in the UK, and

- The filing member has made a long-term election that the underlying profits of group members are to be determined on the basis of UK GAAP.

The group does not need to meet the other conditions usually required to use an alternative accounting standard.

Allocation of cross-border taxes

Sections 177 to 181 are modified for the purposes of DTT. These modifications limit the extent to which taxes charged by a foreign country can be reflected in the ETR of the UK members of the group.

In particular, taxes charged under a CFC rule applied by a foreign territory on a UK hybrid entity or by a non-resident on the profits of a permanent establishment in the UK are not treated as covered taxes in the DTT ETR calculation. Additionally, taxes charged on distributions of profits from UK members are similarly not allocated to the UK distributing member.

The exception is taxes charged on a partnership where the UK member is a partner in the partnership. These taxes continue to be reallocated according to subsection 178(1). This enables taxes suffered by the partnership on partnership source income (such as a withholding tax) to still be reflected in the ETR of the partners. This prevents double taxation of this income while respecting the existing allocation of taxing rights between the relevant territories.

Restriction on reallocation of tax expense in respect of mobile income

For DTT purposes, there is no restriction on the reallocation of qualifying current tax expense in respect of mobile income. Subsections 178(2) and 179(2) are omitted.

Consequently, where taxes paid by UK entities would be reallocated to another jurisdiction for the purposes of MTT, the full amount will be excluded from the DTT calculations of the relevant qualifying entities. Under MTT, the CFC and hybrid taxes to which the mobile income restriction applies will not be reallocated and remain as covered taxes of the parent or owner member.

QDT crediting

When determining the top-up amount under DTT, or additional top-up amounts, there is no crediting for Qualifying Domestic Minimum Top-up Taxes (including DTT and foreign equivalents). Those parts of the MTT legislation are omitted for DTT purposes.

Investment entity top-up amounts included in calculation of top-up amounts

For DTT purposes, the total top-up amount that is allocated between the standard members under section 193 will include the top-up amounts and additional top-up amounts of investment entities. This ensures that investment entities will not be liable for any top-up amounts, thus preserving the tax neutrality of investment entities.

Deemed distribution tax election

The UK does not have an eligible distribution tax system, so the deemed distribution tax election will not be relevant for DTT, and eligible distribution taxes will not feature in covered taxes for DTT.

Administration

DTT is generally administered in the same way as MTT, with some exceptions. See MTT50200 for further guidance on the administration of DTT.

06100 Domestic top-up tax charge - Chargeable persons

Chargeability is different for DTT compared to MTT because the concept of responsible members does not exist in DTT. All qualifying entities that are a body corporate or a partnership will be chargeable persons for DTT.

In some cases, a person other than a qualifying entity may be chargeable. These are explained below.

Qualifying entity is neither a body corporate nor a partnership

If a qualifying entity is neither a body corporate nor a partnership, another person may be chargeable in respect of it.

Another person will be chargeable if the qualifying entity's profits would be the profits of that person for the purposes of Income Tax or Corporation Tax. This will be the case if:

- The qualifying entity has profits chargeable to Income Tax or Corporation Tax, and
- The person is resident in the UK for the purpose of that tax.

Where more than one person is chargeable in respect of the same qualifying entity, these persons are jointly and severally liable.

Qualifying member is a partnership

Where a partnership is a responsible member, all persons who are members of the partnership at any time in the accounting period (the 'responsible partners') are chargeable to DTT. The responsible partners are jointly and severally liable.

For the purpose of chargeability, a partnership will be viewed as continuing to be the same partnership, regardless of a change in membership, if at least one member before the change in membership remains a member after the change.

Group payment notice

If a chargeable person fails to pay their DTT liability, HMRC may issue a notice to another member of the group to make it liable for the amount. See MTT54200+ for more information on group payment notices.

06110 Domestic top-up tax charge - The amount charged

The amount of DTT for which a responsible member is liable is determined by a three-step process:

Step 1: Determine whether the entity has any top-up amounts or additional top-up amounts for the period, and the extent of those amounts.

Step 2: Determine the sum of those amounts.

Step 3: If the total amount is not in sterling, convert it to sterling.

09990 Map between Multinational top-up tax legislation and Model Rules

The following table cross-references the UK legislation with the:

- Relevant article or sub-article within the OECD model rules
- Supporting commentary
- Administrative guidance items published by the OECD in February 2023.

See MTT00120 for more information on the relationship between multinational top-up tax and the OECD documents.

This table will be updated to reflect any changes or additions to the OECD documents.

Part 3 Multinational top-up tax		
Finance (No. 2) Bill section	**OECD model rule Article/Sub-article**	**OECD Commentary/ admin guidance**
Chapter 1- Introduction and charge		
Section 121 Introduction to multinational top-up tax	-	-
Section 122 Chargeable persons	Article 2.1.1- Application of IIR to ultimate parent entity Article 2.1.2- Application of IIR to intermediate parent entity	-
Section 123 Amount charged by reference to "top-up amounts"	Article 2.2.1- Parent entities allocable share of top-up tax Article 2.2.2- Parent entities inclusion ratio Article 2.2.3- Amount of GloBE income attributable to ownership interests	-
Section 124 How to calculate top-up amounts and attribute them	-	-
Section 125 Administration of multinational top-up tax	Article 8- Administration	-
Chapter 2- Qualifying multinational groups and their members		
Section 126 Meaning of 'multinational group' and 'ultimate parent'	Article 1.2- MNE group Article 1.3.1- Constituent entity Article 1.3.2- Permanent establishment treated as separate from main entity. Article 1.4- Ultimate parent entity	-

Section 127 Excluded entities	Article 1.1.3- Excluded entities not subject to GloBE rules Article 1.3.3- Constituent entity does not include an excluded entity Article 1.5- Excluded entity	Administrative guidance: 1.5- Clarifying the definition of "excluded entity" Administrative guidance: 1.6- Meaning of "ancillary" for non-profit organisations
Section 128 Responsible members	Article 2.1- Application of the IIR	-
Section 129 Qualifying multinational groups	Article 1.1.1- Annual revenue threshold test Article 1.1.2- Long and short fiscal years	-
Section 130 Change in composition of multinational group	Article 1.1.1- Annual revenue threshold test Article 6.1- Revenue threshold for group mergers and demergers	-
Section 131 Whether de-merged groups meet the revenue threshold	Article 6.1- Revenue threshold for group mergers and demergers	-
Chapter 3- Effective tax rate of members of a multinational group in a territory		
Section 132 Effective tax rate	Article 5.1- Determination of effective tax rate	-
Chapter 4- Calculation of adjusted profits of members of a multinational group		
Section 133 Adjusted profits of a member of a multinational group	Article 3.1.1- GloBE income of each constituent entity is the adjusted financial accounting net income Article 3.2.11- Constituent entities income must be adjusted to reflect requirements	-
Section 134 Underlying profits as determined for statements of ultimate parent	Article 3.1.2- Financial accounting net income prepared from consolidated financial statements Article 3.1.3- Not reasonably practicable to use consolidated financial statements	-

Section 135 Underlying profits of permanent establishments	Article 3.4.1- Financial accounting income of a permanent establishment Article 3.4.2- Adjustments to financial accounting income of a permanent establishment Article 3.4.3- Adjustments to financial accounting income of a permanent establishment that meet (d) in definition at article 10.1 Article 3.4.4- Income of permanent establishment not taken into account to determine GloBE Income of main	-
Section 136 Underlying profits accounts	Article 3.1.2- Financial accounting net income prepared from consolidated financial statements Article 3.1.3- Not reasonably practicable to use consolidated financial statements	-
Section 137 No amounts outside of profit and loss account to be included	Article 3.1.2- Financial accounting net income prepared from consolidated financial statements	Commentary to article 3.1.2
Section 138 Profits adjusted to be before tax	Article 3.2.1a- Financial accounting net income adjusted for net taxes expense Article 4.2.2- Amounts not included as a covered tax	-
Section 139 Profits adjusted to be profits before consolidation adjustments to eliminate intragroup transactions	Article 3.1.2- Financial accounting income is determined before any consolidation adjustments for intra-group transactions	-
Section 140 Profits adjusted to be profits before certain purchase accounting adjustments	Article 3.1.2- Financial accounting net income prepared from consolidated financial statements	Commentary to article 3.1.2
Section 141 General exclusion of dividends	Article 3.2.1b- Financial accounting net income adjusted for excluded dividends	Administrative guidance: 2.3- Excluded dividends- Asymmetric treatment of dividends and distributions Administrative guidance: 3.5- Simplification for short-term portfolio shareholdings

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10000 Scope of the rules

For MTT purposes, a group is a ‘qualifying’ group for a period if it:

- Is a multinational group (see MTT10100),
- Has at least one member located in the UK, and
- Meets the revenue threshold test (see MTT11000).

See MTT18000+ for guidance on locating entities.

References to a “group” in the HMRC guidance manual will generally mean a qualifying multinational group.

Certain types of entity are excluded from scope, even when they are in a qualifying group (see MTT10200).

Domestic top-up tax

Domestic top-up tax (DTT) can apply to wholly domestic groups and single entities, in addition to the UK operations of multinational groups. For DTT purposes, it is entities that will be qualifying rather than groups.

Consequently, for DTT purposes, references in HMRC guidance to “qualifying group” will refer to any entity or group that includes members that qualify for DTT, and references to “multinational group” will also refer to wholly domestic groups and single entities.

See MTT10010 for further guidance on scope for DTT.
See MTT06000 for an overview of DTT.

10010 Scope - Domestic top-up tax

Domestic top-up tax (DTT) can apply to wholly domestic groups and single entities, in addition to the UK operations of multinational groups. For DTT purposes, it is entities that will be qualifying rather than groups.

Where the entity is a member of a group, the revenue threshold test is still applied to the group as a whole.

An entity will be a ‘qualifying’ entity for DTT purposes if:

- It is located in the UK,
- It is not an excluded entity for DTT purposes (see MTT10200),
- It is not an investment entity, and
- It meets the revenue threshold test as a single entity, or is a member of a group that meets the revenue threshold test.

Consequently, for DTT purposes, references in HMRC guidance to “qualifying group” will refer to any entity or group that includes members that qualify for DTT, and references to “multinational group” will also refer to wholly domestic groups and single entities.

See MTT18000+ for guidance on locating entities.
See MTT06000 for an overview of DTT.

10100 Scope - Definitions of “multinational group” and “ultimate parent”

Multinational group

A multinational group is a consolidated group that includes at least one member not located in the same territory as the others.

Consolidated group

A consolidated group consists of its members, which are:

- The ultimate parent,
- The entities whose assets, liability, expense and cash flows are included in the consolidated financial statements of the ultimate parent, and
- Entities that have not been included in the consolidated financial statements due to size, materiality or because the entity is held for sale.

Where the group is qualifying, all of these entities will be in scope of MTT, except:

Ultimate parent

An ultimate entity is an entity:

- In which no other entity has a controlling interest, and
- Which has a controlling interest in one or more other entities.

Stateless members

A stateless member, which is a member that is not located in any territory, is treated as being located in a nominal territory containing only that member.

A group that consisted solely of entities located in the same territory and a stateless member would therefore be a multinational group.

10110 Scope - Meaning of “entity”

For MTT purposes, “entity” means:

- A company,
- A partnership,
- A trust, or
- Any other arrangement that results in the preparation of separate financial accounts in respect of the activities carried out under the arrangement.

Entity that is part of a government

An entity will not be regarded as an entity if it is, or is part of, a national, regional, or local government.

Permanent establishments to be treated as an entity

For MTT purposes, a permanent establishment is treated as an entity that is distinct from its main entity.

See MTT10120 for guidance on the definition of “permanent establishment” and “main entity”.

10120 Scope - Meaning of "permanent establishment" and "main entity"

A permanent establishment (PE) of an entity (the "main entity") is a place of business of the main entity that is located in a different territory to the main entity, and meets one of the following four conditions:

- The place of business is situated in a territory where it is treated as a PE in accordance with an applicable tax treaty, and the territory taxes the income attributable to it in accordance with a provision similar to Article 7 of the OECD Model Tax Convention.
- The place of business is in a territory where there is no such applicable tax treaty in force, but the territory, under its domestic law, taxes the income attributable to the place of business on a net basis similar to the manner in which it taxes its own residents.
- The place of business is in a territory which has no corporate income tax, but if the territory did have such a tax, it would have the right to tax the income attributable to the place of business in accordance with Article 7 of the OECD Model Tax Convention, and the place of business would be treated as a permanent establishment in accordance with the Model Tax Convention.
- None of the above conditions are met, and the territory of the main entity exempts the income attributable to the operations of the place of business.

For MTT purposes, a PE is treated as a distinct entity from the main entity.

Place of business

"Place of business" takes the same meaning as it does in the OECD Model Tax Convention. It includes a deemed place of business for the purpose of the Model Tax Convention, a tax treaty, or the domestic law of a territory.

10130 Scope - Protected cell companies and qualifying transformer vehicles

A protected cell company (PCC) is legally a single entity, but is divided according to the terms of its constitution into a “core” and a number of “cells” (the ‘constituent parts’ of the PCC) which are economically segregated from each other.

Each cell has an independent investor base and business. The core conducts the administrative functions of the PCC and makes only a nominal profit. By the nature of the business they are permitted to carry on, PCCs will not own subsidiaries.

A PCC may meet the definition of a “qualifying transformer vehicle” (QTV). QTVs are exempt from corporation tax (see GIM8262).

The Risk Transformation (Tax) Regulations 2017 provide for the setting up of insurance transformer vehicles. They also provide for the creation and use of Protected Cell Companies (PCCs) in this context.

Treatment under MTT

Each constituent part of a PCC is treated as an entity in its own right for MTT purposes. The PCC itself is treated as not being an entity. This reflects the economic reality that the core and each cell of a PCC are economically independent.

Each constituent part of the PCC, being treated as a separate entity, will only be in scope of MTT if it is a member of a qualifying group. They are not to be treated as members of the same group simply by reason of their legal status as part of the same PCC.

Consequently, a cell of a PCC may be a member of one qualifying group, while other cells are members of other groups (or not in scope at all). Two or more cells could be members of the same qualifying group if they share a common majority owner, though in practice this would be highly uncommon.

The accounts of a PCC are not regarded as consolidated financial statements for MTT purposes.

Domestic top-up tax

For DTT purposes, a QTV is an excluded entity if it is not a member of a multinational group. This can include a constituent part of a PCC (which is being treated as a separate entity) if it meets the QTV definition.

10200 Scope - Excluded entities

Entities that meet the criteria to be an excluded entity are treated as not being members of the multinational group. They will not be chargeable members and will not be included in the MTT calculations.

The revenue of an excluded entity is still included when determining whether the revenue threshold has been met (see MTT11000).

Entities are excluded if they are:

- Non-profit organisations,
- Qualifying non-profit subsidiaries,
- Qualifying service entities,
- Qualifying exempt income entities.
- Government entities,
- International organisations, or
- Pension funds.

See MTT10210 for guidance on the definitions of non-profit organisation and qualifying non-profit subsidiary.

See MTT10220 for guidance on the definitions of qualifying service entity and qualifying exempt income entity.

See MTT10230 for guidance on the definitions of government entity and international organisation.

See MTT10240 for guidance on the definitions of pension fund and pension service entity.

Entities excluded when they are the ultimate parent

The following entities are excluded only if they are the ultimate parent of a group:

- Investment funds, or
- REITs (including UK REITs and overseas REIT equivalents).

These entities are also excluded if they would be an ultimate parent but are not, for the sole reason that they do not produce consolidated financial statements.
See MTT10250 for guidance on the definitions of investment fund and REIT.

Entities excluded despite not being a member of a group

It is not a requirement for an entity to be a member of a group for it to be an excluded entity. This may be significant in cases where an excluded entity that is not a member of a group has a subsidiary which is a member of the group that may be excluded as a qualifying service entity or qualifying exempt income entity (see MTT10220).

Example

X Ltd is an investment fund that would be the ultimate parent of a group but is not for the sole reason that it does not produce consolidated financial statements. It is therefore an excluded entity.

The deemed consolidated financial statement provision in paragraph 249(1)(d) does not apply to X Ltd because, according to subsection 249(2), an authorised accounting standard does not permit it to consolidate entities. Consequently, X Ltd is not part of any group.

X Ltd holds a 10% minority interest in A2 Ltd, which is 90% owned by another excluded entity, A Ltd. A2 Ltd is a member of a consolidated group. The activities of A2 Ltd consist entirely of activities ancillary to the activities of its two owners.

A2 Ltd will be excluded as a qualifying service entity, because X Ltd is an excluded entity despite not being a member of any group. Its minority interest therefore counts towards the 95% threshold in the criteria for qualifying service entities.

Election for an entity not to be excluded

A group can elect for a that a member of a group that is a qualifying non-profit subsidiary, a qualifying service entity, or a qualifying exempt income entity is not an excluded entity.

This can allow a group to choose to be subject to multinational top-up tax (or a foreign equivalent of the IIR) in their preferred territory.

Excluded entity is an ultimate parent

An entity will still be the ultimate parent of a group even if it is an excluded entity.

Differences with domestic top-up tax

A qualifying transformer vehicle (see MTT10120) will be an excluded entity, for DTT purposes only, unless it is a member of a multinational group.

10210 Scope - Definitions of “non-profit organisation” and “qualifying non-profit subsidiary”

Non-profit organisation

An entity is a non-profit organisation if:

- It is established and operated in the territory in which it is located exclusively for religious, charitable, scientific, artistic, cultural, athletic, educational, or other similar purposes, or is a professional organisation, business league, chamber of commerce, labour organisation, agricultural or horticultural organisation, civic league, or an organisation operated exclusively for the promotion of social welfare,
- Substantially all of the income from the activities it carries out for its non-profit purpose is exempt from income tax in the territory in which it is located,
- There are no shareholders or members with a right to its income or assets,
- The income or assets of the entity cannot be distributed to, or applied for the benefit of, a private person or non-charitable entity, except where:
  - That activity is pursuant to the purpose of the non-profit,
  - It is payment or payment in kind to the recipient, or
  - It is payment for the fair market value of property acquired by the non-profit,
- When the entity ceases to exist, its assets must become the assets of a non-profit organisation, or governmental entity in the same territory, and
- It does not carry on a trade other than one directly related to its purpose.

Qualifying non-profit subsidiary

A group may have entities that are treated as qualifying non-profit subsidiaries in a period if:

- The revenue of the group would not exceed €750 million, were the revenue of members that are non-profit organisations, qualifying service entities, or qualifying exempt income entities to be disregarded, and
- The revenue of members that is disregarded constitutes less than 25% of the total revenue of the group.

Where these criteria are met, any entity that is 100% owned by a non-profit organisation (or a combination of non-profit organisations) is a qualifying non-profit subsidiary.

This preserves the benefit of the gift aid regime by ensuring that non-profits with trading activity are not charged multinational top-up tax unless the trading activity would meet the revenue threshold by itself.

10220 Scope - Definitions of “qualifying service entity” and “qualifying exempt income entity”

These definitions include criteria that requires the calculation of the percentage ownership interest held by excluded entities. See MTT17060 for further guidance.

Qualifying service entity

n entity is a qualifying service entity if it is at least 95% owned by excluded entities, except for pension services entities, and either:

- The entity only carries out activities that are ancillary to the activities of its owners, or
- Aside from any such ancillary activities, almost all of the entity’s activities consist of holding assets or investing funds for the benefit of its owners.

For the purposes of the activities test, the activities of a permanent establishment and its main entity are to be considered together.

Qualifying exempt income entity

An entity is a qualifying exempt income entity if it is:

- At least 85% owned by excluded entities, except for pension services entities, and
- Almost all of the entity’s income consists of excluded dividends, excluded equity gains, or a combination thereof.

For the purposes of this test, the activities of a permanent establishment and its main entity are to be considered together.

10230 Scope - Definitions of “government entity” and “international organisation”

Government entity

An entity is a government entity if:

- It is wholly owned by a national, regional, or local government,
- It has the principal purpose of carrying out a public function of that government or managing or investing the assets of that government,
- It is accountable to the government on its overall performance and provides annual information reporting to the government,
- It does not carry on a trade or business,
- When dissolved, its assets belong to that government, and
- It does not distribute profit except to that government.

International organisation

An international organisation is an intergovernmental or supranational organisation that is:

- Comprised primarily of governments,
- Has a headquarters, or privileges or immunities in respect of its establishments, in the territory in which it is established, and
- It cannot distribute profits to private persons according to its governing documents or the law of that territory.

An entity that acts for, is part of, or is wholly owned by such an organisation is also an international organisation.

10240 Scope - Definitions of “pension fund” and “pension services entity”

Pension fund

An entity is a pension fund if it is established and operated in a territory exclusively, or almost exclusively, to administer or provide retirement and ancillary or incidental benefits to individuals, and:

- It is regulated as such in that territory, or
- The benefits provided are secured or otherwise protected by national regulations and funded by a pool of assets that are held via a fiduciary arrangement or trust to secure the fulfilment of corresponding pension obligations against a case of insolvency of the entity, or the group of which it is a member.

A pension services entity is also considered to be a pension fund.

Pension services entity

An entity is a pension services entity if it is established and operated exclusively, or almost exclusively, to:

- Invest funds for the benefit of an entity that is a pension fund (other than a pension services entity), or
- Carry out activities that are ancillary to the regulated activities carried out by a pension fund (other than a pension services entity) that is a member of the same group.

10250 Scope - Definitions of “investment fund” and “REIT”

Investment fund

An entity is an investment fund if it meets all of the following conditions:

- It is designed to pool assets from multiple investors.
- At least some of those investors must not be connected to the others.
- It makes investments in accordance with a designed investment policy.
- It operates with a view to allow its investors to reduce transaction, research and analytical costs, or to spread risks collectively.
- It is primarily designed to generate investment income or gains, or to protect against a particular or general event or outcome.
- Investors have rights to the assets of the fund, or income earned on those assets, based on their contributions.
- The entity, or its management, is regulated (including anti-money laundering and investor protection regulation) according to a regime based in the territory in which the entity is established or managed (or where the main entity is established or managed, in the case of a permanent establishment).
- It is managed by an investment management professional on behalf of the investors.

REIT

A real estate investment trust (‘REIT’) may be a UK REIT or an overseas REIT equivalent. This type of entity may be referred to as a real estate investment vehicle (‘REIV’) outside the UK.

An entity is a ’UK REIT’ if it is:

- A company UK REIT according to section 524, Part 12, CTA10, or
- A company that is a member of a group UK REIT according to sections 523 and 606 of CTA10.

An entity is an ‘overseas REIT equivalent’ if it is:

- Equivalent to a UK REIT, and
- Resident in a territory outside the UK.

See IFM21000+ for further guidance on REITs.

11000 Scope - The revenue threshold test

A group will be a qualifying group for a period if it has a member located in the UK and meets the revenue threshold test.

The revenue threshold is €750 million for an accounting period of 365 days. This threshold must be exceeded in two of the four periods immediately prior to the tested period (but not including the tested period).

The revenue of the group members is taken from the consolidated financial statements of the ultimate parent for the period. The revenue of all members of the group is therefore counted for the test, including excluded entities.

Domestic top-up tax

There are differences in the application of the revenue threshold test for domestic top-up tax purposes. See MTT11020 for further guidance.

Period lasting other than 365 days

Where a period is of a length other than 365 days, the threshold will be €750 million multiplied by the number of days in the period and divided by 365.

Mergers and demergers

Special rules apply if there has been a merger (including acquisitions) or demerger in the tested period or the prior 4 periods. See MTT11010.

Example

Group AB consists of two entities: A Ltd, the ultimate parent, which is located in the UK, and its subsidiary, B Ltd, which is an excluded entity located in another territory.

The group’s consolidated accounts run to 31 December.

To determine whether the group is qualifying for the period ending 31 December 2034, the previous four accounting periods are relevant:

Period	Revenue of A Ltd (€)	Revenue of B Ltd (€)	Total revenue in consolidated statements (€)
2030	500m	200m	700m
2031	600m	200m	800m
2032	550m	200m	750m
2033	700m	200m	900m

The 2032 period lasted for 366 days so the threshold for this period will be (€750m*366/365) = €752,054,794.52.

The other periods all cover 365 days so the threshold is €750m for each of these.

Despite being an excluded entity, the revenue of B Ltd is included in the test.

The group exceeds its threshold for two of the four previous years (2031 and 2033) and it is therefore a qualifying group for the 2034 period because:

- It has a member located in the UK, and
- It has exceeded the revenue threshold in two of the four periods immediately preceding the tested period.

11010 Scope - Revenue threshold test - Effect of mergers and de-mergers

The revenue threshold test applies to the four accounting periods preceding the period being tested. The entities that constitute the group may be different in those prior periods (the ‘testing period’), or the tested period, as a result of a merger or demerger.

Special rules are required in such cases to ensure that the revenue threshold test applies correctly.

Change in composition of an MNE

The special rules apply where the composition of a group changes in that period or during the four previous accounting periods which are known as the testing period.

If a member of a group was not a member of any consolidated group in one or more of the accounting periods during the testing period, its revenue is to be determined with reference to its financial statements or any consolidated financial statements in which its revenue is included.

If, in one of those accounting periods, the accounting period of the new member does not coincide with the accounting period of the group it is joining, the member’s revenue is to be apportioned on a just and reasonable basis.

The revenue of the entity or entities that have joined the group is combined with the group’s revenue for those periods in the testing period. This remains the case even if the group did not exist in one of those periods and all the group members in the testing period existed separately in the testing period.

Member acquired that was not a member of another consolidated group

Where a member of the group in the tested period was not a member of a consolidated group in any period in the testing period, its revenue will be included in the revenue of the group for the purpose of the revenue threshold test.

The figure for its revenue in that period will be determined using its financial statements or any consolidated financial statements that includes its revenue. An apportionment on a just and reasonable basis may be required to align the figures in these statements with the group’s accounting periods.

Example

A Ltd and B Ltd are individual companies that have never been part of any consolidated group. On January 1 2030, A Ltd acquired B Ltd, thus forming AB group. A Ltd produces consolidated financial statements with accounting periods ending on 31 December.
It is necessary to determine whether the group qualifies for MTT for the period ending 31 December 2030.

The revenue threshold test will apply to the four periods preceding the tested period, covering 2026 to 2029. For these periods, the revenue of A Ltd and B Ltd will be added together to assess whether the threshold has been met in those periods.

On January 1 2035, A Ltd acquires X Ltd. X Ltd had been a member of a consolidated group after being acquired by UPE Ltd on 1 July 2033, but was not a member of any consolidated group prior to that.

When determining whether AB group is qualifying for the 2035 period, the revenue of X Ltd will be included for the periods ending in 2031 and 2032 only, because X Ltd was a member of a consolidated group in the periods ending in 2033 and 2034.

Merger between two or more consolidated groups

If there is a merger between consolidated groups, the revenues of each of the consolidated group are to be included in the revenue threshold test for the merged group.

The revenue of each consolidated group is determined by the financial statements of its ultimate parent, and should be apportioned on a just and reasonable basis to the accounting period of the merged group.

A 'merger' in this context means any arrangement that results in two or more consolidated groups becoming a single consolidated group.

Demerged groups

If a multinational group that has met the revenue threshold test demerges into two or more separate consolidated groups, special rules will apply when determining whether each of the demerged groups meet the revenue threshold test in the four periods following the demerger. These rules alter the two-of-four-years provision.

The demerged group will pass the revenue threshold test if it exceeds the revenue threshold in the first period following the demerger.

In the following three periods (the second to fourth periods following the demerger), the demerged group will pass the revenue threshold test if it exceeds the revenue threshold in that period and any other period following the demerger and prior to the tested period.

Example

Group XYZ is created as the result of a demerger. Its accounting periods run to 31 December and its first accounting period begins on 1 January 2040.

Its revenue for the four periods following the demerger are as follows:

Period	Group revenue (from consolidated statements)
2040	€800
2041	€700
2042	€780
2043	€740

The revenue exceeds the threshold of €750m in 2040, so the test is met for this period.

In 2041 and 2043 the revenue does not exceed the threshold, so the test is not met for those periods.
In 2042, the revenue exceeds the threshold. The revenue also exceeds the threshold in a prior period following the demerger (2040). The test is therefore met for the period because:

- The tested period is one of the second to fourth periods immediately following the demerger,
- The revenue threshold is exceeded for the tested period, and
- The revenue threshold is exceeded for a period following the demerger and prior to the tested period.

11020 Scope - Revenue threshold test - Domestic top-up tax

The revenue threshold test will apply differently for DTT purposes for single entities.

The test will apply for DTT purposes in the same way for groups. See MTT11000 for the main guidance on the revenue threshold test.

See MTT10010 for further guidance on the scope of domestic top-up tax.

Revenue threshold test for single entities

A single entity that is located in the UK will meet the revenue threshold test if it exceeds the €750m threshold in two of the four periods prior to the tested period. The revenue will be taken from the qualifying financial statements of the entity.

The special rules where there has been a merger or demerger will not apply.

Qualifying financial statements

To be qualifying, financial statements must be prepared in accordance with acceptable financial standards.

If no such statements are prepared, the qualifying financial statements are those that would have been prepared in accordance with an authorised accounting standard that is either:

- An acceptable accounting standard, or
- A financial accounting standard with adjustments made to prevent material competitive distortions (as defined in subsection 249(4)).

15900 Transitional safe harbour

The transitional safe harbour allows groups to use figures calculated for the purposes of Country-by-Country Reporting (CbCR) to assess whether they are likely to face a top-up tax under multinational top-up tax (MTT) for a territory. If these simplified calculations indicate that there would be no top-up tax chargeable, the group is treated as having no tax charge and does not have to undertake the full effective tax rate calculations.

The transitional safe harbour aims to reduce the compliance obligations for groups in the first years of the regime.

Use of Country-by-Country Reporting (CbCR)

The scope of MTT was intended to align as closely as possible to that of Country-by-Country Reporting (see IEIM300000). In most instances, multinational groups that qualify for MTT will also be obliged to complete a CbC Report.

The calculations required by the safe harbour mainly rely on the figures already determined for the CbC Report, so most groups will not suffer significant additional compliance obligations when assessing whether they qualify for the safe harbour.

See MTT15920 for guidance on the source of data.

Design of the safe harbour

The safe harbour applies on a territory-by-territory basis and consists of three tests. A group will qualify for the safe harbour as long as one of these tests are met:

- The threshold test (see MTT15930), which is similar to the de minimis test in the main part of the rules.
- The simplified effective tax rate test (see MTT15940), which gives an approximation of the effective tax rate.
- The routine profits test (see MTT15950), which assesses whether the substance based income exclusion (SBIE) would cover any profits made in the territory.

These tests approximate the calculations that would be required for MTT. If any of the tests are met, this indicates that there would be no top-up tax chargeable under MTT in the accounting period.

See MTT15925 for guidance on adjustments made to the figures, which ensure the tests provide a more valid approximation of the outcomes that would have arisen had the full MTT computations been made for that jurisdiction.

Effect of the safe harbour

Where a group has elected to apply the safe harbour, and met the conditions, for a territory for a period:

- They will not have to undertake the full effective tax rate calculation.
- They will be treated as having no top-up tax amount for that period (including additional top-up tax amounts that may be calculated in respect of that period in subsequent periods).

- Any deferred tax assets arising in that period that would be excluded under MTT under subsection 185(6) will be ignored in the first period for which the group performs the full calculations for that territory.
- If there is an intra-group transfer in that period and the Pillar 2 rules do not apply to the transferor for that period, or the transitional safe harbour applies to the transferor for that period, and subparagraph 2(3) of Schedule 16 will apply to the transfer on the later of (a) the first day of the first period in which the transitional safe harbour no longer applies for the transferee territory (and performs the full calculations), or (b) the date of the transfer.
- The section 187 election (treatment of losses as special loss deferred tax asset) may be made in a later period as the standard members of the group are not subject to Pillar 2 in the period for which the safe harbour applies. See MTT52200 for further guidance on this election.

Example

An intra-group transfer takes place on 1 July 2025, in the accounting period ending 31 December 2025. During this period, the transferor (A Ltd) and transferee (Z Ltd) are both subject to the Pillar 2 rules.

The transitional safe harbour applies to A Ltd for the 2025 period, but the territory of Z Ltd only qualified for the safe harbour in the 2024 period. Z Ltd will complete the full calculations for the 2025 period.

Subparagraph 2(3) applies to the transfer because:

- It is an intra-group transfer that has taken place on or after 1 December 2021, and
- The transitional safe harbour applies to the transferor (A Ltd) for the period in which the transfer took place.

It will apply to the transfer from 1 July 2025, because this is the later of:

- 1 January 2025, the first date of the first period for which the transitional safe harbour no longer applies to the territory of Z Ltd, and
- 1 July 2025, the date of the transfer.

If the transitional safe harbour applied to Z Ltd for both the 2024 and 2025 periods, subparagraph 2(3) would have applied to the transfer from 1 January 2026.

Particular types of entity

There are special rules for joint ventures, investment entities, and minority owned members. See MTT15960 for further guidance.

Domestic top-up tax (DTT)

The safe harbour will also apply for DTT purposes. Some adjustments are required for wholly domestic groups and entities. See MTT15970 for further guidance.

15910 Transitional safe harbour - Conditions

To access the transitional safe harbour, the group must make an election for the safe harbour to apply for a territory for a period. The safe harbour will apply where the conditions are met.

Transitional period and "once out, always out"

An election may be made for accounting periods beginning on or before 31 December 2026 and ending on or before 30 June 2028.

If the group has already completed the full multinational top-up tax calculations for a territory, they cannot make the election again for subsequent periods. This "once out, always out" approach applies because the purpose of the safe harbour is to reduce the compliance obligations of the group when preparing systems for MTT compliance when first entering the regime.

If it is determined as a result of a compliance check that the group did not pass any of the tests for a period, it must conduct the full calculations for that period and any subsequent periods.

Example

A group has accounting periods ending on 31 December. In Territory A, it only meets the conditions for the safe harbour for the periods ending on 31 December 2024 and 31 December 2026. It does not have any members located in Territory B until the period ending 31 December 2026, and the conditions are met for that period.

The group can elect to apply the safe harbour for Territory A for the period ending 31 December 2024.

The group cannot elect to apply the safe harbour for Territory A:

- For the period ending 31 December 2025, because the conditions were not met,
- For the period ending 31 December 2026, because it had already completed the full effective tax rate calculation for that territory in a preceding period, nor
- For the period ending 31 December 2027, because the period began after 31 December 2026.

The group can elect to apply the safe harbour for Territory B for the period ending 31 December 2026, because:

- The period begins and ends within the transitional period,
- The conditions are met, and
- A full effective tax rate calculation was not required to be completed for that territory in any preceding period.

Making the election

The election is made annually via the information return, and details of how one or more of the tests are met must be included in the information return.

Conditions

The safe harbour is not available to the group in the following cases:

- None of the three tests are met for the territory.
- A qualifying Country-by-Country (CbC) Report has not been prepared for the territory, and the group is a multinational group (see MTT15970 for application to wholly domestic groups and entities).
- A deemed distribution tax election has been made for the territory.
- The ultimate parent is a flow-through entity and has adjusted profits greater than nil after attribution of profits to permanent establishments. In this case, the safe harbour is not available in the territory of the ultimate parent.

15920 Transitional safe harbour - Source of data

The figures used in the transitional safe harbour tests are:

- Revenue, which is taken from the CbC Report.
- Profit (loss) before income tax, which is taken from the CbC Report.
- Qualifying income tax expense, which should be taken from the same accounts that were used to prepare the CbC Report for that territory.
- The substance based income exclusion amount, which must be calculated according to the rules required under the full calculation.

The CbC Report must be qualifying.

See MTT19525 for the adjustments made to these figures.

Qualifying Country-by-Country (CbC) Report

A CbC Report will be a qualifying CbC Report if:

- It is prepared and filed in accordance with OECD guidance, and
- The information on the relevant territory is prepared using qualified financial statements.

This ensures that, where information on some territories in the report is not prepared using qualified financial statements, the group can still qualify for the safe harbour for the other territories.
Only multinational groups are able to file a CbC Report. See MTT15970 for guidance on the application of the safe harbour to wholly domestic groups and entities.

Qualified financial statements

The “qualified financial statements” are either:

- The accounts used to prepare the consolidated financial statements of the group, or
- The financial statements of individual members of the group that are prepared in accordance with an acceptable or authorised accounting standard.

The CbC Report will not qualify if, for a territory, the figures are derived from a combination of these two categories of qualified financial statements.

Example

A group prepares and files a CbC Report in accordance with OECD guidance for the three territories in which it operates.

The figures in the Report relating to Territory A are derived only from the accounts used to prepare the group’s consolidated financial statements.

The figures in the Report relating to Territory B are derived only from the financial statements of individual members that are prepared in accordance with the acceptable accounting standard used in that territory.

Some of the figures in the Report relating to Territory C are partly derived from the accounts used to prepare the group's consolidated financial statements, and partly derived from different financial statements of individual members.

The CbC Report is qualifying for Territory A and Territory B because:

- The Report was prepared and filed in according with OECD guidance, and
- The figures relating to each of those territories were derived exclusively from one of the two categories of qualified financial statements.

It is not qualifying for Territory C, because a combination of the two categories of qualified financial statements were used to derive the figures relating to Territory C.

Non-material members

Where the consolidated financial statements do not include entities for reasons of materiality, the financial accounts of those non-material members that are used to prepare the CbC Report are also considered to be qualified financial statements, even if they are not prepared in accordance with an acceptable or authorised accountings standard.

Multi-parent groups

For multi-parent groups, the CbC Report must cover all of its constituent groups to be qualifying.

15925 Transitional safe harbour - Adjustments required

Some adjustments are required to the figures used for the purposes of the transitional safe harbour. These adjustments ensure the calculations undertaken for the transitional safe harbour tests are aligned as closely as possible to the full calculations that would be required for multinational top-up tax.

Adjustments made to arrive at qualifying income tax expense

“Qualifying income tax expense” is income tax expense adjusted to exclude:

- Amounts that do not relate to covered taxes, and
- Amounts relating to uncertain tax positions.

Ultimate parent subject to deductible dividend regime

Where:

- The ultimate parent of a group is subject to a deductible dividend regime, and
- It registers a profit in its profit (loss) before income tax,

its profit (loss) before income tax is reduced, but not below zero, by the amount of qualifying dividends that would be deducted from its adjusted profits according to section 171(1).

This reduction cannot reduce the ultimate parent’s profit (loss) before income tax below zero.

Net unrealised fair value loss

Where:

- The standard members of the group in the territory have losses arising from changes in fair value of relevant ownership interests, and
- Those losses exceed the gains on changes in fair value of relevant ownership interests by more than €50 million,

that loss is excluded from the aggregate profit (loss) before income tax for that territory.

An “ownership interest” in an entity is relevant if, at the end of the accounting period, the aggregate ownership interest of all members of the group in the entity entitles them to 10% or more of the profits, capital, reserves and voting rights of that entity. [Note - this currently needs to be corrected in the legislation.]

This adjustment ensures that the treatment of an excluded equity gain or loss in the full MTT calculation is also applied for transitional safe harbour purposes.

Example

A multinational group has two members in a territory, group member A and group member B.

Group member A has a 4% ownership interest in entity 1, and group member B has a 2% ownership interest in the same entity. The ownership interest constitutes an equal right to profits, capital, reserves and voting rights in entity 1. No other ownership interest is held by any member of the group.

In the accounting period, group member A records a €40 million fair value loss in respect of its ownership interest in entity 1. Group member B records a €20 million fair value loss in respect of its ownership interest.

An adjustment is required to exclude the losses, because:

- The aggregate ownership interest of all members of the group in entity 1 is 6%, which is less than 10%, so the ownership interests are relevant.
- There is a net loss of €60 million arising from changes in fair value of relevant ownership interests.
- There are no other relevant ownership interests, so there is a net unrealised fair value loss.
- The net unrealised fair value loss is €60 million, which exceeds €50 million.

Investment entity tax transparency election

Where:

- An investment entity tax transparency election has been made under section 213, and
- An amount of profit or qualifying tax expense would be allocated from an investment entity to another member of the multinational group according to that section,

that amount must be reflected in that other member's profit (loss) before income tax or qualifying tax expense.

If the amount is already reflected in those figures, no adjustment will be required.

Taxable distribution method election

Where:

- A taxable distribution method election has been under section 214, and
- An amount of profit or qualifying tax expense would be reflected in the adjusted profits or covered tax balance of a member of the group as a result of that election,

that amount must be reflected in the member's profit (loss) before income tax or qualifying tax expense.

If the amount is already reflected in those figures, no adjustment will be required.

Example

Group ABC consists of:

- ABC Ltd, the ultimate parent, which is located in Territory A,
- B Ltd, an investment fund, which is located in Territory B.

ABC Ltd has a 70% direct ownership interest in B Ltd. The remainder is owned by third party individual investors.

B Ltd makes a profit of £100 in an accounting period.

ABC Ltd is taxed on a mark-to-market basis, so the fair value movement of B Ltd will be reflected in the accounts of ABC Ltd in accordance with its ownership interest of 70%.

ABC Ltd makes an investment entity tax transparency election under section 213 in respect of its ownership interest in B Ltd.

For the purposes of the transitional safe harbour tests for Territory A, £70 of profit (and any relevant taxes) in respect of the ownership interest in B Ltd will already be reflected in the figures for profit (loss) before income tax and qualifying tax expense. No further adjustment is required.

If the accounts of ABC Ltd did not already reflect the fair value movement of B Ltd, an adjustment would be required. This is because the effect of the investment entity tax transparency election is that B Ltd is to be treated as tax transparent, so its profits (and relevant taxes) would be allocated to ABC Ltd when determining ABC Ltd's adjusted profits in the full MTT calculation.

For Territory B, it is not possible for B Ltd to be included in the safe harbour calculation, because:

- It is an investment entity, and
- A member of a multinational group that is located in another territory has a direct ownership interest in it.

However, B Ltd will not have any adjusted profits in the MTT calculation because its profits will be reallocated to ABC Ltd as a result of the investment entity tax transparency election. Therefore, it should not be charged any top-up tax.

If there were other non-investment entities in Territory B, it would still be possible for them to qualify for the safe harbour.

15930 Transitional safe harbour - The threshold test

The threshold test is met for a territory for an accounting period when both:

- The revenue of the members is less than €10 million, and
- The aggregate profit before income tax of the members is less than €1 million, or a loss.

Members held for sale

If the group:

- Has members held for sale in the territory, and
- The revenue of these members is not included in the revenue figure taken from the CbC Report,

an adjustment is required to include the revenue of those members for the purposes of the revenue test.

This adjustment is required because members held for sale may not be considered in CbCR but should be considered for multinational top-up tax purposes.

15940 Transitional safe harbour - The simplified effective tax rate test

The simplified effective tax rate test is met for a territory for an accounting period when the simplified effective tax rate (ETR) is above the minimum.

The simplified ETR is:

- The qualifying income tax expense of the members in the territory,
- divided by
- The aggregate profit (loss) before income tax for those members.

If the group does not qualify for the safe harbour, it must conduct the full multinational top-up tax calculations to determine the ETR. The simplified ETR is only used to determine whether the group meets the test for the transitional safe harbour. It is not used to calculate any top-up tax liabilities.

Minimum ETR

The minimum ETR is:

- 15%, for accounting periods beginning in 2023 or 2024,
- 16%, for accounting periods beginning in 2025, or
- 17%, for accounting periods beginning in 2026.

15950 Transitional safe harbour - The routine profits test

The routine profits test is met for a territory for an accounting period if:

- The aggregate profit (loss) before income tax of the members is nil or a loss, or
- The aggregate profit (loss) before income tax of the members is equal to or less than the qualified substance based income exclusion (SBIE) amount for the territory.

Qualified substance based income exclusion (SBIE) amount

The qualified SBIE amount is the SBIE amount that would be calculated under the main rules, except that the payroll and tangible asset carve-out amounts are ignored for any member that is:

- Not regarded as a constituent entity of the group for CbCR purposes, or
- Not regarded as being located in the territory for CbCR purposes.

15960 Transitional safe harbour - Particular types of entity

The transitional safe harbour applies differently to some types of entity. These rules are generally intended to align the safe harbour tests to the main rules of multinational top-up tax, while ensuring that the safe harbour provides as much simplicity as possible.

Joint venture groups

Joint venture groups, which consists of a joint venture and its subsidiaries, are ring-fenced under the main rules when calculating the ordinary ETR computation. This treatment also applies in the safe harbour.

The entities in a joint venture group will not be included in the CbC Report. Therefore, the requirement to produce a qualified CbC Report does not apply. The figures used must still be derived from qualified financial statements with the figures for revenue and profit (loss) before income tax to be calculated according to the same requirements imposed under CbCR.

Investment entities

Investment entities are generally not included in the safe harbour calculations and are not covered by the safe harbour. This means that the full MTT calculation will need to be made for the investment entity, even if the other entities in the jurisdiction qualify for the transitional safe harbour.

However, where all the members of a multinational group with a direct ownership interest in an investment entity are located in the same territory as the investment entity, the investment entity must be included in the calculations and will also be covered by the safe harbour (if one or more of the tests are met).

Ultimate parent that is a flow-through entity

A group cannot elect to the safe harbour for a territory that contains an ultimate parent that is a flow-through entity unless:

- After making adjustments in accordance with section 170, the profits of the ultimate parent would be nil, or
- The adjusted profits of the ultimate parent would be attributed to one of more permanent establishments, and no income or expense of any permanent establishment would be attributed to the ultimate parent in accordance with section 160.

In these cases, the ultimate parent would have no adjusted profits in the main MTT calculation. Because the ultimate parent that is a flow-through entity is stateless for CbCR purposes, there is effectively an alignment between the CbCR and MTT rules in such cases.

Stateless members

Stateless members are not eligible for the safe harbour. See MTT18000 for guidance on stateless members.

Deemed distribution tax election

A group cannot elect to the safe harbour for a jurisdiction that contains a member in respect of which a deemed distribution tax election has been made.

Minority owned members

In the main rules, minority owned members are ring fenced, but they are undifferentiated in the CbCR rules. As a simplification, there is no separate treatment of minority owned members for safe harbour purposes. Minority owned members are included in the safe harbour calculations for their territory and are covered by the safe harbour where the entities in the territory have qualified for it altogether.

Entities held for sale

Entities held for sale are included in the MTT calculations under the main rules, but they are not included in the CbC Report. As a simplification, there is no adjustment required in these cases, and entities held for sale are still covered by the safe harbour even though their financial results are not reflected in the tests.

15970 Transitional safe harbour - Wholly domestic groups and entities

The transitional safe harbour applies for domestic top-up tax purposes in the same way as it does for multinational top-up tax, with some exceptions for wholly domestic groups and entities.

Wholly domestic groups and entities

Only multinational groups may produce a CbC Report. Consequently, the requirements relating to CbC Reports are not applicable to wholly domestic groups and entities.

To undertake the tests for the safe harbour, these groups and entities must calculate the figures for revenue and profit (loss) before income tax, in the same way that they would have been calculated were the group or entity to prepare a CbC Report.

The requirement for the information to be derived from qualifying financial statements applies in the same way.

Single entities

Single entities will not produce consolidated financial statements. References to the consolidated statements are to be taken as references to the qualifying financial statements of the single entity.

17000 Determining ownership of entities

The following pages provide guidance on how to determine the ownership of an entity in MTT:

MTT17010 provides guidance on the effective date of a transfer of interest.

MTT17020 defines “direct interest”, “indirect interest”, and “controlling interest”.

MTT17030 provides guidance on how to determine the percentage ownership that a direct or indirect interest represents.

MTT17040 provides guidance on how to determine the percentage ownership held in an entity by a specific entity or individual, including both direct and indirect interests held in the entity.

MTT17050 provides similar guidance but for ownership interest held by a specific class of entities.

MTT17060 provides similar guidance but for ownership interest held by excluded entities.

17010 Timing of transfers of interests

Where ownership interests in an entity are transferred from one individual or entity to another individual or entity, the effective date of that transfer is the earlier of:

- The time when the obligations of the parties necessary to effect the transfer have been met, and
- The time when substantive consideration for the transfer has been provided.

"Substantive consideration" means any amount of consideration for the transfer, other than an amount that:

- Was provided before the transfer, and
- Would not be refundable in the event that the transfer did not take place due to a failure by the transferee to meet obligations pertaining to the transfer.

17020 Ownership interests and controlling interests

An ownership interest can mean a direct or indirect ownership interest for the purposes of MTT.

Direct ownership interest

An entity ("A") has a direct ownership interest in another entity ("B") if:

- A has an interest in B, which can be shares, other security or any other interest,
- That interest entitles A to a share of the profits, capital or reserves of B or a permanent establishment of B, and
- The interest, ignoring any requirement to consolidate the assets, liabilities, income, expenses and cash flows of B in the consolidated financial statements of A, would be accounted for as equity in those statements.

The interest may entitle A to profits, capital or reserves as a result of any event, including distributions and winding-up.

This definition effectively limits direct ownership interests to interests which are recognised by the holder as equity for accounting purposes.

There is a need to disregard the consolidation of financial results as the ownership interest may be eliminated as a result of consolidation.

Tax-transparent entities

A tax transparent entity such as a partnership is an entity for the purposes of MTT. Therefore, the partners in a partnership have an indirect rather than a direct ownership interests in entities which are wholly or partly owned by the partnership. The partnership itself is regarded as the holder of the direct ownership interests in those entities.

Indirect ownership interest

An entity ("A") has an indirect ownership interest in an entity ("B") if:

-
- A has a direct ownership interest in another entity that has a direct ownership interest in B, or
- A has a direct ownership interest in another entity that has an indirect ownership interest in B.

Controlling interest

An ownership interest that A has in B is a "controlling interest" if:

- As a result of that ownership interest, A is required to consolidate the assets, liabilities, income and expenses of B on a line by line basis in accordance with an acceptable financial accounting standard, or

- A does not prepare consolidated financial statements, but would be so required to consolidate the assets, liabilities, income and expenses of B if it did. This is sometimes referred to as the 'deemed consolidation' rule.

Additionally, a main entity always has a controlling interest in its permanent establishment(s).

Controlling interest - exception to deemed consolidation rule

A will not have a controlling interest in B through the deemed consolidation rule if B is not required to be consolidated with A according to any applicable authorised accounting standard. For example, an authorised accounting standard may not require, or may specifically not permit, the consolidation of investment entities.

17030 Calculating percentage direct and indirect ownership interests

Calculating direct interests

The direct interest an individual or entity ("A") holds in an entity ("B") is the average proportional entitlement of A to the following types of interest that are relevant:

- An interest giving rise to a share of B's profits.
- An interest giving rise to a share of B's capital.
- An interest giving rise to a share of B's reserves.

All types of interest will be "relevant" unless the provision in question specifies that only some of the types are relevant.

Example

A Ltd holds an interest in B Ltd that entitles it to 30% of the profits of B Ltd, but none of the capital or reserves.

The provision does not specify which types of interest are relevant, so all of the three types are relevant.

The average proportional entitlement of A Ltd across the relevant types of interest is 10% (30%+0%+0%/3).

A Ltd has a 10% direct ownership interest in B Ltd for the purpose of the provision.

Calculating indirect interests

Indirect interests are calculated in the same way as for many other tests of this type, such as the level of ownership for corporation tax group relief.

Determine the direct interests held by each entity in the chain of entities (using the averaging process above in each case) and multiply these percentages for each entity up the chain in turn to determine the indirect ownership for each entity.

If an entity has indirect interests in another entity via multiple ownership chains, its total indirect interest will be the aggregate of these interests.

Exclusion of indirect interest held through ultimate parent

When determining whether an entity has an indirect ownership interest in a member (other than the ultimate parent) of a multinational group, any interests arising solely as a result of an ownership interest in the ultimate parent should be ignored.

This is required because in some cases it is necessary to test the ownership interest held in an entity by persons who are not member of the group (for example, when determining whether an entity is a partially owned parent – see MTT05110). The ownership interest includes direct and indirect interests, so if indirect interests held through the ultimate parent were not excluded, even a wholly-owned subsidiary of the ultimate parent would be considered to have ownership interests held outside of the group.

Example

A Ltd is the ultimate parent of a multinational group. It has two wholly-owned subsidiaries, A1 Ltd and A2 Ltd. No other person is entitled to the profits, capital or reserves of these subsidiaries.

A1 Ltd has a 40% direct ownership interest in B Ltd.

A2 Ltd has a 20% direct ownership interest in B Ltd.

A Ltd has an indirect interest of 60% in B Ltd, which is the aggregate of the (100% * 40% =) 40% indirect interest held through A1 Ltd, and the (100% * 20% =) 20% indirect interest held through A2 Ltd.

Z Ltd has a 1% direct interest in A Ltd. It does not hold any direct interest in any other entity. Z Ltd does not have an indirect interest in the subsidiaries of A Ltd for MTT purposes, because its interest is held through the ultimate parent of a multinational group.

17040 Calculating the percentage ownership interest held by a specific entity or individual

For some provisions of MTT, it is necessary to determine the percentage ownership interest, including direct and indirect interests, that a specific entity or individual holds in an entity. A rule is required to ensure that both the direct and indirect interests of the person are considered, and to prevent the double counting of interests.

In other provisions, only the direct interests are considered. In those cases, it is not necessary to apply this rule.

The rule

To determine the percentage interests held in an entity ("A") by a specific entity or individual ("B"):

Step 1: Ignore any indirect interest not held by B.

Step 2: If B has an indirect interest in A, reduce the direct interest through which it is held by the amount of the indirect interest.

The total interests recognised will always add up to 100%.

Example

B Ltd has a 10% direct interest in A Ltd, and a 40% direct interest in Z Ltd.

Z Ltd has a 90% direct interest in A Ltd.

It is necessary to determine the percentage ownership interest that B Ltd holds in A Ltd.

Step 1:

B Ltd has a 10% direct interest in A Ltd and a 36% indirect interest via Z Ltd.

Z Ltd has a 90% direct interest in A Ltd.

There are no other direct interests and all other indirect interests are ignored.

Step 2:

B Ltd has an indirect interest of 36% derived from Z Ltd's 90% interest. We reduce the direct interest by the amount of the indirect interest (leaving Z Ltd with an interest of 54%).
The percentage ownership interest that B Ltd holds in A Ltd is therefore 46%.

17050 Calculating percentage ownership interest held by a class

For some provisions of MTT, it is necessary to determine the aggregate percentage ownership interest, including direct and indirect interests, that a certain class of entity holds in an entity. An example is when testing whether an entity is an investment entity under section 236(3)(c)(i).

A rule is required to ensure that both the direct and indirect interests held by the relevant entities are considered, and to prevent the double counting of interests.

In other provisions, only the direct interests are considered. In those cases, it is not necessary to apply this rule.

Excluded entities

This rule does not apply when assessing the percentage ownership interest held in an entity by excluded entities. See MTT17060 for the rule which applies in such cases.

The rule

To determine the percentage ownership interests in an entity ("A") held by a class of entities ("B"):

Step 1: Ignore indirect interests held by entities that are not members of B.

Step 2: Ignore indirect interests held via an entity that is a member of B.

Step 3: If a member of B has an indirect interest in A that has not been ignored under a previous step, reduce the direct interest through which it is held by the amount of the indirect interest.

The total interests recognised will always add up to 100%.

Example

It is necessary to determine whether A Ltd meets the condition at section 236(3)(c)(i). This will be the case if it is 95% owned by investment funds, UK REITs, or overseas equivalents. B1 Ltd, B2 Ltd and B3 Ltd are investment funds. Z Ltd is neither an investment fund nor a REIT.

B1 Ltd has a 90% direct interest in A Ltd.

Z Ltd has a 10% direct interest in A Ltd.

B2 Ltd has a 60% direct interest in Z Ltd.

B3 Ltd has a 50% interest in B2 Ltd.

No other investment funds or REITs have an interest in these entities.

Step 1:

B1 Ltd has a 90% direct interest in A Ltd.

Z Ltd has a 10% direct interest in A Ltd.

B2 has a 6% indirect interest in A Ltd.

B3 has a 3% indirect interest in A Ltd.

All other indirect interests are ignored as they are held by entities that are not members of the relevant class of entity.

Step 2:

B3 has an indirect interest in A Ltd held through B2 Ltd. B2 Ltd is a member of the relevant class of entity. The interest of B3 is therefore ignored.

Step 3:

B2 has a 6% indirect interest held through Z Ltd. We reduce the direct interest by the amount of the indirect interest (leaving Z Ltd with an interest of 4%).

B1 has a 90% direct interest in A Ltd and B2 has a 6% indirect interest in A Ltd. The percentage ownership held by the relevant class in A Ltd is therefore 96%. This exceeds 95%, so the test is met.

17060 Calculating percentage ownership interest held by excluded entities

When determining whether an entity is a qualifying service entity or a qualifying exempt income entity (see MTT10220), it is necessary to determine the aggregate percentage ownership interest, including direct and indirect interests, that excluded entities hold in the entity.

A different rule is required for these tests because they require that indirect interests are not disregarded if they are held via a chain of qualifying service entities and qualifying exempt income entities. However, the purpose of preventing double counting is the same.

Pension services entities

Note that, for the purpose of these tests, a pension services entity is not treated as an excluded entity.

The rule

To determine the percentage ownership interest held in an entity ("A") by excluded entities:
Step 1: Ignore any indirect interests, except for those held solely through one or more qualifying service entities or qualifying exempt income entities.

Step 2: Where an interest is held by an entity solely through one or more qualifying service entities or qualifying exempt income entities, ignore any direct or indirect interest through which it is held.

The effect of this rule is that, for the purposes of the tests, we look through all ownership interests held by qualifying service entities and qualifying exempt income entities.
The total interests recognised will always add up to 100%.

Example

It is necessary to determine whether A Ltd is a qualifying exempt income entity. For this definition to be met, it must be 85% or more owned by excluded entities.

EE Ltd is an excluded entity that is not a pension services entity.

Z Ltd is not an excluded entity.

QSE Ltd is a qualifying service entity and QEIE Ltd is a qualifying exempt income entity.

Z Ltd has a 15% direct interest in A Ltd. It also has a 10% direct interest in EE Ltd.

EE Ltd has a 100% direct interest in QSE Ltd, which in turn has a 100% direct interest in QEIE Ltd.

QEIE Ltd has an 85% direct interest in A Ltd.

Step 1:

Z Ltd has an 15% direct interest in A Ltd.

Z Ltd also has an 8.5% indirect interest in A Ltd (via its interest in EE Ltd).
EE Ltd has an 85% indirect interest in A Ltd.

QSE Ltd has an 85% indirect interest in A Ltd.

QEIE Ltd has an 85% direct interest in A Ltd.

The indirect interest of Z Ltd is ignored as it is held via EE Ltd, which is neither a qualifying service entity nor a qualifying exempt income entity. Similarly, all indirect interests not listed above are ignored, as they must be held via either Z Ltd or EE Ltd.

Step 2:

EE Ltd holds an 85% indirect interest via QSE Ltd and QEIE Ltd. The indirect interest held by QSE Ltd and the direct interest held by QEIE Ltd are ignored.

The ownership interests recognised are the 85% indirect interest held by EE Ltd and the 15% direct interest held by Z Ltd.

Exactly 85% of the percentage ownership interest in A Ltd is held by excluded entities. The test is therefore met and A Ltd is a qualifying exempt income entity.

18000 Determining location of entities

An entity is located in a territory for MTT purposes if it is tax resident in that territory on the basis of place of management, place of creation, or similar criteria.

See MTT18030 for guidance on the meaning of “place of creation”, and INTM120000+ for guidance on criteria for residence of companies including place of management.

Entity not tax resident in any territory

If an entity is not tax resident in any territory, it is deemed to be located in the territory in which it was created.

Entity tax resident in multiple territories

If an entity is tax resident in multiple territories, a tie-breaker applies to locate the entity in a single territory (see MTT18010).

Stateless entities

A stateless entity is treated as not being located in any territory. Each stateless entity is located in its own separate notional territory for MTT purposes.

There is therefore no jurisdictional blending between stateless entities and each entity will perform a separate calculation to determine the top-up tax charge.

Change of territory

If the location of an entity changes during an accounting period, it should be treated as located in the territory that it was located in (or treated as being located in) at the start of the period.

Flow through entities and permanent establishments

Special rules apply when determining the location of flow through entities or permanent establishments (see MTT18020).

18010 Determining location of entities - Entity resident in more than one territory

If an entity is tax resident in more than one territory for an accounting period, and both or all of those territories are party to a tax treaty that deems it to be resident in one of the territories, the entity will be treated as located in that territory for that period.

No determinative tax treaty

Where there is no such tax treaty, the following tie-breakers work to locate the entity in a single territory for the accounting period. These tie-breakers are to be completed in order.

Tie-breaker 1:

The entity is treated as located in the territory in which it accrued more covered taxes in the period (excluding taxes arising from a CFC regime).

Tie-breaker 2:

The entity is treated as located in the territory in which it had a greater qualifying substance based income exclusion (SBIE) amount.

Tie-breaker 3:

If it is the ultimate parent of a multinational group, the entity is treated as located in the territory in which it is created.

Otherwise, it is treated as a stateless entity.

Qualifying substance based income exclusion amount

If the SBIE is calculated for the territory for the relevant period, the “qualifying SBIE amount” is the sum of the payroll carve-out amount and the tangible asset carve-out amount that would be calculated under section 60(1), if the entity were solely located in that territory.

If the SBIE is not calculated for the territory for that period, the qualifying SBIE amount is nil.

Exception for entities treated as not located in the UK as a result of a tie-breaker

For the purposes of chargeability and determining whether a group is a multinational group, an entity will be treated as located in the UK if it:

- Is not subject to MTT or any equivalent Income Inclusion Rule in a foreign jurisdiction,
- Is tax resident in the UK based on its place of management, place of creation or similar criteria,
- Is treated as not located in the UK for MTT purposes, due to a treaty or tie-breaker, and

- Would be treated as a responsible member of a multinational group if it were located in the UK.

This ensures that groups with an entity that is UK tax resident will not avoid being charged MTT as a result of dual residency.

See MTT05100 for guidance on chargeability, and MTT10100 for guidance on the definition of “multinational group”.

Example

Group ABC consists of:

- A Ltd, the ultimate parent, which is tax resident in Jurisdiction A.
- B Ltd, a subsidiary of A Ltd, which is dual resident in both the UK and Jurisdiction B.
- C Ltd, a subsidiary of B Ltd, which is tax resident in Jurisdiction C.

Jurisdictions A, B and C do not enforce any Pillar 2 rules.

Due to a treaty between the UK and Jurisdiction B, B Ltd is treated as being located in Jurisdiction B for Pillar 2 purposes.

No member of Group ABC is located in a Pillar 2 jurisdiction, so B Ltd will not be subject to any Income Inclusion Rule.

The exception will apply and B Ltd is instead to be treated as located in the UK for Pillar 2 purposes, because:

- It is tax resident in the UK based on place of creation, place of effective management, or similar criteria,
- Were it to be located in the UK, it would be a responsible member,

and, but for the exception,

- It would be treated as located outside the UK for Pillar 2 purposes, as the result of a treaty, and
- No other jurisdiction would apply an Income Inclusion Rule to it.

18020 Determining location of flow-through entities and permanent establishments

Location of flow-through entities

A flow-through entity that is a responsible member is treated as located in the territory in which it was created (see MTT18030).

A flow-through entity that is not a responsible member is a stateless entity.

See MTT05110 for guidance on responsible members.

Location of permanent establishments

The location of a permanent establishment (PE) depends on which of the four conditions it meets under section 232(2)(a)-(d).

An entity that is a PE because of a tax treaty is located in the territory where it is treated as a PE under that tax treaty.

A PE that is taxed on a similar basis to other tax residents is located in the territory in which it is subject to net basis taxation based on its business presence.

A PE that is located in a territory without a corporate income tax, but would be taxable by that territory if it did have a corporate income tax, is located in the territory in which it is situated.

Other PEs are stateless entities.

18030 Determining location of entities - Meaning of “place of creation”

Generally, an entity will be regarded as having been created in the jurisdiction whose law governs the entity’s constitution (or any other arrangement that regulates the rights of its members, such as a partnership agreement).

If there is no such arrangement (for instance, where a general partnership is deemed to have been brought into existence by law due to the actions of its members), we should consider the wider circumstances when determining where the entity should be regarded as created. For example, the jurisdiction(s) under whose law the partnership was deemed to arise.

18040 Meaning of “tax resident” for individuals

An individual is considered to be tax resident for MTT purposes in any territory in which they are tax resident for the purposes of an income tax imposed by the same territory.

Example

According to the rules of an income tax imposed by Territory A, John is tax resident in Territory B.

This does not necessarily mean that John is tax resident in Territory B for MTT purposes.

John will only be tax resident in Territory B for MTT purposes if Territory B itself imposes an income tax under which John is tax resident in that territory.

50100 Overview of administration

HMRC are responsible for collecting and managing the Multinational top-up tax (MTT). Schedule 14 sets out the legislative framework under which payment of MTT is to be administered.

The following pages provide some practical guidance in support of the legislation:

MTT51000+ provides guidance on the filing member and the obligations of the filing member. MTT is applied to groups, but administration is simplified by the selection of a single member of the group as the point of contact for compliance.

MTT52000+ provides guidance on the information return, also known as the GloBE Information Return.

MTT53000+ provides guidance on the self-assessment return.

MTT54000+ provides guidance on the payment date, interest, group payment notices, and relief of overpaid tax.

MTT55000+ provides guidance on compliance, including compliance checks, discovery assessments, HMRC determinations, penalties, appeals, and reviews.

Domestic top-up tax

Domestic top-up tax (DTT) is generally administrated in the same way as MTT. See MTT50200 for differences in the administration of DTT.

Where this guidance refers to MTT, it is also referring to DTT, unless noted otherwise.

Accounting periods

References to accounting periods will refer to the accounting period of the consolidated financial statements of the group, rather than that of any individual member of the group.

50210 Administration of Domestic top-up tax – Penalties

The MTT penalty regime is replicated for DTT purposes. This is necessary because wholly domestic groups and entities will not be in scope of MTT.

Additionally, some penalties are tax-geared. The MTT and DTT liabilities will not overlap, so the penalty will need to be charged in respect of both taxes to ensure that the tax-geared element is charged on the aggregate liability.

Where a fixed penalty is chargeable in respect of both MTT and DTT, the HMRC officer should consider whether it may be appropriate to waive one of the penalties.

Example

A multinational group has submitted a self-assessment return one week late. The self-assessment return contains information relating to both MTT and DTT.

It is possible for the group to be charged a £100 penalty in respect of each of the taxes (see MTT55430). However, the HMRC officer may consider it appropriate to charge the penalty in respect of one of the taxes only.

Another multinational group submits its self-assessment return eight months late. It is necessary to charge a penalty in respect of both MTT and DTT because the penalty may be tax-geared.

51000 Filing member

MTT applies to a multinational group as a whole but, to simplify compliance, a single entity in the group is responsible for dealing with all aspects of administration relating to the MTT with HMRC. This entity is referred to in the legislation as the ‘filing member’.

By default, the group’s ultimate parent is the filing member. However, it is possible to nominate a different company within the group to be the filing member.

The following pages contain further guidance on the filing member.

Domestic top-up tax

The filing member for DTT will be the same as the MTT filing member. This is the case regardless of whether the filing member is the default filing member or a nominated alternative filing member.

51100 Identifying the filing member

By default, the filing member will be the ultimate parent of the group. A company that is a member of the group may be nominated as an alternative filing member (see MTT51200).

Ultimate parent is not a company

Where a trust or a partnership is the ultimate parent, the obligations may be discharged by certain partners or trustees (see MTT51300).

Multiparent groups

Where a multiparent group has not nominated a specific filing member, every ultimate parent in the multiparent group will be the filing member by default. Each of these entities will bear the obligations of the filing member (see MTT51300).

In all other cases, there will only be one filing member at any time.

51200 Nominating an alternative filing member

The ultimate parent can nominate another company to be the filing member. If the ultimate parent does not nominate a company, or the nomination is not valid, then the ultimate parent of the group will be the filing member (see MTT51100).

For a nomination to be valid:

- The nominated filing member must be a company,
- It must be a member of the group, and
- The nomination must be made in writing.

The nominated company does not need to be a UK company, or have a previous registration with HMRC, although groups may decide it is convenient to use such a company.
The filing member will not need to submit the written nomination alongside their registration for HMRC services. However, if HMRC requests a copy of the written nomination as part of a compliance check, the filing member will need to provide it.

The ultimate parent must provide the nominated company with everything it may reasonably require in order to comply with its obligations as the filing member.

Ceasing to be a filing member

Once nominated, a company will continue to be the filing member until one of the following events occur:

- The ultimate parent makes a valid nomination for a different company to be the filing member,
- The filing member ceases to be a company,
- The filing member ceases to be a member of the group, or
- An HMRC officer or the ultimate parent revokes the nomination, which must be done in writing

Revocations by HMRC

A nomination can only be revoked by an HMRC officer where the nominated filing member is failing to comply with its obligations. This includes cases where the ultimate parent has failed to provide the nominated filing member with all the resources the filing member needs to comply with its obligations.

HMRC will not revoke the nomination for a simple administrative failure. In general, HMRC will only revoke the nomination where the failure to meet an obligation is likely to increase the risk of a loss of tax. In such cases, HMRC will notify both the nominated company and the ultimate parent of the revocation.

The revocation takes effect from the date it is issued.

Continuity following change in filing member

Where there is a change in filing member, there is a treatment of continuity between the old and new filing members. The new filing member assumes the obligations and liabilities of the old filing member, and anything done by or in relation to the old filing member is now treated as having been done by or to the new filing member.

Consequently, penalties may be imposed on the new filing member in relation to obligations that were previously obligations of the old filing member.

Anything done by HMRC in relation to the old filing member on the day HMRC receives notification of the change is treated as being done in relation to the new filing member.

Anything in the process of being done at that time in relation to the old filing member may be considered in relation to the new filing member.

Notifying HMRC of a change in filing member

Where the filing member of a registered group changes, the new filing member must notify HMRC of the change by the later of:

- 6 months after the day the change occurs, or
- The registration date (see MTT51400).

Multiparent groups

In groups where there is more than one ultimate parent, a filing member can only be nominated if the nomination has been authorised in writing by every ultimate parent in the multiparent group.

51300 Obligations of the filing member

The filing member is responsible for the following obligations:

- Registering with HMRC if the group qualifies for MTT (see MTT51400),
- Notifying HMRC when details of the filing member have changed (see MTT51400),
- Submitting information returns or overseas return notifications (see MTT52000),
- Completing the self-assessment return (see MTT53000),
- Making or revoking elections (see MTT52200), and
- Ensuring that the group keeps accurate records in respect of MTT (see MTT51500).

The filing member is the primary point of contact with HMRC in relation to the group's affairs concerning MTT, including any compliance activity. For example:

- HMRC must issue a notice of enquiry to the filing member if it wishes to enquire into a return.
- Assessments and determinations must be served on the filing member.
- Requests for information, and formal information notices where appropriate, should be made to the filing member, at least in the first instance. See MTT55250 for further guidance on information notices.

If the filing member fails to meet an obligation, or the group's self-assessment is found to be incorrect, the filing member may be liable to the following:

- Penalties for failure to comply with any of its obligations.
- Penalties for inaccuracies (see MTT55440).

Some of the group's rights must also be exercised by the filing member. For example, only the filing member can amend a return.

Where there is a change in the filing member, the new filing member takes on the obligations of the previous filing member.

Ultimate parent is not a company

Where the filing member is the group's ultimate parent, and that ultimate parent is not a company, the obligations of the filing member may be met by:

- Any general partner, in the case of a limited partnership
- The partnership, in the case of a limited liability partnership
- Any partner, in the case of any other partnership
- Any trustee, in the case of a trust.

In the case of any arrangement not listed above, the obligations of the filing member may be met by the person responsible for preparing its financial accounts.

Multiparent groups

If a group has more than one ultimate parent and does not appoint a filing member, each ultimate parent will bear the obligations of the filing member. However, each obligation only needs to be met by one of the ultimate parents.

For example, where a multiparent group is required to register as a qualifying group, each ultimate parent has a responsibility to register. When one of the ultimate parents has registered, the obligation has been met, and the other ultimate parent(s) will not need to register. If none of the ultimate parents register, HMRC may apply penalties to all of the ultimate parents.

51400 Registration

The filing member is obliged to register with HMRC if:

- The group is a qualifying multinational group for MTT purposes (see MTT10000), and
- It contains at least one member that is located in the UK (see MTT18000).

The filing member registers by providing to HMRC:

- The name of the filing member.
- The name of the ultimate parent (if different to the filing member).
- The date of the first day of the first accounting period in which it becomes a qualifying multinational group (the 'trigger day').
- The end date of the accounting period in which the trigger day occurs.

HMRC will specify the way that this information must be provided in a notice. It may also, by notice, specify additional information that is to be required.

There is a different definition of 'trigger day' for Domestic top-up tax purposes (see MTT50200).

Registration date

The filing member must register with HMRC no later than six months after the last day of the accounting period in which the trigger day occurred.

Example

XYZ Ltd is the filing member of XYZ Group and is located in the UK. The group's accounting periods are 12 months and end on 31 December each year. The group becomes a qualifying group for the first time for the period ending 31 December 2030. The first day of this period (the trigger day) is 1 January 2030.

The trigger day falls within the accounting period ending 31 December 2030. XYZ Ltd must register with HMRC by 30 June 2031.

Changes in registration information

If there is a change in the information that was submitted as part of the registration for MTT, the filing member must notify HMRC of the change by the later of:

- 6 months after the day the change takes place, or
- If the change occurs in the same period as the trigger day, the last day of that period.

Domestic top-up tax

The registration process will be the same process for DTT as for MTT. Where a group is obliged to register for both, it will be possible to do this by a single registration.

Further guidance will be provided on registration for MTT and DTT.

51450 De-registration

A group that has registered for MTT may be de-registered by an HMRC officer.
A notice of de-registration will include an "effective date", from which the registration will cease to have effect. The registration will continue to have effect for the period ending immediately before that date.

A de-registration may be appropriate where a group has ceased its UK operations. De-registration will ensure the group no longer has obligations to make returns or notifications to the UK in respect of MTT.

Where a registered group has ceased to be a qualifying group, but maintains a UK presence, a below-threshold notification may be more appropriate (see MTT53900).

Conditions

An HMRC officer may de-register a group if:

- The filing member has applied for a de-registration notice, and
- The officer considers that the group will not be a qualifying group in the period containing the effective date, or any subsequent period.

Effect on filing dates

If a de-registration notice applies to a registration, and the group subsequently re-registers, the extended filing date of 18 months will not apply to the new registration. The extended filing date only applies to the first period in which the group is a registered group.

51500 Record-keeping

The filing member in a multinational group has a duty to keep and preserve such records as may be needed to enable it to deliver correct and complete returns.

The records can be maintained in any form.

Time limits

Unless otherwise specified by HMRC, records must be kept until the later of:

- The ninth anniversary of the last day of the accounting period to which the records relate, or,
- If a compliance check was opened into that accounting period on or before that date, the end of the period of 6 months beginning with the date a compliance check into that accounting period was completed.

HMRC may require these records at any time during this time period.
An earlier date may be specified by HMRC in a notice. HMRC may specify a different date for individual cases.

Penalties

The filing member may be liable to a penalty if it fails to comply with the record keeping duty. See MTT55450.

52000 The information return

The filing member is required to submit an information return to HMRC for each accounting period in which the group qualifies for MTT, unless the return has already been submitted to another authority outside the UK with which HMRC has an information sharing agreement (a ‘qualifying authority’). In that case, an overseas return notification can be submitted instead.

Overseas return notification

If the information return has already been submitted to another qualifying authority, the filing member is not required to submit the information return directly to HMRC (although it may still choose to do so). Instead, an ‘overseas return notification’ must be sent to HMRC.
The overseas return notification will include:

- The name of the jurisdiction to which the information return has been submitted.
- The name of the group member that submitted it.

HMRC will then obtain a version of the information return for that period from the qualifying authority using its automatic exchange of information processes.

Filing date

The information return or overseas return notification must be submitted to HMRC within 15 months of the end of the accounting period. This is extended to 18 months for the first accounting period in which the group is a registered group (see MTT51400).

Amendments

The information return can be amended by notice to HMRC. Amendments to information returns can be made by the filing member in the period of 12 months starting on the due date of the return (see “time limits” above). The return can be amended any number of times within the time limits.

Penalties

Penalties may apply if the filing member fails to submit an information return or overseas return notification by the filing date. See MTT55420.

52100 The information return – Structure and format

The information return will contain the following information:

- Identification of the members of the group.
- Information on the corporate structure of the group.
- Information relevant to the determination of effective tax rates, top-up amounts, and allocation of top-up amounts.

[The structure and format of the information return is being developed further by HMRC and international partners at the OECD. This guidance will be updated when the structure and format are finalised.]

52200 The information return – Making elections

A number of elections in the design of MTT allow for groups to simplify their compliance requirements. These elections must be made in the information return.
Where elections are made, they will apply to both multinational top-up tax and domestic top-up tax.

Some of these elections are made annually, while others (long term elections) will apply for five periods when made. These long term elections, if revoked, cannot be made again in the four periods following the period of revocation.

Long term elections

The following elections are long term elections:

- Section 127(8), excluded entities of a multinational group.
- Section 161, using the realisation principle in calculating certain gains and losses.
- Section 162, the treatment of stock-based compensation when determining members' underlying profits.
- Section 164, excluding intra-group transactions when determining members' underlying profits.
- Section 165, excluded equity gains or losses to be treated as not excluded.
- Section 166, adjusting underlying profits to exclude gains or losses relating to hedging currency risks.
- Section 187, the treatment of losses as special loss deferred tax asset.
- Section 213, the treatment of investment entities as a flow-through entity.
- Section 214, the taxable distribution method.

For a long term election to be valid, it must:

- Specify the first accounting period for which the election will apply,
- Be included in the information return for that period,
- Be made by the due date for that information return, and
- Not be made in one of the four periods following the revocation of the same election.

Revoking a long term election

Revocations of long term elections are also made in the information return. To be valid, a revocation must:

- Specify the first accounting period for which the revocation will apply,
- Be included in the information return for that period, and
- Be made by the due date for that information return.

Long term elections cannot be revoked in the four periods following the first election period.

Long term election under section 187 (treatment of losses as special loss deferred tax assets)

Special rules apply to an election made under section 187. An election under this section is made in respect of a particular territory. It can only be made once, in the return for the first accounting period in which the Pillar 2 rules apply to a standard member of the group located in that territory. It can be revoked in any subsequent period, but cannot be made again.

The election cannot be made in respect of a territory that has an eligible distribution tax system.

Where a group qualifies for the transitional safe harbour for a territory for a period, it does not need to make a section 187 election in that period. It can make the election in the return for the first period for which it has to complete the full calculations for that territory. See MTT15900 for further guidance on the transitional safe harbour.

Annual elections

The following elections are annual elections:

- Section 163, spreading certain capital gains over five years.
- Section 182(8), excluding the total deferred tax adjustment amount for the period.
- Section 186(2), deferred tax assets recorded at less than minimum rate
- Section 189, apply the deemed distribution tax amount to all members in a territory.
- Section 195(2), not to calculate the substance based income exclusion for a period.
- Section 205, to carry forward and reduce the collective additional amount.
- Section 217(8), to treat a decrease in a liability in a prior period as insignificant.
- Section 221(4), not to calculate the substance based income exclusion for an investment entity.
- Paragraph 2(7) of Schedule 16, transitional arrangements for transfer of assets.
- Paragraph 3 of Schedule 16, the transitional safe harbour.

For an annual election to be valid, it must:

- Specify the accounting period for which the election will apply,
- Be included in the information return for that period, and
- Be made by the due date for that information return.

Amending an election

Within the time limits for amending an information return (see MTT52000), it is possible to amend a return so that an election or revocation is no longer included in the information return.

If such an amendment is made, the election or revocation is no longer included in the information return and is therefore not valid. An amendment is not a revocation.

Elections specific to domestic top-up tax

Some elections are only applicable for DTT purposes. These are:

- Section 271, an annual election to specify a single member of the group that is chargeable.
- Section 272(8)(a), a long term election which allows a wholly domestic group to use UK GAAP as an alternative accounting standard.

53000 The self-assessment return

The filing member of a registered group (see MTT51400) must submit a self-assessment return to HMRC for each accounting period, unless it has submitted a below-threshold notification.

The submission of the return will form the self-assessment of the group's total MTT liability as well as the liability of each member of the group for the period.

See MTT53900 for guidance on below-threshold notifications.

Filing date

A self-assessment return, or valid below-threshold notification, must be submitted to HMRC within 15 months of the end of the accounting period. This is extended to 18 months for the first accounting period for which the group is a registered group.
See MTT55430 for guidance on penalties relating to the self-assessment return.

Amendments

The filing member may amend a self-assessment return by submitting a notice to HMRC. A return may be amended any number of times.

The time limit is 12 months beginning with the filing date (regardless of when the return was actually submitted).

HMRC will issue a notice to specify how amendments must be submitted.

53100 The self-assessment return - Structure and format

The self-assessment return will contain information on the group's UK charge to multinational top-up tax and domestic top-up tax. It will not contain detailed information on the calculations made to determine the amount of tax payable, which will be contained in the information return (see MTT52000+).

[The structure and format of the self-assessment return is being developed further by HMRC. This guidance will be updated when the structure and format are finalised.]

53900 Below-threshold notifications

The filing member of a group can submit a below-threshold notification (BTN) to HMRC. The BTN will be made once and remain in place until it becomes invalid. Its effect is to disapply the obligation to submit a self-assessment return.

A BTN can be submitted to HMRC for a specified accounting period when the filing member considers that the group:

- Is not a qualifying group in that accounting period, and
- Is not expected to become a qualifying group again in any subsequent accounting period.

Once submitted, the notification will remain valid for each period in which:

- The group is not a qualifying group, and
- The group is not likely to become qualifying in the two following periods.

See MTT10000 for guidance on when a group is qualifying.

Withdrawing a below-threshold notification

A BTN is withdrawn when the filing member submits a self-assessment return. This includes a nil return.

The BTN will be automatically withdrawn when a self-assessment return is submitted for the period to which the BTN relates or any subsequent period.

Once the BTN has been withdrawn, the obligation to file a self-assessment return will resume until another valid BTN is submitted, or until the group is de-registered.

No effect on information return

The submission of a BTN only has an effect on the obligation to make a self-assessment return. The obligation to submit information returns is not affected. See MTT52000+ for guidance on the information return.

Example

XYZ Ltd is the ultimate parent and filing member of XYZ Group and is located in the UK. The Group’s accounting periods run to 31 December. The group first became qualifying in the accounting period ending 31 December 2030 and registered with HMRC in June 2031. The group submits self-assessment returns for accounting periods ending 31 December 2030 to 31 December 2034.

XYZ Group’s consolidated global revenues for accounting periods ending 31 December 2031 to 31 December 2035 are as follows:

Accounting period ending	Consolidated revenue (€ m)
31 December 2031	800
31 December 2032	700
31 December 2033	700
31 December 2034	700
31 December 2035	800

XYZ Group projects that their global revenues for the next two accounting periods will be:

Accounting period ending	Consolidated revenue (€ m)
31 December 2036	800
31 December 2037	700

Although XYZ Group is not a qualifying group for the accounting period ending 31 December 2035, the group have not met the conditions to file a BTN because:

- Although XYZ Group is not a qualifying group for that period,
- XYZ Ltd expects the XYZ group to become a qualifying group in a subsequent period (the period ending 31 December 2037).

The group must continue to submit a self-assessment return for each period.

The consolidated revenue continues to decline in 2038 and subsequent periods. XYZ Ltd does not expect consolidated group revenue to exceed €750m in any foreseeable period.

XYZ Ltd will be able to submit a BTN for the period ending 31 December 2040 because:

- The group is not a qualifying group for that period, and
- XYZ Ltd does not expect the group to become qualifying in any subsequent period.

In October 2044, XYZ Ltd acquires ETC Ltd, which has revenue of €500m. The group is now projected to have revenue exceeding the threshold in the periods ending in 2045 and 2046.

The BTN ceases to be valid for the period ending 31 December 2045 because:

- Although XYZ Group is not a qualifying group for that period,
- It is likely to be a qualifying group in one of the two subsequent periods (namely, the period ending 31 December 2047).

As filing member, XYZ Ltd must submit a self-assessment return for the accounting period ending 31 December 2045 and all subsequent periods. Submitting this self-assessment return will have the effect of withdrawing the BTN.

If XYZ Group meets the criteria for making a BTN again at a later date, XYZ Ltd must make a new notification.

54000 Payments and interest

Part 10 of FA23/Sch14 sets out the conditions under which payment of MTT must be made. The following pages provide some practical guidance in support of the legislation:

MTT54100 explains when MTT liabilities must be made and the rate of interest that accrues on late payments.

MTT54200+ explains how HMRC may issue a group payment notice when MTT liabilities are not paid and the time limits for doing so.

MTT54300+ provides guidance on how relief of overpaid tax can be claimed.

A responsible member's liability to any amount of MTT may be discharged by any other member of the multinational group. For guidance on responsible members, see MTT05110.

54100 Payment date and interest

MTT liabilities must be paid in full within 15 months beginning with the day after the end of the accounting period for which it is due. This is extended to 18 months for the first accounting period for which the group is a qualifying group.

The payment date aligns with the filing date for the self-assessment return (see MTT53000) and the information return (see MTT52000).

Interest

If amounts are not paid within this time period, interest will accrue from the day after the payment date. The rate is provided in regulations under Section 178 of the Finance Act 1989.

Example

XYZ Group's accounting periods run to 31 December each year. The group becomes a qualifying group for the first time for the period ending 31 December 2030. The group registers on 1 June 2031.

The filing date for the group's first self-assessment return and information return is 30 June 2032. This is also the payment date.

For subsequent periods, the filing and payment date will be 31 March, which is 15 months after the end of the accounting period.

54200 Group payment notices - Introduction

Where a responsible member has not paid its full MTT liability within certain time limits, HMRC may issue a notice (a ‘group payment notice’) to another member of the group which requires that member (the ‘recipient’) to pay the outstanding amount. This allows HMRC to take action to recover unpaid amounts if a group’s liability has not been paid.

The unpaid MTT liability and any interest for which the responsible member is liable becomes the deemed liability of the recipient. The notice will specify a date by which this deemed liability must be paid by the recipient.

Selecting a recipient

The group payment notice may be issued to any member of the group. The member does not need to be resident in the UK, nor an incorporated company. However, ring-fenced entities cannot be issued with a group payment notice (see MTT54230).

When selecting the recipient, HMRC will assess the resources available to the group members and the ability of HMRC to enforce collection. The choice will reflect the HMRC officer’s view of the most cost-effective way for HMRC to fully recover the outstanding liabilities.

54210 Group payment notices – Effect of a group payment notice

Where a member receives a group payment notice, the liability of the responsible member (the ‘relevant liability’) becomes the recipient’s ‘deemed liability’. This deemed liability includes the unpaid MTT and interest as well as interest accruing after the date of the notice.

The deemed liability is treated as having become due and payable on the same date that the relevant liability became due and payable.

Any payments made in respect of the relevant liability are treated as having been made in respect of the deemed liability.

Example

A Ltd and B Ltd are members of Group AB.

A Ltd has an unpaid MTT liability of £1000 (the relevant liability). A valid group payment notice is issued to B Ltd in respect of this amount (the deemed liability).

A Ltd makes a payment of £100 in respect of its unpaid liability. This reduces both the relevant liability and the deemed liability of B to £900.

B Ltd makes a payment of £500 in respect of the relevant liability. This reduces both the relevant liability and the deemed liability of B to £400.

Effect of making intra-group payments

Where the recipient of a group payment notice makes any payment towards a deemed liability, they are entitled to recover that payment from the responsible member that was originally liable.

Payments made by the recipient towards a deemed liability are not allowed as deductions in calculating their income, profits or losses for any UK tax purposes. Similarly, if the recipient is reimbursed for making a payment towards a deemed liability, this is not treated as a receipt for UK tax purposes.

54210 Group payment notices – The notice, time limits, and appeals

A group payment notice must include certain information and be issued within the time limits.

It may be appealed solely on the grounds that the recipient is not a member of the group.

Information contained in the group payment notice

The group payment notice will specify the date by which the recipient must pay the amount.

This date cannot be earlier than 30 days after the date the notice is issued.

The group payment notice must also state:

- The amount of any tax that remains unpaid,
- The date any tax first became payable, and
- The member's right of appeal

Time limits to issue a payment notice

A group payment notice may be issued by HMRC if the amount payable has not been paid within 3 months of the relevant date.

A group payment notice may only be issued within 3 years and 6 months of the relevant date.

The relevant date

If the amount payable is assessed in a self-assessment return, the relevant date is the later of:

- The date on which the amount must be paid,
- The date the return is delivered,
- The date an enquiry is completed, if a notice of enquiry is given,
- The date on which the last notice of enquiry is given, if multiple notices are given,
- The date of the closure notice, if an enquiry results in an amended return, or
- The date on which an appeal is finally determined, if there is an appeal against a closure notice.

If the amount payable is assessed as a discovery assessment, the relevant date is either:

- The date on which the notice of assessment is issued, if there is no appeal against the assessment, or
- The date on which the appeal is finally determined, if there is such an appeal.

If the amount is assessed in a determination, and the determination has not been superseded, the relevant date is the date on which the notice of the determination was issued.

Appeals against group payment notices

The recipient of the group payment notice does not have the right to appeal against the amount of the relevant liability.

The recipient may only appeal against the group payment notice itself on the grounds that it is not a member of the group. An appeal must be made in writing within 30 days of the date on which the notice was given.

Where an appeal is made, anything required by the notice to be paid is due and payable as if there had been no appeal.

54220 Group payment notices – The notice, time limits, and appeals

A group payment notice must include certain information and be issued within the time limits.

It may be appealed solely on the grounds that the recipient is not a member of the group.

Information contained in the group payment notice

The group payment notice will specify the date by which the recipient must pay the amount. This date cannot be earlier than 30 days after the date the notice is issued.

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A group payment notice may only be issued within 3 years and 6 months of the relevant date.

The relevant date

If the amount payable is assessed in a self-assessment return, the relevant date is the later of:

- The date on which the amount must be paid,
- The date the return is delivered,
- The date an enquiry is completed, if a notice of enquiry is given,
- The date on which the last notice of enquiry is given, if multiple notices are given,
- The date of the closure notice, if an enquiry results in an amended return, or
- The date on which an appeal is finally determined, if there is an appeal against a closure notice.

If the amount payable is assessed as a discovery assessment, the relevant date is either:

- The date on which the notice of assessment is issued, if there is no appeal against the assessment, or
- The date on which the appeal is finally determined, if there is such an appeal.

If the amount is assessed in a determination, and the determination has not been superseded, the relevant date is the date on which the notice of the determination was issued.

Appeals against group payment notices

The recipient of the group payment notice does not have the right to appeal against the amount of the relevant liability.

The recipient may only appeal against the group payment notice itself on the grounds that it is not a member of the group. An appeal must be made in writing within 30 days of the date on which the notice was given.

Where an appeal is made, anything required by the notice to be paid is due and payable as if there had been no appeal.

54230 Group payment notices - Ring-fenced entities

A group payment notice can only be issued to a ring-fenced entity if the responsible member that was originally liable is also a ring-fenced entity.

A ‘ring-fenced entity’ is a body corporate which is a ring-fenced body or a member of a ring-fenced body sub-group.

A ‘ring-fenced body sub-group' is a group of entities consisting of:

- A ring-fenced body parent undertaking and its subsidiaries, or
- A ring-fenced body, which is not a subsidiary of a ring-fenced body parent undertaking, and its subsidiaries.

In this context, a ring-fenced body has the same meaning as in section 142A of the Financial Services and Markets Act 2000, and a ring-fenced body parent undertaking is a body corporate subject to rules made under section 192JA of the same act.

54300 Relief of overpaid tax

There may be situations where a member of a multinational group has paid an amount of MTT which is later found to exceed the amount that it was required to pay.

Part 12 of Schedule 14 sets out the conditions under which relief for any overpaid MTT may be given. The following pages provide some practical guidance in support of the legislation.

54310 Relief of overpaid tax - Making a claim

Where a person has paid more MTT for an accounting period than was due, that person may make a claim to HMRC for repayment of the amount that was not due (the ‘excess amount’).

To be valid, the claim must:

- Be made by the overpayment claim date,
- Contain the necessary information and be made in the correct form, and
- Be submitted separately to a self-assessment return.

Further details will be provided about the information and form of a claim.

The overpayment claim date

If an excess amount was paid because of a mistake on a self-assessment return, the claim must be made within 4 years of the end of the relevant accounting period.

Otherwise, the claim must be made within 4 years of the end of the accounting period in respect of which the amount was paid.

Circumstances under which a claim may be denied

A claim for relief for overpaid MTT will not be allowed under the following circumstances:

- When a member of the group has an unpaid MTT liability.
- When the claimant is or will be able to seek tax relief under some other allowable method (for example, through amending a return).
- When the claimant knew (or should have reasonably known) that relief could have been sought under another allowable method, but can no longer claim that relief because the period has expired.
- When the reason for the overpayment was a mistake in the calculation of the payable amount, and the amount was calculated in accordance with the practice generally prevailing at the time.

Interest

Where HMRC grants relief on overpaid tax, interest is given at the rate provided under s178 FA1989 up to the date of the repayment.

Interest accrues from the later of:

- The day following the relevant payment date (see MTT54100), or
- The day the amount was actually paid.

Compliance check

HMRC may conduct a compliance check into a claim for relief of overpaid tax. See MTT55270.

54320 Relief of overpaid tax – Excessive amount repaid by HMRC

If an amount of MTT has been repaid, and the amount repaid exceeds the amount that HMRC were liable to repay at that time, HMRC may recover any excess amount that should not have been repaid.

HMRC will assess the amount that should not have been repaid and notify the amount to the person to whom the repayment was made.

If the total amount assessed is determined to be less than the amount that should have been assessed, HMRC can make a supplementary assessment of the tax due within the time window. HMRC will make a separate notification of this amount to the person to whom the repayment was made. That person will then be liable to MTT for that amount.

HMRC may reduce or withdraw the assessment if appropriate. The person's liability would then be reduced accordingly.

The time window

The assessment must be made within 4 years of the end of the accounting period in which HMRC become aware of evidence of facts sufficient to support the assessment.

55000 Compliance

The following pages provide some practical guidance on the compliance framework for MTT:

MTT55100+ explains the scope of a compliance check and provides guidance on how notice will be given within specific time-limits.

MTT55300+ provides information on the scope and time-limits for discovery assessments.

MTT55350+ provides guidance on HMRC determinations and when they can be used.

MTT55400+ gives further information on the types of penalties that may be raised in relation to MTT.

MTT55500+ provides guidance for appeals and reviews in respect of a decision relating to MTT.

55100 Compliance checks - Introduction

During compliance checks, the filing member will be responsible for interacting with HMRC on behalf of its group. This simplifies administration and reduces the compliance burden on groups.

HMRC right to carry out a compliance check

MTT is administered under self-assessment. In general terms, this means that the amount returned by the group in its self-assessment return is taken to be the assessment, and the liability is payable without any action on HMRC's part.

Once the self-assessment return has been received, legislation gives HMRC the explicit right to enquire into the return and carry out a compliance check. HMRC is under no obligation to give notice that a particular return has been 'accepted' or that no compliance checks will be made into that return.

The right to carry out a compliance check extends to anything contained in the self-assessment return, or which is required to be contained in the return. This includes claims and elections, and extends to any amendments to the return. See MTT55230 for guidance on carrying out compliance checks where a return has been amended.

Amendments during the course of an enquiry

During a compliance check, HMRC may make an amendment (a 'jeopardy amendment') to the group's self-assessment if it is believed that:

- The self-assessment understates the group's true tax liability, and
- There is likely to be a loss of tax to the Crown unless the assessment is amended at once.

The self-assessment is amended for all purposes when written notice to that effect is given to the filing member. See MTT55240 for guidance on jeopardy amendments.

Concluding compliance checks

A compliance check is completed when a written notice of completion (a 'closure notice') is issued to the filing member. This notice will state the conclusions of the compliance check. The notice will conclude all elements of the compliance check and must include the amended amount of tax due if an amendment is required.

The closure notice takes effect when it is issued and amends the return to give effect to the conclusions stated in the notice.

The filing member has the right to apply to the Tribunal to request that HMRC be directed to give a closure notice within a specified period.

See MTT55260 for further information on closure notices.

55210 Compliance checks - Notice and scope

Where a self-assessment return has been submitted for an accounting period, HMRC may enquire into the return by providing a written notice within the time window.

A compliance check may cover anything in the return.

See MTT53000 for further guidance on the self-assessment return.

Notice and scope of a compliance check

HMRC must give the filing member written notice of the intention to enquire into a return by issuing a notice of enquiry (a “compliance check notice”). The notice must be given within a statutory time limit, often called the “compliance check window” (see MTT55220).

The compliance check notice will be issued to the filing member in the form of a letter. This process is not automated. Care should be given to the wording to ensure it is in line with standard HMRC guidance.

Where a compliance check notice has been issued for a return, further notices should not be issued for the same return, except where they are being issued in relation to an amendment.

Scope of a compliance check

A compliance check into a return can extend to anything in the return, or anything required to be contained in the return. This includes anything related to the amount of MTT chargeable and whether MTT was chargeable in the period.

The compliance check notice will usually specify the matters being enquired into, but this is not obligatory. Where the matters are specified in the compliance check notice, this does not prevent HMRC from including other matters in the compliance check.

If the compliance check is due to an amendment to the MTT return, the scope of the compliance check is limited to matters relating to or affected by that amendment. This is unless the compliance check window for the original return is still open, or an enquiry into a return has been completed.

HMRC cannot open a compliance check into a return if a compliance check has previously been opened into that return, except if an amendment to the return is made, in which case a compliance check can be opened in relation to the amendment. A discovery assessment for the period may still be made.

55220 Compliance checks - Time limits

To open a compliance check, HMRC must give a compliance check notice to the filing member. This must be received by the filing member within the time limit (the ‘compliance check window’).

The time limit depends on when the return is delivered.

If the return is delivered on or before the filing date (see MTT53000), the compliance check window will end 12 months after the filing date.

Example 1

XYZ Ltd submits a self-assessment return on 20 March 2027. The filing date for the self-assessment return is 31 March 2027.

The compliance check window for the self-assessment return ends on 31 March 2028.

Late returns

If the return is delivered after the filing date, the compliance check window will end on the first quarter day (31 January, 30 April, 31 July or 31 October) following the first anniversary of the day the return was delivered.

Example 2

XYZ Ltd submits a self-assessment return on 1 May 2028. The filing date for the self-assessment return was 31 March 2028.

The compliance check window for the self-assessment return ends on 31 July 2029.

Amended returns

If the return is amended, the compliance check window will end on the quarter day following the first anniversary of the day the return was amended. This extended time limit for amended returns applies even if the amendment was made before the filing date.

Example 3

XYZ Ltd submits a self-assessment return on 1 March 2029. XYZ Limited amends the self-assessment return on 29 March 2029. The filing date for the self-assessment return is 31 March 2029.

The compliance check window for the self-assessment return ends 30 April 2030.

55230 Compliance checks - Taxpayer amendments

If a filing member amends the self-assessment return while a compliance check is in progress, the amendment does not restrict the scope of the compliance check but may be considered together with any matters arising in the compliance check.

Any potential changes to the tax liability as a result of the amendment only become effective once the compliance check is closed. See MTT55260 for guidance on closure notices.
A compliance check does not extend the time limits for making an amendment. If the time limit for amending the return has expired, the filing member cannot amend the return. See MTT53000 for guidance on amendments to the self-assessment return.

If the filing member is within time to amend its return, HMRC may take the amendment into account as part of the compliance check before issuing a closure notice, even if this means prolonging the compliance check to deal with any new points raised.

Effect of the amendment

An amendment will not take effect, insofar as the amendment affects the amount stated in the group's self-assessment of the amount of tax payable, until:

- HMRC issues a final closure notice to complete the compliance check, and that notice specifies whether a deferred amendment is to take effect, and to what extent it is to take effect, or
- HMRC gives a partial closure notice which states that the amendment is to take effect, and that notice relates to a matter to which the amendment also relates or which is affected by the amendment.

If the conclusions in the final closure notice state that either:

- The amendment was not considered in the compliance check, or
- No amendment of the return is required arising from the compliance check,

then the amendment takes effect on the issue of the closure notice.

Otherwise, the amendment takes effect as part of the amendments made by the closure notice.

Amendment anticipating conclusions in a closure notice

As a result of negotiations leading up to the close of a compliance check, HMRC may receive a revised return from the filing member that fully and accurately anticipates the conclusions of the check before they are stated in a closure notice. The revised return may be submitted within the applicable time limits so that it is a valid amendment.

HMRC cannot conclude a compliance check into a group's return by just accepting the revised return, even if the figures subsequently stated in the closure notice will be identical to those in the revised return. To complete the compliance check, HMRC must issue a closure notice.

The amendment will be deferred due to the ongoing compliance check and will take effect in accordance with the closure notice, as above.

Repayment during an ongoing compliance check

If the filing member of a group is within the time limit to amend its return during a compliance check, then an amendment which gives rise to a repayment does not restrict the scope of the compliance check but may be considered together with any matters arising in the compliance check.

Provided HMRC is satisfied that any such claim meets the requirements of the legislation, HMRC will follow the relevant procedures with respect to issuing a repayment.

55240 Compliance checks - Jeopardy amendments

A jeopardy amendment may be made to the self-assessment return while a compliance check is open, if HMRC believes that:

- The self-assessment understates the group's tax liability, and
- There is likely to be a loss of tax to the Crown unless the assessment is amended immediately.

HMRC will amend the assessment to address the understatement of tax by issuing a written notice to the filing member.

This is not a routine procedure. The guidance in the Enquiry Manual at EM1951 to EM1955 should be read before making a jeopardy amendment.

HMRC should only make a jeopardy amendment where there is a real risk of the loss of substantial amounts of tax. For example, where the amount of MTT payable by a member of the group has been established, but the group has refused to make payment and HMRC has information suggesting that liable companies are about to go into liquidation or move assets abroad.

Compliance checks on amended returns

If the scope of the compliance check is limited to the amended part of a return (see MTT55230), the jeopardy amendment may only be made if the understatement of the liability can be attributed to the amendment.

Appeals

The filing member may appeal against a jeopardy assessment.
Where the filing member has appealed against a jeopardy amendment, the appeal (and any related postponement application) will still be open legally when HMRC issues the closure notice with revenue amendment, as legislation prohibits determination or hearing of the appeal before that date.

The appeal against the jeopardy amendment can be determined either:

- By agreement between HMRC and the filing member taking effect under Para 61, Sch 14, Finance Act 2023,
- By the filing member withdrawing the appeal in circumstances where HMRC do not object to the withdrawal (see Para 61(4), Sch 4, Finance Act 2023), or
- By the Tribunal.

Once the filing member has sent an appeal to HMRC, it has the right to request a review by HMRC and the right to notify the appeal to the Tribunal.

It is advisable to ask the filing member, during the negotiations leading up to the issue of the closure notice, to give HMRC written agreement that any appeal against the jeopardy amendment can be withdrawn or settled by agreement under Para 61, Sch 14, Finance Act 2023 at the same time that the revenue amendment is recorded.

HMRC will not release any tax postponed for recovery as a result of an appeal against the jeopardy amendment until the appeal has been formally determined.

See MTT55500 for guidance on appeals.

Closure notice following a jeopardy amendment

HMRC does not conclude a compliance check into a group's MTT return by issuing a jeopardy amendment, even if the figures subsequently stated in the closure notice are identical to those in the jeopardy amendment. To complete the compliance check, HMRC must issue a closure notice.

Whether or not the jeopardy amendment is under appeal, the closure notice should follow the standard format.

HMRC does not need to make any special reference to the jeopardy amendment as the closure notice states the amount of tax which should be included in the return.

Jeopardy amendment under appeal – closure notice amendment not appealed

If the filing member does not appeal an amendment made by a closure notice within 30 days of the date of the closure notice, HMRC still has to dispose of the appeal against the jeopardy amendment.

If the filing member agrees to withdraw the appeal against the jeopardy amendment, it can be treated as determined by agreement under Para14 Sch14 of Finance Act 2023.

If the filing member does not agree to withdraw the appeal, and refers the appeal to the Tribunal, then the general guidance in the ARTG manual should be consulted.

HMRC will not release any tax postponed for recovery as a result of an appeal against the jeopardy amendment until the appeal has been formally determined.

Jeopardy amendment under appeal - revenue amendment appealed

If the filing member appeals a closure notice, HMRC has to dispose of the appeals against both the jeopardy amendment and the closure notice. If agreement cannot be reached, the decision maker should follow the advice in the ARTG Manual.

HMRC will not release any tax postponed for recovery as a result of an appeal against the jeopardy amendment until the appeal has been formally determined.

If the group, through its filing member, refers the appeal to the Tribunal, the officer (or review team) should ask the Tribunal to:

- First, determine the appeal against the closure notice,
- Then, determine the appeal against the jeopardy amendment in the same figures.

If necessary, the officer (or review team) may need to explain that this is essentially an administrative procedure to dispose of the appeal against the jeopardy amendment and to give the group finality for the return period.

55250 Compliance checks - Information notices

Most people will co-operate fully when asked for information or documents. However, to address cases where they do not, Schedule 36 FA 2008 has been extended in its application to cover MTT. The basic rules and guidance as set out in the law and guidance at CH20000 will therefore apply for MTT.

There are safeguards to ensure that HMRC acts reasonably and that any action HMRC takes is appropriate to the circumstances and does not unreasonably interfere with a person's rights under Article 8 of the Human Rights Act. See CH21340.

The information or documents HMRC ask for or the inspection HMRC carries out must be reasonably required to check a person's tax position (see CH21520). HMRC cannot require a person to give us or require them to allow us to inspect some types of information (see CH22000). Amongst other things, this will include documents that relate to a tax appeal.

There are Factsheets covering the use of our information and inspection powers and these should be issued as appropriate. See CH21200.

An overview of HMRC powers to ask for information or documents is at CH20200. Detailed guidance starts at CH23000.

An overview of HMRC powers to carry out an inspection is at CH20250 and detailed guidance starts at CH25000.

Filing member as primary point of correspondence

Requests for information and information notices should be given to the filing member, at least in the first instance. See MTT51000+.

55260 Compliance checks - Closure notice

HMRC must issue a closure notice to the filing member at the end of every compliance check for each accounting period. The closure notice is issued in the form of a letter. A compliance check is only finished when HMRC has issued the closure notice to the filing member of a group stating that the check is complete and that either:

- No amendment is required, or
- The return must be amended, as specified in the closure notice.

When it is issued, the closure notice takes effect. The compliance check is completed and, where HMRC has concluded that an amendment is required, the amendment is made. Along with the notice, HMRC should provide the filing member with information supporting the conclusion reached.

Partial closure notices

A partial closure notice may also be issued by HMRC. A partial closure notice allows HMRC to complete one or more of the matters being checked before fully completing the compliance check. See CH279600 for guidance on partial closure notices.

Jeopardy amendments

See MTT55240 for guidance on closing a compliance check when a jeopardy amendment has been made.

Issuing a closure notice following amendment that has been deferred due to ongoing compliance check

See MTT55230 for guidance on how to close a compliance check when the filing member has amended a return within the time limits during an ongoing compliance check into that return.

Right of appeal

The filing member can appeal against a revenue amendment and the normal rules for appeals and postponement applications apply. It can then negotiate further, settle under Para 61 Sch 14 Finance Act 2023, ask for a review, or notify the appeal to the Tribunal.

Reissuing a closure notice

Reissuing a closure notice is not a routine procedure. HMRC will not do so unless there is a good reason to believe or accept that the original closure notice has not been received by the filing member of a group.

If Royal Mail return the closure notice undelivered, HMRC cannot reissue it until a new address for the filing member is entered on the group's record.

55270 Compliance checks - Claims for relief of overpaid tax

HMRC may enquire into a claim for relief of overpaid tax. See MTT54310 to confirm that a claim is valid before considering a compliance check.

To open a compliance check, HMRC must give notice to the claimant within the compliance check window.

When a compliance check has been opened into a claim, the claim will not take effect until a closure notice is issued.

A compliance check into a claim will be handled separately from any compliance check into a self-assessment return.

Compliance check window

Notice must be given to the claimant by the quarter day following the first anniversary of the date the claim was made.

Quarter days are 31 January, 30 April, 31 July, and 31 October.

Closure notice

HMRC will conclude a compliance check by issuing a closure notice to the claimant stating that:

- The compliance check is complete,
- Whether or not an amendment is required,
- Any amendments, if required.

Where an amendment is required, HMRC must make the adjustments necessary to give effect to the amendment. This must be done within 30 days of the issue of the closure notice.

The adjustment may take the form of an assessment, or a discharge or repayment of tax. HMRC may not make multiple enquiries into a claim.

HMRC may recover excessive amounts repaid as relief of overpaid tax. See MTT54320.

Right to appeal

Claimants have the right to appeal. See MTT55510.

They may also apply to the Tribunal to direct HMRC to complete the enquiry.

55300 Discovery assessments and HMRC determinations

This guidance focuses on the legal background of discovery assessments in the multinational top-up tax (MTT) context. There is existing procedural guidance in the Enquiry Manual at EM3200 which should also be consulted.

As established in FA23, Schedule 14, part 5, the assessment contained in a self-assessment return creates a legal charge to tax. Subject to the right of HMRC to make a discovery assessment, the return is final once made. This is unless, within the relevant time limits, the filing member amends the return or an HMRC officer decides to open a compliance check into it.

The ability to make discovery assessments ensures that additional tax liable as a result of mistaken or incorrect MTT returns is assessed. There are taxpayer safeguards and restrictions governing the use of discovery assessments, including time limits on when an assessment can be made that are dependent on customer behaviour.

It is important to note a discovery assessment can only be made where there has been careless or deliberate behaviour or where information was not made available to HMRC. The following pages set out the use of these powers in more detail, including the time limits by which a discovery assessment is to be issued, its scope and what a notice of assessment must include.

55310 Discovery assessments - Scope

HMRC can make a discovery assessment for a period if it is discovered that there would otherwise be a loss of tax for that period. The loss of tax would arise because either:

- An amount of MTT which ought to have been assessed to tax has not been assessed, or
- An assessment to tax is (or has become) insufficient.

A discovery assessment is only appropriate when a ‘discovery’ leads to the identification of such a loss of tax.

Meaning of discovery

For a period where the filing member has submitted a self-assessment return, HMRC may only make a discovery assessment if:

- The loss of tax arose through careless or deliberate behaviour by a member of the group (or a person acting on behalf of a member of the group), or
- At the time the compliance check window closed (see MTT55220), or a compliance check was completed, HMRC could not have been reasonably expected to be aware of the loss of tax from the information made available to it.

A change of opinion on information that was previously made available in a relevant return is not grounds for making a discovery assessment.
See MTT55320 for guidance on the meaning of ‘made available to HMRC’.

No self-assessment return submitted

A discovery assessment can still be made where a group has not submitted a self-assessment return for a period, including where it has submitted a below threshold notification or been de-registered.

An HMRC determination may be more appropriate (see MTT55350).

Restrictions on discovery assessments

HMRC cannot make a discovery assessment if:

- The compliance check window is still open,
- There is an open MTT compliance check into the group, or
- The loss of tax is attributable to a mistake in the return as to the basis on which the tax liability ought to have been calculated, and the return was made on that basis, or in accordance with the practice generally prevailing at the time it was made.

55320 Discovery assessments - Information made available to HMRC

Information is made available to HMRC if it is contained in, for the relevant accounting period or one of the two preceding periods:

- A self-assessment return,
- An information return,
- An overseas return notification,
- A below-threshold notification, or
- Any documents, accounts, or other information produced or provided for the purposes of a compliance check into any such return or notification.

Information is also considered to be made available to HMRC if either:

- HMRC could reasonably be expected to infer both the existence and relevance of the information from any of the information specified above, or
- The filing member (or somebody acting on its behalf) has notified HMRC in writing of both the existence and relevance of the information.

Information provided in relation to a different tax

Information is not considered to be made available if it is contained in a return other than a return for a purpose other than MTT (for example, a Corporation Tax return) or in any documents, accounts or other information produced or provided for the purposes of a compliance check into a return or claim other than for MTT.

Onus on the group

The onus is on the group to draw the attention of HMRC to any important information that is relevant to the group's tax liability. This is particularly true if there is some doubt as to the interpretation of that information.

It is not sufficient for a group to simply provide the information if:

- It is hidden away,
- It is obscure, or
- Its relevance is unclear.

Where HMRC are notified in writing of information, a group has not made information available to HMRC unless the group notifies HMRC of both the existence and relevance of the information, unless it is reasonable to expect HMRC to infer it. See SALF409 for further guidance.

Information provided by a person or entity other than the filing member

Where information is provided by an entity or person other than the filing member, it will not necessarily be considered to have been made available to HMRC. The filing member, or a person acting on their behalf, should notify HMRC of the existence and relevance of such information to ensure that it is made available.

55330 Discovery assessments - Time limits

When considering the time limit for making a discovery assessment, there is no link between any compliance check period and the period of assessment. The link is with the date on which HMRC is making the assessment and the accounting period (AP).
HMRC can make a discovery assessment within:

- 4 years of the end of the AP in which the loss of tax arises, in general cases
- 6 years of the end of the AP in which the loss of tax arises, where the loss of tax is due to careless behaviour by a member of the group (or a person acting on behalf of a member of the group),
- 20 years of the end of the AP in which the loss of tax arises, where the loss of tax is due to deliberate behaviour by a member of the group (or a person acting on their behalf).

Where the loss of tax results from a filing member failing to meet its obligation to register with HMRC (see MTT51400), a discovery assessment may be made within 20 years of the end of the AP in which the loss of tax arises.

Example 1

Group A submits its self-assessment return (through its filing member) for the period ending 31 December 2024. After the compliance check window has closed, new information becomes available to HMRC indicating that the amount of MTT assessed should have been greater. A discovery assessment is appropriate as the new information shows a loss of tax for the period.

The discovery assessment for this period can be made by 31 December 2028 if the error was not due to careless or deliberate behaviour (4 years), 31 December 2030 if due to careless behaviour of a relevant person (6 years) or 31 December 2044 if due to deliberate behaviour of a relevant person (20 years).

Example 2

Group B submits a below threshold notification (through its filing member) for the period ending 31 December 2038. Subsequently, new information becomes available to HMRC showing that the group was a qualifying group for the period. The below threshold notification was invalid and a self-assessment return should have been submitted. A discovery assessment is appropriate as the new information shows a loss of tax for the period.

The discovery assessment for this period can be made by 31 December 2042 if the error was not due to careless or deliberate behaviour (4 years), 31 December 2044 if due to careless behaviour of a relevant person (6 years) or 31 December 2058 if due to deliberate behaviour of a relevant person (20 years).

Discovery assessments could also be issued for any other accounting periods for which a self-assessment return was not submitted due to the submission of the below-threshold notification, subject to the above time limits.

55340 Discovery assessments – Notice of a discovery assessment

The discovery assessment is assessed as a separate charge and is not an amendment to the self-assessment return.

A notice of assessment must be given to the filing member, stating:

- The tax due,
- The date of issue, and
- The time limit for making an appeal against the assessment.

The amount of the discovery assessment will be the amount which, in the view of HMRC, should be charged to make up for the loss of tax.

Once a notice of assessment is given, the assessment cannot be altered except in accordance with the express provisions of FA23 Sch14.

Appeals

The filing member can appeal against the assessment. Please refer to MTT55500 for further guidance on appeals.

55350 HMRC determinations

If a filing member of a multinational group fails to submit a self-assessment return, HMRC can determine the amount of tax payable by the group for the accounting period (make an ‘HMRC determination’) to the best of the HMRC officer’s knowledge and belief.
An HMRC determination can be made regardless of whether the group has registered for MTT.

Time limits

An HMRC determination cannot be made on or before the filing date or more than 3 years after the filing date (see MTT53000).

Notice of an HMRC determination

HMRC must issue a notice of the determination to the filing member.

The notice of an HMRC determination must state the date on which it is issued.

See MTT51100 for guidance on identifying the filing member, which will be the ultimate parent by default. Note that it is possible to identify a filing member even if the group has not registered.

Right of appeal

Although there is no right of appeal against a determination, filing a self-assessment return can supersede a determination (see MTT55360).

HMRC determinations and the below threshold notification

A determination may also be appropriate in situations where the group has failed to submit a self-assessment return because a below-threshold notification was submitted for a prior accounting period, but HMRC has reasonable grounds to believe the below threshold notification was not valid for that period.

Where the deadline for issuing a determination has passed, a discovery assessment may still be issued, subject to the relevant conditions (see MTT55310).

Effect of determination

A determination has the same effect for enforcement purposes as a self-assessment return (FA20/SCH8/PARA17). ‘Enforcement purposes’ means the purposes of provisions providing for:

- Tax-related penalties,
- Collection and recovery of tax, and
- Interest on overdue tax.

55360 HMRC determinations - Superseded by self-assessment

An HMRC determination will be superseded by a self-assessment return for the relevant accounting period, as long as an information return or overseas return notification has also been submitted to HMRC.

The determination is superseded when the return is submitted.

See MTT52000 for further guidance on information returns, and MTT53000 for further guidance on self-assessment returns.

Time limits

A self-assessment return will not supersede a determination if it is made later than both:

- 3 years after the day on which the power to make the determination first became exercisable, and
- 12 months after the date of the determination.

Example

The following example, with different scenarios, demonstrates how and when a determination is superseded by a self-assessment return.

Example

- Group A makes up its consolidated accounts to 31 December annually.
- The filing date for its self-assessment return for APE 31 Dec 2032 is 31 March 2034.
- 1 April 2035 is the day on which the power to make the HMRC determination first becomes exercisable.
- HMRC has reasonable grounds to believe the filing member is obliged to submit a self-assessment return for the accounting period.

Scenario 1:

- HMRC makes a determination for that period on 10 July 2035.
- The filing member submits a return in February 2036.
- The self-assessment supersedes the HMRC determination, because:
  - it is within 12 months of the date of the HMRC determination, and
  - it is also within 3 years of the day on which the power to make the determination first became exercisable

Scenario 2:

- HMRC makes a determination for that period on 10 July 2035.
- The filing member submits a return in October 2036.
- The self-assessment supersedes the HMRC determination, because:
  - it is within 3 years of the day on which the power to make the determination first became exercisable,
  - even though it is more than 12 months after the date of the HMRC determination

Scenario 3:

- HMRC makes a determination for that period on 10 March 2037.
- The filing member submits a return in August 2038.
- The self-assessment supersedes the HMRC determination, because:
  - it is within 12 months of the date of the HMRC Determination,
  - even though it is more than 3 years after the day on which the power to make the determination first became exercisable

Scenario 4:

- HMRC makes a determination for that period on 10 March 2037.
- The filing member submits a return in August 2038.
- The self-assessment does not supersede the HMRC determination, because:
  - it is more than 12 months after the date of the HMRC determination, and
  - it is also more than 3 years after the day on which the power to make the determination first became exercisable.

Proceedings to recover tax

If proceedings to recover tax assessed in an HMRC determination are underway, and a self-assessment return is submitted which supersedes the determination, the proceedings may continue as if they were proceedings for the recovery of the self-assessed amount (insofar as the self-assessed amount is due and payable and has not been paid).

Action undertaken to enforce deduction from accounts

If action is being taken under Schedule 8 Part 1 of the Finance (No. 2) Act 2015 to recover tax assessed in an HMRC determination, and a self-assessment return is submitted which supersedes the determination, that action may continue as if it was an action taken to recover the self-assessed amount (insofar as the self-assessed amount is due and payable and has not been paid).

However, this is capped at the amount of tax that was being recovered in relation to the HMRC determination.

55400 Penalties

There are five types of penalties that may be raised in relation to MTT:

- Failure to register (FA08/SCH41)
- Penalties relating to the information return (FA23/SCH14/PART11/Para 42)
- Penalties relating to the self-assessment return (FA23/SCH14/PART11/Para 43)
- Penalties for inaccuracies (FA07/SCH24)
- Penalties relating to record-keeping (FA23/SCH14/PART11/Para 46)

These penalties are explained in detail in the following pages in this section.

The filing member of the group is responsible for the obligations that fall upon a group and is consequently liable for the penalties that may be raised in relation to MTT.

A penalty of any type can be appealed. See MTT55500 for further information about appeals.

Domestic top-up tax

The MTT penalty regime is replicated for DTT purposes. See MTT50210 for further guidance.

55410 Penalties – Failure to register

If a group becomes a qualifying multinational group, the filing member is obliged to register with HMRC (see MTT51400). If it fails to meet this obligation within the time limit, it will be liable to a penalty under Schedule 41 of Finance Act 2008.

The filing member will have a 30-day notice period to pay the penalty from the point at which the penalty is raised.

The Compliance Handbook (CH70000) has further details regarding failure to notify penalties:

- Please refer to CH72000 to determine the type of failure to notify.
- Please refer to CH72500 on how to calculate the penalty.
- Please refer to CH74000 on how to process the penalty.
- Please refer to CH74500 and MTT55510 on how to deal with an appeal to the penalty.

Reasonable excuse

The filing member will not be liable to a failure to register penalty if they have a reasonable excuse for not registering with us at the appropriate time, provided that they did so without unreasonable delay after the excuse had ended (see CH160000.

Behaviours

Penalties under Schedule 41 are designed to address the behaviour that caused the failure. The more serious the behaviour, the higher the possible amount of the penalty. There are three types of behaviour:

- Deliberate and concealed,
- Deliberate but not concealed,
- Non-deliberate.

The penalty payable is capped depending on the seriousness of the behaviour:

- For deliberate and concealed behaviour, the cap is 100% of the potential lost revenue.
- For deliberate but not concealed behaviour, the cap is 70% of the potential lost revenue.
- For any other case, the cap is 30% of the potential lost revenue.

Potential lost revenue is the amount of tax payable by members of the group for the accounting period which, by reason of the failure to register, remains unpaid by those members at the payment date. This aligns with the filing date (see MTT53000).

55420 Penalties relating to the information return

a group is registered for MTT, the filing member is obliged to submit either an information return or an overseas return notification to HMRC for each period (see MTT52000). If it fails to meet this obligation within the time limit, it will be liable to a penalty.

If the information return has been submitted to another qualifying authority, the filing member may be able to submit an overseas return notification to HMRC rather than an information return. Therefore, a group will be liable to a penalty relating to an information return in the following cases:

- It has not submitted the information return to HMRC or any other qualifying authority.
- It has submitted the return to another qualifying authority, which discharges its obligation to submit an information return to HMRC, but it has failed to either submit an information return or make an overseas return notification to HMRC.

The penalty charged will be the same in each case.

There will not normally be any partial mitigation of a penalty charged for failure to submit a return or notification on time. These penalties will apply automatically once the due date has passed, unless there is a reasonable excuse.

Amount of the penalty

The amount of penalty varies according to how long after the filing date the filing member submits the return or notification.

The penalty is:

- £100, if the filing member submits the return or notification within 3 months of the filing date.
- £200, if the filing member submits the return or notification within 6 months of the filing date.
- If the return or notification has not been submitted after 6 months, £200 plus £60 for each day after 6 months up to the day the return or notification is submitted.

However, the penalties will increase if a group:

- Was obliged to submit an information return or overseas return notification for three consecutive accounting periods,
- Received (through a filing member) a penalty relating to the information return for each of the first two of those periods, and
- Is liable (through a filing member) to a penalty for the third period.

If these conditions are met, the amount of the penalty for the third period (and any subsequent consecutive periods) will increase to:

- £500, if the filing member submits the return or notification within 3 months of the filing date.
- £1000, if the filing member submits the return or notification within 6 months of the filing date.
- If the return or notification has not been submitted after 6 months, £1000 plus £60 for each day after 6 months up to the day the return or notification is submitted.

These higher amounts are applicable to failures occurring in all successive accounting periods until the filing member submits its return or notification for an accounting period by the filing date. If the filing member then fails to submit its return or notification on time for the next accounting period, the lower rates apply.

Example

Filing member 'A' submits returns or notifications for the group's accounting periods as follows:

Accounting period ended	**Filing date**	**Date return or notification actually submitted**	**Penalty under FA23/SCH14/ PART11/PARA 42**
31 December 2024	30 June 2026 (i.e. 18 months after end of first AP)	1 month late (i.e. filing made on 31 July 2027)	£100
31 December 2025	31 March 2027 (i.e. 15 months after end of AP)	4 months late (i.e. filing made on 31 July 2027)	£200
31 December 2026	31 March 2028 (i.e. 15 months after end of AP)	1 month late (i.e. filing made on 30 April 2028)	£500 (3rd consecutive accounting period)
31 December 2027	31 March 2029 (i.e. 15 months after end of AP)	7 months late (i.e. filing made on 31 October 2029)	£1,000 plus £1800 (i.e., £60 for each of the 30 days between 1 October and 30 October 2029 (inclusive) on which the filing member failed to submit the return or notification)
31 December 2028	31 March 2030 (i.e. 15 months after end of AP)	On time	Nil
31 December 2029	31 March 2031 (i.e. 15 months after end of AP)	4 months late (i.e. filing made on 30 June 2031)	£200
31 December 2030	31 March 2032 (i.e. 15 months after end of AP)	1 month late (i.e. filing made on 30 April 2032)	£100
31 December 2031	31 March 2033 (i.e. 15 months after end of AP)	1 month late (i.e. filing made on 30 April 2033)	£500 (3rd consecutive accounting period)

Reasonable excuse

The filing member may make a claim that there is a reasonable excuse for not submitting the return or notification. When HMRC accepts a claim, a penalty is not charged. When a Tribunal has determined following an appeal that there was a reasonable excuse, HMRC will withdraw any penalty notice.

Insufficiency of funds is not a reasonable excuse.

If the filing member is reliant on another person to meet the obligation, it can only use this as a reasonable excuse if it has itself taken reasonable care to avoid the failure.

When a reasonable excuse ceases, the excuse will be treated as continuing if the filing member remedies the failure without unreasonable delay.

See CH160000 for further guidance on reasonable excuse.

Assessment and notification of penalty

HMRC charge penalties relating to the information return by formal assessment. Where a penalty is assessed, HMRC will issue a penalty notice to the filing member stating:

- The amount of the penalty,
- The date of issue, and
- The time during which an appeal can be made.

The assessment of a penalty is to be treated for procedural purposes in the same way as an assessment to tax. It may be enforced as if it were an assessment to tax and can be combined with an assessment to tax. See FA23/SCH14/PART11/PARA42.

Time limits

An assessment of a penalty relating to the information return must be made before the end of the period of 12 months beginning with:

- The end of the appeal period for the assessment of the liability to tax which would have been shown in the return, or
- If there is no such assessment, the date on which that liability is ascertained, or it is ascertained that the liability is nil.

Appeal period

'Appeal period' refers to the period during which the filing member:

- Could appeal, or
- Has made a valid appeal that has not been determined or withdrawn.

Liability and payment

A penalty relating to the information return is raised against the filing member and does not attract interest charges.

A penalty relating to the information return must be paid within 30 days of the day on which notification of the penalty is issued.

Payments received by the filing member will be ignored for corporation tax purposes if:

- The payment is received from a company (or companies) within the charge to corporation tax,
- The payment is received as part of an agreement between the filing member and that company (or companies) to reimburse or indemnify the filing member in respect of a penalty relating to the information return, and
- The payments do not, in total, exceed the amount of the penalty,

Appeal

A filing member may appeal against a penalty. Once appealed against, the collection of a penalty is postponed. This means that no action can be taken to collect a penalty while it remains under appeal.

Reduction in special circumstances

HMRC has discretion to reduce a penalty because of special circumstances. All the guidance on special reduction for all relevant taxes is in a separate chapter at CH170000.

55430 Penalties relating to the self-assessment return

If a group is registered for MTT, the filing member is obliged to submit a self-assessment return to HMRC for each period, unless a below-threshold notification is in effect (see MTT53000). If it fails to meet this obligation within the time limit, it will be liable to a penalty. Therefore, a group will be liable to a penalty if:

- A self-assessment return has not been submitted for a period, and
- A valid below-threshold notification has not been made (or has been made and then withdrawn).

There will not normally be any partial mitigation of a penalty charged for failure to submit a return or notification on time. These penalties will apply automatically once the due date has passed, unless there is a reasonable excuse.

Amount of the penalty

The amount of penalty varies according to how long after the filing date the filing member submits the return or notification.

If the return or notification is delivered more than six months after the filing date, tax-related penalties may be charged if they are higher than the applicable flat-rate penalties.

The penalty is:

-
- £100, if the filing member submits the return or notification within 3 months of the filing date.
- £200, if the filing member submits the return or notification within 6 months of the filing date.
- The higher of £200 or 10% of the unpaid tax, if the filing member submits the return or notification within 12 months after the filing date.
- The higher of £200 or 20% of the unpaid tax, if the return or notification is not submitted within 12 months of the filing date.

The unpaid tax is the total amount of liability of group members for the accounting period that remains unpaid on the day after the filing date.

However, the penalties will increase if a group:

- Was obliged to submit a self-assessment return for three consecutive accounting periods,
- Received a penalty (through a filing member) relating to the self-assessment return for each of the first two of those periods, and
- Is liable (through a filing member) to a penalty for the third period.

If these conditions are met, the amount of the flat-rate penalty for the third period (and any subsequent consecutive periods) will increase to:

- £500, if the filing member submits the return or notification within 3 months of the filing date.
- £1000, if the return or notification is not submitted within 3 months (the higher-of tests continue to apply as applicable).

Example

Filing member ‘A’ submits returns or notifications for the group’s accounting periods as follows:

Accounting period ended	Filing date	Date return or notification actually submitted	Penalty under FA23/SCH14/ PART11/PARA 43
31 December 2024	30 June 2026 (i.e. 18 months after end of first AP)	1 month late (i.e. filing made on 31 July 2027)	£100
31 December 2025	31 March 2027 (i.e. 15 months after end of AP)	7 months late (i.e. filing made on 31 October 2027)	£200 or if the unpaid tax on 1 April 2027 (the date a paragraph 43 penalty first arose) was more than £2000, 10% of the unpaid tax. Thus, if the unpaid tax on 1 April 2027 was £1,000,000, a £100,000 penalty would be due.
31 December 2026	31 March 2028 (i.e. 15 months after end of AP)	1 month late (i.e. filing made on 30 April 2028)	£500 (3rd consecutive accounting period)
31 December 2027	31 March 2029 (i.e. 15 months after end of AP)	13 months late (i.e. filing made on 30 April 2030)	£1000 or if the unpaid tax on 1 April 2029 (the date a paragraph 43 penalty first arose) was more than £5000, 20% of this unpaid tax. Thus, if the unpaid tax on 1 April 2029 was £1,000,000 a £200,000 penalty would be due.
31 December 2028	31 March 2030 (i.e. 15 months after end of AP)	On time	Nil
31 December 2029	31 March 2031 (i.e. 15 months after end of AP)	4 months late (i.e. filing made on 30 June 2031)	£200
31 December 2030	31 March 2032 (i.e. 15 months after end of AP)	1 month late (i.e. filing made on 30 April 2032)	£100
31 December 2031	31 March 2033 (i.e. 15 months after end of AP)	1 month late (i.e. filing made on 30 April 2033)	£500 (3rd consecutive accounting period)

Reasonable excuse

The filing member may make a claim that there is a reasonable excuse for not submitting the return or notification. When HMRC accepts a claim, a penalty is not charged. When a Tribunal has determined following an appeal that there was a reasonable excuse, HMRC will withdraw any penalty notice.

Insufficiency of funds is not a reasonable excuse.

If the filing member is reliant on another person to meet the obligation, it must take reasonable care to avoid the failure for this to be a reasonable excuse.

When a reasonable excuse ceases, the excuse is treated as continuing as long as the filing member remedies the failure without unreasonable delay.

See CH160000 for further guidance on reasonable excuse.

Assessment and notification of penalty

HMRC charge penalties relating to the self-assessment return by formal assessment. Where a penalty is assessed, HMRC will issue a penalty notice to the filing member stating:

- The amount of the penalty,
- The date of issue, and
- The time during which an appeal can be made.

The assessment of a penalty is to be treated for procedural purposes in the same way as an assessment to tax. It may be enforced as if it were an assessment to tax and can be combined with an assessment to tax. See FA23/SCH14/PART11/PARA43.

Time limits

An assessment of a penalty relating to self-assessment return must be made before the end of the period of 12 months beginning with:

- The end of the appeal period for the assessment of the liability to tax which would have been shown in the return, or
- If there is no such assessment, the date on which that liability is ascertained, or it is ascertained that the liability is nil.

Appeal period

'Appeal period' refers to the period during which the filing member:

- Could appeal, or
- Has made a valid appeal that has not been determined or withdrawn.

Liability and payment

A penalty relating to the self-assessment return is raised against the filing member and does not attract interest charges.

A penalty relating to the self-assessment return must be paid within 30 days of the day on which notification of the penalty is issued.

Payments received by the filing member will be ignored for corporation tax purposes if:

- The payment is received from a company (or companies) within the charge to corporation tax,
- The payment is received as part of an agreement between the filing member and that company (or companies) to reimburse or indemnify the filing member in respect of a penalty relating to the information return, and
- The payments do not, in total, exceed the amount of the penalty.

Appeal

A filing member may appeal against a penalty. Once appealed against, the collection of a penalty is postponed. This means that no action can be taken to collect a penalty while it remains under appeal.

Reduction in special circumstances

HMRC has discretion to reduce a penalty because of special circumstances. All the guidance on special reduction for all relevant taxes is in a separate chapter at CH170000.

55440 Penalties for inaccuracies

HMRC is responsible for making sure that everyone pays the right amount of tax. Most people do pay the right tax at the right time and take care with the documents they submit. The purpose of the penalty provisions is to seek to influence behaviour by supporting those who try to meet their obligations and penalising those who do not. People expect reassurance from HMRC that there is no advantage for those who do not comply.

To provide this assurance, HMRC will charge penalties where people do not pay the right tax at the right time because the documents they submit to HMRC contain an inaccuracy, or because they fail to take reasonable steps to notify HMRC where an HMRC determination understates their liability to tax.

There are different circumstances under which HMRC may issue a penalty assessment. Penalties for inaccuracies are specifically for when a person carelessly or deliberately:

- Understates the tax they owe, or
- Makes a false or inflated statement of a loss or a claim for repayment of tax.

A filing member may be liable to a penalty for inaccuracies under Schedule 24 of Finance Act 2007 in relation to relevant documents (and the information provided with them) which must be submitted to HMRC for MTT purposes.

The filing member has 30 days to pay the penalty from the point at which the penalty is raised.

Relevant documents

The relevant documents are:

- Information returns and overseas return notifications (see MTT52000).
- Self-assessment returns and below-threshold notifications (see MTT53000).

A filing member may also be liable to a penalty under Schedule 24 if it is issued with an HMRC determination which understates the amount of MTT which is due, and it fails to take reasonable steps to notify HMRC of the understatement. See MTT55350 for further guidance on HMRC determinations.

Further guidance

Further guidance can be found in the Compliance Handbook at the following pages:

- To determine when a penalty for inaccuracy or failure to notify an under-assessment is payable, see CH81010.
- To identify the types of inaccuracies, see CH81100.
- To calculate the penalty due, see CH82000.
- To process the penalty, see CH83000.
- To deal with appeals against a penalty, see CH84000.
- To consider miscellaneous issues that may affect the penalty, see CH84500.

HMRC can agree to a special reduction of the penalty in special circumstances. See CH82490.

There are also specific rules covering:

- How the penalty provisions apply in relation to agents and companies.
- What happens if a person incurs a penalty for an inaccuracy, and also incurs another penalty on the same tax.

The penalty provisions in Sections 100 to 103 of TMA 1970 do not apply to a penalty under Schedule 24 FA 2007.

55450 Penalties relating to record-keeping

The filing member has a duty to keep and preserve such records as may be needed to enable it to deliver correct and complete MTT returns (see MTT51500).

A penalty of £3,000 may be charged for each accounting period in relation to which:

- The filing member has failed to keep or to preserve adequate records for the required duration,
- HMRC reasonably requires facts to be proved, which would have been proved by those records had the filing member upheld its obligations, and
- Those facts are not proved by other documentary evidence provided to HMRC.

Assessment and notification of penalty

HMRC charge penalties relating to record-keeping by formal assessment. Where a penalty is assessed, HMRC will issue a penalty notice to the filing member stating:

- The amount of the penalty,
- The date of issue, and
- The time during which an appeal can be made.

The assessment of a penalty is to be treated for procedural purposes in the same way as an assessment to tax. It may be enforced as if it were an assessment to tax and can be combined with an assessment to tax. See FA21/SCH14/PART11/PARA46.

Time limits

An assessment of a penalty relating to record keeping must be made before the end of the period of 12 months beginning with:

- The end of the appeal period for the assessment of the liability to tax which would have been shown in the return, or
- If there is no such assessment, the date on which that liability is ascertained, or it is ascertained that the liability is nil.

Appeal period

'Appeal period' refers to the period during which the filing member:

- Could make an appeal, or
- Has made a valid appeal that has not been determined or withdrawn.

Liability and payment

A penalty relating to record-keeping is raised against the filing member and does not attract interest charges.

A penalty relating to record-keeping must be paid within 30 days of the day on which notification of the penalty is issued.

Payments received by the filing member will be ignored for corporation tax purposes if:

- The payment is received from a company (or companies) within the charge to corporation tax,
- The payment is received as part of an agreement between the filing member and that company (or companies) to reimburse or indemnify the filing member in respect of a penalty relating to record-keeping, and
- The payments do not, in total, exceed the amount of the penalty.

Appeal

A filing member may appeal against a penalty. Once appealed against, the collection of a penalty is postponed. This means that no action can be taken to collect a penalty while it remains under appeal.

Reduction in special circumstances

HMRC has discretion to reduce a penalty because of special circumstances. The guidance on special reduction for all relevant taxes is in a separate chapter at CH170000.

Appeals and reviews

The following pages provide some practical guidance on how decisions relating to MTT can be appealed:

MTT55510 provides guidance for making an appeal.

MTT55520 explains the situations in which a request to postpone a payment of MTT can be made.

MTT55530 provides more information on how an appeal will be concluded.

MTT55540 provides guidance on when HMRC will offer a review of a decision, and the review process for requesting a review.

55510 Appeals - Making an appeal

The filing member may appeal against any of the following decisions on tax:

- The conclusion of a compliance check, where an amendment is required in the closure notice.
- A partial closure notice
- An assessment of a penalty.
- A discovery assessment.
- An assessment, or supplementary assessment, for excessive repayment of tax.
- A jeopardy amendment during a compliance check to prevent loss of tax.

Although not a decision on tax, a person served a payment notice to pay an MTT liability may also appeal against the notice in limited circumstances.

Notice of appeal

The notice of appeal must be given to HMRC in writing within 30 days of the specified date.

The notice of appeal must specify the grounds of appeal.

Specified date

The ‘specified date’ is:

- For appeals against the conclusion of a compliance check, the date on which the closure notice was issued,
- For appeals against a discovery assessment, a penalty, or an assessment for excessive repayment of tax, the date on which the notice of assessment was issued,
- For appeals against a jeopardy amendment, the date on which the jeopardy amendment notice was issued.

Late notice of appeal

A late notice of appeal may be accepted after the 30-day limit if either:

- HMRC agree, or
- A Tribunal gives permission for notice to be given.

HMRC must agree to notice being given after the 30-day limit if:

- the appellant has requested in writing that HMRC do so,
- HMRC are satisfied that there was a reasonable excuse for not giving the notice within the relevant time limit, and
- The request has been made without unreasonable delay.

HMRC must notify the appellant of whether the request has been agreed or not.

55520 Appeals – Postponement of tax

Postponement of Tax

In general, an appeal does not postpone any liability to pay MTT due.
However, a liability may be postponed if:

- An application is made to HMRC and it is determined that there are reasonable grounds to believe that the person is overcharged,
- A tribunal directs it, or
- HMRC and the filing member agree to a postponement.

The period of postponement will end on the date that the appeal is determined.

For general information on postponements of tax during an appeal, see the Appeals, Reviews and Tribunals Guidance (ARTG) Manual.

Applications to postpone payment

The filing member can apply to HMRC to request postponement of payment if they have reason to believe that:

- A person has been overcharged MTT, or
- The amount of tax previously postponed is incorrect.

The application must state the amount believed to be overcharged and the grounds for that belief.

The application must be made within 30 days of the specified date (see MTT55510). It may be made more than 30 days after, if there is a change in the circumstances of the case, as a result of which the filing member has grounds for making a request, by direction of a Tribunal, or by HMRC agreement.

HMRC will then determine the amount of tax, if any, for which payment should be postponed. This amount must be the amount by which it is reasonable to believe that the person has been overcharged.

If the appellant does not agree with the determination, it may refer the application to the Tribunal.

Agreements to postpone

HMRC and the filing member may agree that payment should be postponed pending the determination of the appeal.

Any such agreement must be made in writing. It may be made with a person acting on behalf of the appellant.

The agreement should take effect in the same way that it would do if it were a direction from a Tribunal. An agreement may specify that is to be treated in the same way as a settlement agreement (see MTT55530).

Agreements may modify an existing determination made by HMRC following an application to postpone payment.

Any agreement may subsequently be modified by a determination by HMRC following an application to postpone payment, or by Tribunal direction.

Appeals against penalties

A person may appeal against a penalty that is payable by that person.
Penalties relating to the information return (MTT55420), penalties relating to the self-assessment return (MTT55430), and penalties relating to record-keeping (MTT55450) are automatically postponed once appealed.

This means that no action can be taken to collect a penalty while it remains under appeal. An appeal against a penalty must be made in writing by the person that is required to pay the penalty, this will usually be the filing member.

55530 Appeals – Concluding an appeal

When a valid appeal has been made, there are different possible routes to determining the outcome of the appeal:

- HMRC may conduct a review into the matter (see MTT55540).
- The appeal may be settled by an agreement between HMRC and the appellant.
- The appeal may be referred to a Tribunal.

For general information on appeals, see the Appeals, Reviews and Tribunals Guidance (ARTG) Manual.

Appeal against jeopardy amendment made during compliance check

If an appeal against a jeopardy amendment is made while a compliance check into the return is still in progress, it is not possible to have a review or to refer the matter to a Tribunal until the compliance check has been concluded.

Conclusion of appeals

Appeals can either be concluded by agreement between HMRC and the appellant or determined by the Tribunal.

If the appellant notifies HMRC that they do not wish to proceed with the appeal and HMRC does not respond within 30 days in writing indicating they are unwilling for the appeal to be withdrawn, then the appeal is considered to be concluded as an agreement that no variation was necessary.

When HMRC and the appellant can reach agreement, HMRC must write to the appellant setting out whether the decision appealed against should be:

- Upheld without variation,
- Varied in a particular manner,
- Discharged or cancelled.

If the appellant does not respond in writing within 30 days of the settlement agreement that they wish to withdraw from the agreement, then the appeal is treated as if the tribunal had decided the appeal in the way set out in the settlement agreement.

Settlement agreements

Appeals may be settled by agreement before, during or after review and at any time before any decision is made by the tribunal. Where the appeal is settled following review, see ARTG4830 and ARTG4840.

Where the appeal is settled after the customer has notified the appeal to the tribunal, see ARTG8460.

Determination by Tribunal

Any person who wishes to notify an appeal against an HMRC decision or assessment to the tribunal can do so online through the gov.uk website.
Once the appeal has been determined any tax overpaid must be repaid or any tax unpaid must be collected. Late payment interest and repayment interest will also be payable on these amounts.

55540 Appeals - Reviews

HMRC can offer to review an appeal, and the appellant may accept up to 30 days from the date of the offer.

The appellant can request that It requires HMRC to review an appeal, in which case HMRC must do so.

A review cannot be requested or offered if:

- The appellant has already made a request on the same matter.
- HMRC has already offered a review of the same matter.
- The appeal has been notified to the Tribunal.

See ARTG4000 for guidance on reviews of tax decisions.

HMRC offer to review

An HMRC offer to review must be made in writing and contain a statement of HMRC's view of the matter.

If the offer is not accepted within the 30-day window, and the appellant has not referred the matter to the Tribunal, then HMRC's view of the matter will be treated as though it were a settlement agreement (see MTT55530). However, there is no right to withdraw as there is with a settlement agreement.

Review requested by appellant

If the request is valid, HMRC must provide the appellant of its view of the matter within 30 days from the day it received the request, unless a longer period is reasonable.

Review process

HMRC will decide the nature and extent of the review. In making this decision, HMRC must consider the steps it took to decide the matter and the steps any person took to resolve the disagreement about the matter.

The appellant may provide information during the review. HMRC must take this information into account if it is provided at a time that gives it reasonable opportunity to consider the information.

Concluding a review

HMRC will notify the filing member of the conclusions of the review within 45 days of either:

- HMRC's view of the matter (where the filing member requested a review), or
- HMRC receiving notification of the filing member's acceptance of the offer (where HMRC offered the review).

The conclusion will be that the HMRC view is either upheld, varied, or cancelled.

The conclusion is to be treated as though it was part of a settlement agreement (see MTT55530), except there is no right to withdraw. However, the appellant may notify its appeal to the Tribunal.

HMRC must notify the appellant of the conclusion and the reasoning for that conclusion within 45 days of the relevant day, unless another period is agreed.

Relevant day

The ‘relevant day’ is the day HMRC notified the appellant of its view of the matter or, if it offered the review, the day it received the acceptance of the offer.