



# ***PCG 2025/D3 - Global and domestic minimum tax lodgment obligations - transitional approach***

 This cover sheet is provided for information only. It does not form part of *PCG 2025/D3 - Global and domestic minimum tax lodgment obligations - transitional approach*

 For information about the status of this draft Guideline, see item [4154] on our [Advice under development program](#).



Status: **draft only – for comment**

## Draft Practical Compliance Guideline

# Global and domestic minimum tax lodgment obligations – transitional approach

### **❗ Relying on this draft Guideline**

This Practical Compliance Guideline is a draft for consultation purposes only. When the final Guideline issues, it will have the following preamble:

*This Practical Compliance Guideline sets out a practical administration approach to assist taxpayers in complying with relevant tax laws. Provided you follow this Guideline in good faith, the Commissioner will administer the law in accordance with this approach.*

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**What this draft Guideline is about**


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1. Australia's implementation of a 15% global and domestic minimum tax (Minimum Tax) introduces additional lodgment obligations for in-scope multinational enterprise groups (MNE Groups<sup>1</sup>). The Minimum Tax implements the Organisation for Economic Co-operation and Development's (OECD's) Global Anti-Base Erosion Model Rules<sup>2</sup> (GloBE Rules). The GloBE Rules are a key aspect of Pillar Two of the OECD/G20 Two-Pillar Solution to address tax challenges arising from the digitalisation of the economy. The Minimum Tax lodgment obligations were inserted by the *Treasury Laws Amendment (Multinational – Global and Domestic Minimum Tax) (Consequential) Act 2024* into Schedule 1 to the *Taxation Administration Act 1953* (TAA). Failure to comply with these obligations can incur significant penalties.
2. This draft Guideline<sup>3</sup> outlines our practical administrative approach to the enforcement of penalties during a transition period. This approach aims to balance the need to support taxpayers to understand and comply with their Minimum Tax obligations with the need to administer the introduced legislation in a manner which is consistent with the OECD's GloBE Rules.
3. This Guideline is intended to complement existing ATO guidance relating to our administration of lodgment obligations and penalties. It provides tailored advice to assist in-scope taxpayers to meet their obligations during the transition period.
4. This Guideline does not limit the operation of the law and replace, alter or affect our interpretation of the law in any way. It does not relieve you of your legal obligation to comply with all relevant tax laws.
5. All legislative references in this Guideline are to Schedule 1 to the TAA, unless otherwise indicated.

**Date of effect**


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6. When finalised, this Guideline is proposed to take effect from 1 January 2024.
7. It will apply to lodgments in respect of Fiscal Years<sup>4</sup> commencing on or before 31 December 2026 and ending on or before 30 June 2028 (Transition Period).
8. This Guideline will be under continuous review during the Transition Period.

**Background**


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9. The GloBE Rules are a global initiative. Over 135 jurisdictions joined the Two-Pillar Solution in 2021<sup>5</sup> to reform international taxation rules and ensure that multinational enterprises pay a minimum level of tax in the jurisdictions in which they operate.

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<sup>1</sup> The term 'MNE Group' is defined in subsection 14(1) of the *Taxation (Multinational – Global and Domestic Minimum Tax) Act 2024* (GDMTA).

<sup>2</sup> OECD (2021) *Tax Challenges Arising from Digitalisation of the Economy – Global Anti-Base Erosion Model Rules (Pillar Two): Inclusive Framework on BEPS*, OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing, Paris.

<sup>3</sup> For readability, all further references to 'this Guideline' refer to the Guideline as it will read when finalised. Note that this Guideline will not take effect until finalised.

<sup>4</sup> The term 'Fiscal Year' is defined in section 34 of the GDMTA.

<sup>5</sup> OECD (2021) *Statement on a Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalisation of the Economy*, OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing, Paris.

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10. The Minimum Tax applies to Applicable MNE Groups, which are MNE Groups that have annual revenue in their Consolidated Financial Statements<sup>6</sup> equal to or greater than EUR750 million for at least 2 of the 4 Fiscal Years immediately preceding the tested fiscal year.<sup>7</sup>

11. The Minimum Tax comprises:

- a global minimum tax, which consists of 2 interlocking rules
  - ‘Income Inclusion Rule’ (IIR)<sup>8</sup> – under this rule, parent entities located in Australia can be liable to pay top-up tax (that is, ‘Australian IIR tax’) if the MNE Group’s effective tax rate in another jurisdiction is below 15%
  - ‘Undertaxed Profits Rule’ (UTPR)<sup>9</sup> – this rule acts as a backstop to the IIR. Constituent entities<sup>10</sup> located in Australia can be liable to top-up tax (that is, ‘Australian UTPR tax’) under the UTPR if the MNE Group’s effective tax rate in another jurisdiction is below 15% and those low-taxed profits are not brought into charge under an IIR
- a domestic minimum tax (DMT)<sup>11</sup>, which provides Australia the ability to impose top-up tax (that is, ‘Australian DMT tax’) over any low-taxed profits in Australia.

12. Australia’s IIR and DMT apply in relation to Fiscal Years starting on or after 1 January 2024. The UTPR applies in relation to Fiscal Years starting on or after 1 January 2025.

13. The *Treasury Laws Amendment (Multinational – Global and Domestic Minimum Tax) (Consequential) Act 2024* introduces 4 lodgment obligations in respect of the Minimum Tax:

- the GloBE Information Return (GIR)<sup>12</sup> – an OECD standardised form that provides each jurisdiction’s tax authority with the information required to calculate an entity’s tax liability
- the Foreign Notification Form (FNF)<sup>13</sup> – which notifies the Commissioner that a foreign entity has lodged the GIR on behalf of Australian Group Entities<sup>14</sup> and the jurisdiction in which this lodgment was made
- the Australian IIR/UTPR tax return (AIUTR)<sup>15</sup> – an Australian-specific tax return that forms the basis of our assessment of Australian IIR tax and Australian UTPR tax
- the Australian DMT tax return (DMTR)<sup>16</sup> – an Australian-specific tax return that forms the basis of our assessment of Australian DMT tax.

14. The FNF, AIUTR and DMTR are separate lodgment obligations. However, for ease of lodgment, we have combined them into the Combined Global and Domestic Minimum

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<sup>6</sup> The term ‘Consolidated Financial Statements’ is defined in section 34 of the GDMTA.

<sup>7</sup> Section 12 of the GDMTA.

<sup>8</sup> Section 6 of the GDMTA.

<sup>9</sup> Section 10 of the GDMTA.

<sup>10</sup> The term ‘Constituent Entity’ is defined in section 16 of the GDMTA.

<sup>11</sup> Section 8 of the GDMTA.

<sup>12</sup> Section 127-5.

<sup>13</sup> Section 127-30.

<sup>14</sup> The term ‘Group Entity’ is defined in section 15 of the GDMTA.

<sup>15</sup> Section 127-35.

<sup>16</sup> Section 127-45.

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Tax Return (CGDMTR). The GIR is a standalone form (and lodgment obligation) and is not combined into the CGDMTR.

15. The due date for these lodgment obligations is aligned, being 18 months after the end of the Applicable MNE Group's GloBE Transition Year<sup>17</sup> and 15 months after the end of subsequent Fiscal Years.<sup>18</sup>

16. Australian IIR tax, Australian UTPR tax and Australian DMT tax are due and payable on the last day of the 18th month after the end of the Applicable MNE Group's GloBE Transition Year and on the last day of the 15th month in subsequent Fiscal Years.<sup>19</sup>

### **GloBE Information Return**

17. Where an MNE Group is an Applicable MNE Group for a Fiscal Year, each Group Entity that is located in Australia and each foreign Group Entity that has a GloBE Permanent Establishment (PE)<sup>20</sup> in Australia is required to lodge a GIR in Australia for that Fiscal Year.<sup>21</sup>

18. A GIR must be lodged<sup>22</sup>:

- electronically
- in the approved form
- by the due date.

19. Consistent with the GloBE Rules, we do not have a discretion to defer the lodgment due date for the GIR.<sup>23</sup>

20. Each Group Entity with an Australian GIR lodgment obligation can nominate one Group Entity located in Australia to be the Designated Local Entity (DLE) to lodge the GIR with us for a Fiscal Year.<sup>24</sup> This is a 'one-in, all-in' nomination, meaning that all of those Group Entities must appoint the DLE.<sup>25</sup> At any one time, there can only be one DLE appointed to lodge the GIR for a Fiscal Year.

21. Where a DLE is appointed, each Group Entity is taken to have lodged the GIR at the time the DLE lodges the GIR with us.<sup>26</sup> If the DLE lodges late, each Group Entity is taken to have lodged late.

22. MNE Groups also have the option of lodging the GIR in a foreign jurisdiction. The jurisdiction must have a Qualifying Competent Authority Agreement (QCAA)<sup>27</sup> in place with Australia. If the Ultimate Parent Entity (UPE) of the MNE Group or a Designated Filing Entity (DFE)<sup>28</sup> located in such a jurisdiction lodges the GIR with a foreign government agency of that jurisdiction, each Group Entity with an Australian GIR lodgment obligation will be taken to have lodged the GIR at the time the UPE or DFE lodges the GIR with the

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<sup>17</sup> The term 'GloBE Transition Year' is defined in subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

<sup>18</sup> Paragraph 127-60(2)(a) and subsection 127-60(1).

<sup>19</sup> Subsections 127-70(1) and (2).

<sup>20</sup> The term 'GloBE Permanent Establishment' is defined in subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

<sup>21</sup> Sections 127-5 and 127-65. 'GloBE Excluded Entities' are excluded from this obligation. See section 127-80.

<sup>22</sup> Subsection 127-5(2) and section 127-60.

<sup>23</sup> Subsection 127-60(3).

<sup>24</sup> Section 127-10.

<sup>25</sup> Paragraph 127-15(b).

<sup>26</sup> Section 127-10.

<sup>27</sup> The term 'Qualifying Competent Authority Agreement' is defined in subsection 127-20(3).

<sup>28</sup> A DFE is, broadly, a Group Entity that has been appointed by the MNE Group to file the GIR for a Fiscal Year on behalf of the MNE Group. See section 127-25.

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foreign government agency. However, this treatment only applies if the UPE or DFE lodges the GIR with that foreign government agency by the due date specified in Australia's legislation.<sup>29</sup>

23. If the UPE or DFE lodges the GIR with the foreign government agency after the due date specified in Australia's legislation, Group Entities will not be treated as having lodged the GIR at the time of foreign lodgment and their Australian GIR lodgment obligations will remain unsatisfied. In that case, Group Entities will be taken to have lodged the GIR at the time we receive it from the foreign government agency on exchange. Alternatively, in some cases we may require the GIR to be lodged locally before the GIR is exchanged with us.

24. Where a GIR is filed on time by a UPE or DFE with the foreign government agency but it has not been exchanged with us within the time specified in the QCAA, we may require Australian Group Entities to lodge the GIR with us within 21 days after we give written notice of this request.<sup>30</sup> Under these circumstances, we will generally contact the foreign government agency first to find out the reason for the delay and to request a copy of the GIR. If the attempts to obtain the GIR from the foreign government agency are unsuccessful, we will then seek to obtain the GIR locally.

25. Where the GIR is lodged in a foreign jurisdiction, each Group Entity with an Australian GIR lodgment obligation is required to lodge a FNF with us.<sup>31</sup> These Group Entities may appoint a DLE, on a 'one-in, all in' basis, to lodge the FNF.<sup>32</sup>

### **Combined Global and Domestic Minimum Tax Return**

26. Each Group Entity of an Applicable MNE Group is required to lodge:

- an AIUTR where they have an Australian IIR/UTPR tax amount (including a nil amount)<sup>33</sup>
- a DMTR<sup>34</sup> where they have an Australian DMT tax amount (including a nil amount).<sup>35</sup>

27. The Commissioner may, by legislative instrument, make a determination specifying circumstances in which an entity need not lodge an AIUTR or DMTR.<sup>36</sup>

28. These returns must be lodged<sup>37</sup>:

- electronically
- in the approved form
- by the due date.

29. The AIUTR, DMTR and FNF are contained in the CGDMTR.

30. MNE Groups have the option to appoint a DLE to file the AIUTR and DMTR. Group Entities with a lodgment obligation may nominate one Australian Group Entity, being the

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<sup>29</sup> Subsection 127-20(1) and paragraph 127-20(2)(a).

<sup>30</sup> Subsections 127-20(4) and (5) and subparagraph 127-60(2)(b)(ii).

<sup>31</sup> Paragraph 127-20(2)(b). Subsection 128-30(1) sets out requirements in relation to the FNF.

<sup>32</sup> Subsection 127-30(1).

<sup>33</sup> Subsection 127-35(2).

<sup>34</sup> DMTR lodgment obligations apply to GloBE Joint Ventures and GloBE JV Subsidiaries of Applicable MNE Groups in the same way they apply to Group Entities of Applicable MNE Groups. See sections 127-55 and 127-45.

<sup>35</sup> Subsection 127-45(2).

<sup>36</sup> Subsections 127-35(5) and 127-45(5). 'GloBE Excluded Entities' are excluded from the obligation to lodge an AIUTR, DMTR and FNF. See section 127-80.

<sup>37</sup> Subsections 127-35(3) and 127-45(3) and section 127-60.

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same DLE that is appointed to lodge the GIR or FNF, to lodge the return on their behalf, on a one-in, all-in basis. At any one time, there can only be one DLE appointed to lodge the AIUTR and DMTR for a Fiscal Year.<sup>38</sup>

31. Where a DLE has been nominated, each Group Entity is taken to have lodged the relevant return at the time the DLE lodges with us.<sup>39</sup> If the DLE lodges late, each Australian Group Entity in the MNE group is taken to have lodged late.

32. The Commissioner has the power to defer the due date for the AIUTR and DMTR but not the FNF.<sup>40</sup>

33. We expect that the majority of MNE Groups will appoint a DLE to lodge the relevant returns with us to streamline their Australian compliance processes. Therefore, throughout this Guideline we have made references to lodgments through a DLE. However, the principles in this Guideline equally apply to MNE Groups that choose not to appoint a DLE.

### **Application of penalties in relation to lodgment obligations**

34. The existing administrative penalty regime in the TAA will apply to the Minimum Tax obligations. This includes:

- penalties for failure to lodge on time (FTL), which can apply regardless of whether
  - a DLE has been appointed to lodge on their behalf
  - the GIR is lodged in Australia or in a foreign jurisdiction<sup>41</sup>
- penalties for making a false or misleading statement<sup>42</sup>, making a statement in which you take a position that is not reasonably arguable<sup>43</sup> or failing to give a return, notice or document leading to a default assessment by the Commissioner<sup>44</sup>
- penalties for failure to keep records.<sup>45</sup>

35. The base penalty amount (BPA) of the penalty imposed on Group Entities is aligned with those which apply to significant global entities. That is, the:

- penalty for failure to lodge a return, notice or other document on time is 500 times the BPA<sup>46</sup>
- penalty is doubled for false or misleading statements, making a statement in which you take a position that is not reasonably arguable or failure to give a return, notice or document resulting in a default assessment.<sup>47</sup>

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<sup>38</sup> Sections 127-40 and 127-50.

<sup>39</sup> Subsection 127-40(2).

<sup>40</sup> Subsection 127-60(3) and section 388-55.

<sup>41</sup> Subsection 286-75(1).

<sup>42</sup> Subsection 284-75(1).

<sup>43</sup> Subsection 284-75(2).

<sup>44</sup> Subsection 284-75(3).

<sup>45</sup> Under section 288-25.

<sup>46</sup> Subsection 286-80(4C).

<sup>47</sup> Subsection 284-90(1C).

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### **Organisation for Economic Co-operation and Development's common understanding on transitional penalty relief**

36. The OECD has released a common understanding on transitional penalty relief, which reflects the need to provide relief to taxpayers in cases where an MNE Group has taken reasonable measures to ensure the correct application of the GloBE Rules. It recommends (emphasis added)<sup>48</sup>:

During the **Transition Period**, no penalties or sanctions should apply **in connection with the filing** of a GloBE Information Return where a tax administration considers that an MNE has taken "**reasonable measures**" to ensure the correct application of the GloBE Rules. A tax administration may consider that an MNE has taken reasonable measures where the **MNE can demonstrate** that it has acted in good faith to understand and comply with the relevant domestic application of the GloBE Rules and the QDMTT.

37. The OECD common understanding is intended to outline a best practice for implementing jurisdictions. It contemplates that in many cases implementing jurisdictions already provide, as a matter of law or administrative practice, for penalty relief in their existing rules and practice.

### **Our compliance approach during the Transition Period**

#### **Transition Period**

38. The transition period to which this Guideline applies is the 'Transition Period' as defined in the OECD common understanding. It covers Fiscal Years commencing on or before 31 December 2026 and ending on or before 30 June 2028.<sup>49</sup>

39. For example, for MNE Groups with a Fiscal Year ending 31 December, the Transition Period covers 3 Fiscal Years:

- 1 January 2024 to 31 December 2024
- 1 January 2025 to 31 December 2025
- 1 January 2026 to 31 December 2026.

40. Our compliance approach applies to an MNE Group's lodgment obligations in respect of Fiscal Years covered the Transition Period. This means, for example, that the approach applies in respect of a GIR for the Fiscal Year ended 31 December 2026, even though the lodgment due date is not until 15 or 18 months later.

41. During the Transition Period, we will adopt a compliance approach which integrates the OECD's common understanding on transitional penalty relief. We will seek to balance our focus on providing education and assistance to taxpayers, to help them comply with their obligations, with the need to administer the Minimum Tax in a manner consistent with the GloBE Rules.

42. This includes taking a 'soft-landing' approach to penalties where MNE Groups can demonstrate that they have acted in good faith and taken reasonable measures to understand and comply with their lodgment obligations. We will not be providing a blanket penalty concession to all MNE Groups during the Transition Period, as the onus is on MNE Groups to demonstrate that they have taken reasonable measures.

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<sup>48</sup> OECD (2022) *Safe Harbours and Penalty Relief: Global Anti-Base Erosion Rules (Pillar Two)*, OECD/G20 Inclusive Framework on BEPS, OECD Publishing, Paris, page 29 (*OECD Safe Harbours and Penalty Relief*).

<sup>49</sup> *OECD Safe Harbours and Penalty Relief*, page 29.



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43. At an Australian level, we have and will continue to take steps to inform and educate taxpayers about their Minimum Tax compliance obligations, including:

- producing website content on obligations
- undertaking an education campaign to raise awareness with potential in-scope MNE Groups
- holding external awareness sessions
- publishing guidance material as the need arises.

44. Implementing jurisdictions have adopted a common approach to implementing and administering the GloBE Rules in their domestic law. The common approach requires, among other things, recognising the qualified status of the laws of implementing jurisdictions.

45. To ensure Australia's qualification status is maintained, where possible, we will be administering the Minimum Tax in a manner that is consistent with the GloBE Rules and associated OECD Commentary.<sup>50</sup> As a result, we expect Australian Group Entities to demonstrate that they have taken reasonable measures to understand and comply with their Minimum Tax obligations.

#### ***Taking reasonable measures to prepare to meet lodgment obligations***

46. MNE Groups within scope of the GloBE Rules have extensive operations across jurisdictions. Therefore, we expect the tax functions of relevant MNE Group Entities are aware of these measures and are developing systems and capabilities to ensure compliance with the relevant reporting and lodgment obligations.

47. Reasonable measures include, but are not limited to:

- undertaking steps to prepare lodgment of returns in a timely manner
- maintaining adequate records of positions being taken
- proactively engaging with us where delays in lodging are anticipated
- remedying mistakes or errors in a timely manner, including proactively contacting us when the MNE Group identifies errors which require amendments to the GIR or CGDMTR.

48. MNE Groups can demonstrate that reasonable measures have been taken where, for example, they can provide evidence of some or all of the following:

- internal policy or procedure documents, or advice obtained, setting out the Minimum Tax reporting requirements and how these requirements will be met
- a documented plan being in place that incorporates funding and resourcing needs to support implementation
- senior-level approval being sought or obtained for the implementation plan
- new processes and updates to existing processes are documented

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<sup>50</sup> OECD (2022), *Tax Challenges Arising from the Digitalisation of the Economy – Commentary to the Global Anti-Base Erosion Model Rules (Pillar Two), First Edition: Inclusive Framework on BEPS*, OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing, Paris, as amended from time to time.

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- a gap analysis has been undertaken to review existing tax and financial systems to identify shortcomings that need to be addressed to meet the Minimum Tax compliance obligations
- advice has been obtained from external service providers to assist with implementation, if necessary
- modifications to the roles and responsibilities of staff involved in the Minimum Tax compliance process to reflect new responsibilities and required capabilities
- updated internal control testing plans to incorporate key controls
- evidence that relevant information from offshore MNEs has been sought
- records of positions taken, including lodgment exclusions, if applicable.

49. Our expectation around ‘taking reasonable measures’ is the same regardless of whether MNE Groups have their headquarters in Australia or overseas. This expectation is applied to how the MNE Group’s tax function manages the obligations of each Australian Group Entity.

50. For the avoidance of doubt, reasonable measures do not include actions taken for the purpose of avoidance, fraud or evasion.

#### ***Delays in lodging – compliance approach***

51. Law Administration Practice Statements PS LA 2011/15 *Lodgment obligations, due dates and deferrals* and PS LA 2011/19 *Administration of the penalty for failure to lodge on time* provide guidance on the administration of lodgment obligations, due dates and deferrals, and our administration of the penalty for FTL, respectively. These Practice Statements apply to our administration of the Minimum Tax.

52. This Guideline adds to those Practice Statements by outlining our practical administrative approach to lodgment obligations and penalties in respect of the Minimum Tax during the Transition Period.

53. As part of our transitional compliance approach:

- MNE Groups will be provided an opportunity to request remission of an FTL penalty before the penalty is posted to the Client Account in ATO systems.
- We will typically grant full remission where MNE Groups proactively engage with us and provide evidence to demonstrate that they have taken reasonable measures.
- We acknowledge unforeseen circumstances may arise, such as newly enacted legislative amendments which require significant updates to reporting systems, which may cause delays in lodgment.
- Grounds for remission outlined in PS LA 2011/19 will be considered.

54. We expect MNE Group Entities to take reasonable measures to lodge both the GIR and all required sections of the CGDMTR on time. Where delays in lodgment are anticipated, unless we have communicated a broader lodgment concession process, we expect that relevant entities or the nominated DLE will contact us before the lodgment due date. Early engagement with us is important because it will enable us to take the appropriate course of action to assist MNE Groups.

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***Request for lodgment deferral and suspension of lodgment enforcement actions***

55. The principles for granting lodgment deferrals and suspension of lodgment enforcement action are detailed in PS LA 2011/15.

56. If MNE Groups anticipate delays in lodgment, the DLE may request:

- suspension of lodgment enforcement action for the GIR and FNF<sup>51</sup>
- a lodgment deferral for the AIUTR and DMTR.

57. We do not have the discretion to grant lodgment deferral for the GIR or the FNF. However, during the Transition Period, we may agree to suspend lodgment enforcement action by not undertaking compliance action on overdue lodgments for a period of time. These requests will be considered in view of Australia's ability to administer the Minimum Tax in a manner that is consistent with the GloBE Rules.

58. The onus is on MNE Groups to demonstrate that they have taken reasonable measures. MNE Groups should ensure requests include information regarding the circumstances that prevent lodgment by the due date and the steps taken to mitigate those circumstances. Requests should include supporting information to demonstrate how the MNE Group has taken reasonable measures to comply with its lodgment obligations.

59. When we grant a request for a deferred due date for lodgment, this does not automatically defer the due date for payment of any associated liability.<sup>52</sup> Where entities require a deferral for both lodgment and payment, they must request each separately.<sup>53</sup> These requests can be made at the same time.

***Failure to lodge penalty***

60. As outlined in PS LA 2011/19, where the lodgment deferral request or suspension of lodgment enforcement action request is granted:

- In the case of a lodgment deferral request, any applicable FTL penalty will be calculated from the deferred due date, not the original due date.
- In the case of suspending lodgment enforcement action, any applicable FTL penalty may be applied from the original due date until lodgment is received.

61. However, during the Transition Period, we will generally remit any applicable FTL penalties in full where the Australian Group Entities fulfill their obligation prior to the suspension lapsing.

62. At law, each entity with a lodgment obligation can be liable to a separate FTL penalty for each separate obligation. During the Transition Period, in circumstances where we do impose FTL penalties, we will typically remit them down as follows:

- one FTL penalty in total for the MNE Group in respect of the lodgment obligations contained in the CGDMTR, and
- one FTL penalty in total in respect of the MNE Group's GIR lodgment obligations.

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<sup>51</sup> The due dates for these obligations cannot be deferred. See paragraphs 19 and 32 of this Guideline.

<sup>52</sup> Subsection 388-55(2).

<sup>53</sup> Section 255-10. See also Law Administration Practice Statement PS LA 2011/14 *General debt collection powers and principles*.

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63. Notwithstanding this transitional approach, the Commissioner may consider it reasonable to impose FTL penalties in circumstances where there is a failure to undertake reasonable measures to comply, including where there is:

- avoidance, fraud or evasion
- poor compliance history.

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**Example 1 – first year – no failure to lodge penalty imposed**

64. *Kodiak Co (Kodiak) is the UPE of an Australian-headquartered MNE Group which is first in scope of the Minimum Tax for the Fiscal Year ended 31 December 2024. The Australian Group Entities' due date for their first Minimum Tax lodgment obligations is 30 June 2026. Kodiak has been nominated as the DLE for the MNE Group's Minimum Tax lodgment obligations.*

65. *On 1 June 2026, Kodiak contacts us to advise that the group has recently upgraded their information technology (IT) system to capture and store data for GloBE administration and reporting purposes. During this process, they identify technical issues which cause delays in the preparation of the GIR and the CGDMTR. As a result, the group will not be able to lodge the returns by the due date of 30 June 2026.*

66. *Kodiak requests an extension of time to 20 August 2026 to lodge the CGDMTR. They also request a suspension of lodgment enforcement action until 20 August 2026 in relation to the GIR and remission of any associated penalties. Kodiak provides evidence to support its requests.*

67. *As part of our transitional approach, we grant Kodiak's requests. In upgrading its IT system for its Minimum Tax reporting requirements, the Kodiak MNE Group demonstrated that it had taken reasonable measures to comply with its lodgment obligations.*

68. *Kodiak lodges the outstanding GIR and CGDMTR on 20 August 2026.*

69. *In respect of FTL penalties:*

- *no penalties will be applied to the AIUTR and the DMTR, as the CGDMTR was lodged by the deferred due date*
- *we will remit the penalties in full for the GIR because it was lodged before the suspension lapsed.*

**Example 2 – second year – no failure to lodge penalty imposed**

70. *Further to the scenario in Example 1 of this Guideline, Kodiak continues to be nominated as the DLE for the Fiscal Year ended 31 December 2025, being the second year the Kodiak MNE Group is in scope of the Minimum Tax. Relevant Kodiak MNE Group Entities are required to fulfill their Minimum Tax lodgment obligations by 31 March 2027.*

71. *Despite meeting some internal milestones for the preparation of the returns, during February 2027 it becomes apparent that the lodgment of the returns will be delayed. Although the Kodiak MNE Group has appropriate systems in place, the delay is mainly due to unforeseen complexity in obtaining and analysing the necessary data to correctly report certain adjustments in the GIR which did not arise in the first year.*

72. *On 1 March 2027, Kodiak contacts us to seek assistance regarding the possibility of not being able to lodge the GIR by the due date. Kodiak requests a lodgment deferral for the CGDMTR and suspension of lodgment enforcement action for the GIR, and remission of any associated penalties. Kodiak provides supporting information with the requests.*

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73. We grant an extension of time until 28 April 2027 to lodge the CGDMTR and agree to suspend lodgment enforcement action until the same day. Kodiak has taken reasonable measures to attempt to lodge by the due date and the delay is due to unforeseen circumstances.

74. On 28 April 2027, Kodiak lodges the CGDMTR and GIR for the Fiscal Year ended 31 December 2025.

75. Under these circumstances, no FTL penalty will apply in relation to the AIUTR or DMTR because Kodiak had lodged the CGMTR by the deferred due date. In addition, we will consider remitting any FTL penalty in full for the delay in lodgment of the GIR because:

- Kodiak had contacted us prior to the due date to discuss the potential delay
  - the GIR was lodged before the suspension lapsed
  - Kodiak provided evidence to show it had taken reasonable measures to attempt to lodge by the due date but that the delay was due to unforeseen circumstances which, when they arose, Kodiak resolved in an appropriate and timely manner.
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76. We will be more likely to grant requests where unforeseen circumstances arise which did not occur in prior years. In addition, as taxpayers become more familiar with their Minimum Tax obligations, our approach to taxpayer requests for additional time to comply will be to grant shorter extension periods. This is because we expect, over time, taxpayers will have the systems and knowledge in place to better ensure on-time lodgment of their obligations.

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**Example 3 – failure to take reasonable measures – failure to lodge penalty imposed**

77. Wilbur Enterprises (Wilbur) is the UPE of an Australian MNE Group with operations in Australia, Europe and Asia. The group is an Applicable MNE Group for its Fiscal Year ended 31 December 2024.

78. Despite the ATO's educational campaign and the Minimum Tax being enacted in 2024, Wilbur does not devote resources until shortly before 30 June 2026 to considering whether its in-scope entities have Minimum Tax lodgment obligations. They also fail to take any action to consider data collection and systems needed to comply with those obligations on time.

79. Barney Co (Barney) is nominated by the other 4 Australian Group Entities to be the DLE for the Wilbur MNE Group. On 20 June 2026, Barney contacts us to request a 3-month extension to lodge the AIUTR and DMTR sections of the CGDMTR and a 3-month suspension of lodgment enforcement action for the GIR.

80. Barney is unable to:

- explain and demonstrate how the Wilbur MNE Group took reasonable measures to comply with its obligations
- provide any supporting information to explain the basis of the proposed date for the extension and steps that it would be taking during this period.

81. A 3-month lodgment deferral is highly unlikely in these circumstances. We will not generally consider the granting of such a request to be fair and reasonable.

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82. *Delayed consideration of the potential application of the Australian GloBE Rules is an indication that reasonable measures were not taken by the Wilbur MNE Group to understand and comply with its obligations. Therefore:*

- *we may not grant requests for lodgment deferral and suspension of enforcement action*
- *FTL penalties may apply when the returns are not lodged by the due date.*

83. *At law, FTL penalties apply to each obligation and to each entity that fails to lodge on time. Therefore, the Wilbur MNE Group is potentially liable to 15 FTL penalties. This is because the 5 Australian Group Entities each have an obligation to lodge:*

- *an AIUTR and a DMTR (contained in the CGDMTR), resulting in 10 FTL penalties*
- *a GIR, resulting in an additional 5 FTL penalties.*

84. *However, our approach to FTL penalty remission during the Transition Period will result in the 15 FTL penalties being remitted down to 2 FTL penalties (one FTL penalty in respect of the reporting obligations in the CGDMTR and one FTL penalty in respect of the GIR).<sup>54</sup> This is consistent with:*

- *ATO guidance that we will generally apply one FTL penalty per entity when multiple reporting obligations are contained in the one form.<sup>55</sup> This would reduce the 10 FTL penalties in respect of the reporting obligations in the CGDMTR down to 5 FTL penalties*
- *our transitional approach outlined in this Guideline where we will generally remit FTL penalties for multiple entities in an MNE Group down to one FTL penalty for the whole MNE Group in respect of each reporting obligation in the CGDMTR and one FTL penalty for the whole MNE Group in respect of each GIR reporting obligation. This would further reduce the 5 FTL penalties in respect of the CGDMTR down to one FTL penalty and the 5 FTL penalties in respect of the GIR down to one FTL penalty.*

85. *We may consider further remission based on grounds detailed in PS LA 2011/19.*

**Example 4 – delayed lodgment of the GloBE Information Return and Combined Global and Domestic Minimum Tax Return – demonstrated reasonable measures undertaken – no failure to lodge penalty**

86. *Yogi Industries (Yogi) is the UPE of a foreign MNE Group. Ranger Australia Co (Ranger) is nominated by the other 4 Australian Group Entities as the group's DLE. For the first 2 Fiscal Years in scope of the Minimum Tax, Yogi and Ranger have lodged the GIR and all sections of the CGDMTR on time, respectively.*

87. *During the Fiscal Year ended 31 December 2026, Yogi acquires a competitor, another MNE Group. The integration of both groups' IT systems and tax governance frameworks results in delays in preparation of the GIR and CGDMTR.*

88. *On 15 March 2028, Ranger contacts us to advise that the GIR and CGDMTR will be lodged late in both the foreign jurisdiction and with us. They advise the delay is due to the acquisition of the competitor. Ranger expects that both the GIR and CGDMTR will be ready for lodgment by 30 April 2028. We grant Ranger's requests for a suspension of*

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<sup>54</sup> A different approach may be justified in circumstances where there is a clear disregard for complying with lodgment obligations.

<sup>55</sup> Section 5 of PS LA 2011/19.

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*lodgment enforcement action for the GIR and a lodgment deferral for the AIUTR and DMTR until 30 April 2028.*

89. *Yogi lodges the GIR for the Fiscal Year ended 31 December 2026 one month late on 30 April 2028. Yogi lodges the GIR in a jurisdiction with which Australia has a QCAA. Ranger also lodges the CGDMTR on the same day.*

90. *Under these circumstances, no FTL penalty will arise in respect of the AIUTR and DMTR contained in the CGDMTR because Ranger has lodged by the deferred due date.*

91. *The delay in lodgment of the GIR in the foreign jurisdiction means that all 5 Australian Group Entities will not be able to lodge their GIR with us by the due date. The Commissioner does not have the discretion to extend the due date of the GIR and may require Ranger to lodge the GIR in Australia. However, under these circumstances, we will:*

- *not request Ranger to separately lodge the GIR in Australia, because they have advised that they do not have the requisite information relating to the other foreign jurisdictions to complete the GIR (rather, the GIR will be lodged with us when received on exchange)*
- *agree to suspend lodgment enforcement action until 30 April 2028, because Ranger proactively engaged with us to advise us of the delay before the due date.*

92. *At law, the 5 Australian Group Entities would each be liable for one FTL penalty for the delay in lodging the GIR. However, our approach to FTL penalty remission during the Transition Period will result in the 5 FTL penalties being remitted down to one FTL penalty. We would likely remit the sole remaining FTL penalty in full because:*

- *Yogi lodged the GIR in the foreign jurisdiction before the suspension lapsed*
- *Ranger proactively engaged with us regarding the delay before the due date and lodgment of the GIR on time was beyond its control*
- *Yogi had taken reasonable measures to prepare the GIR on time, but the group acquisition had caused unforeseen delays*
- *the MNE Group's compliance history demonstrates it had on all previous occasions taken reasonable measures to comply with its Minimum Tax obligations.*

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#### **Errors or mistakes in forms and taking reasonable care – compliance approach**

93. *Law Administration Practice Statements PS LA 2012/4 Administration of the false or misleading statement penalty – where there is no shortfall amount and PS LA 2012/5 Administration of the false or misleading statement penalty – where there is a shortfall amount provide guidance on our administration of penalties associated with false and misleading statements. See also Miscellaneous Tax Ruling MT 2008/1 Penalty relating to statements: meaning of reasonable care, recklessness and intentional disregard, which explains concepts relevant to these practice statements. This guidance also applies in respect of our administration of the Minimum Tax.*

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94. This Guideline provides our practical administrative approach to false or misleading statement penalties<sup>56</sup> in the Minimum Tax context during the Transition Period.

95. As part of our transitional compliance approach:

- We will not typically impose penalties for mistakes or errors which were a result of unfamiliarity with the rules during the Transition Period, or where the mistakes were isolated mathematical or transposition errors, and these errors did not result in a reduction of a Minimum Tax liability in the current or future year.
- Where the mistakes or errors result in a reduction of a Minimum Tax liability, we will examine the circumstances which led up to that error before considering if a penalty should be applied.
- Where the mistakes or errors can be attributed to a lack of clarity in the Minimum Tax rules and the MNE Group has taken the appropriate steps to arrive at the correct interpretation (such as contacting us, referring to ATO publications or other authoritative statements, or obtaining advice from a tax agent), we will typically not impose penalties.

96. All other things being equal, we expect an MNE Group that is in scope of the Minimum Tax for its third Fiscal Year would have the systems and knowledge in place to ensure a much lower likelihood of errors, than an MNE Group in its first Fiscal Year in scope. This approach is consistent with our expectation that, as MNE Groups become more familiar with the Minimum Tax, the level of support required from us is reduced.

97. This approach is irrespective of whether the error was identified by the relevant MNE Group Entity or by us.

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**Example 5 – ATO identifies mistakes resulting in a shortfall – no penalty imposed**

98. *Paddington Creative (Paddington) is the DLE for the Paddington MNE Group, which is in scope of the Minimum Tax. We identify errors with statements made in Paddington's GIR and CGDMTR. The statements understate the Australian DMT tax liabilities of the group.*

99. *In the course of engaging with us, Paddington demonstrates:*

- *it undertook reasonable steps to prepare the GIR and CDGMTR by making appropriate enquiries, including reviewing OECD and ATO materials to attempt to arrive at the correct interpretation*
- *the shortfall is attributed to uncertainty over certain aspects of the Minimum Tax law and Paddington's position was based on a reasonable interpretation of the law.*

100. *False and misleading statements arising from errors in returns can result in penalties being applied. In this example, given Paddington's conduct meets our expectations of what a similarly resourced taxpayer would do in the same circumstances, we will not seek to impose any penalties.*

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<sup>56</sup> Subsection 284-75(1).



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**Example 6 – ATO identifies mistakes resulting in a shortfall – penalty imposed**

101. *We identify errors with statements in Jasper Enterprises' (Jasper's) GIR and CGDMTR. Jasper is the DLE for the Jasper MNE Group, which is in scope of the Minimum Tax. The statements underestimate the Australian DMT tax liabilities of the group.*

102. *We request details of Jasper's conduct leading up to the making of these statements. As part of the information gathering process, we find evidence to show:*

- *a gross indifference to the application of the Minimum Tax when preparing the statements, highlighted by the inability to provide working papers and other objective evidence or authority to support the statements made in the GIR and CGDMTR*
- *the amount of tax at risk was such that a reasonable person would have taken appropriate steps to ensure the correct tax treatment would be adopted.*

103. *Given the conduct of Jasper falls short of what we expect a similarly resourced taxpayer would do in the same circumstances, this is a situation where we will impose penalties.*

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**Other penalties**

104. As part of our transitional compliance approach, taxpayers will generally be provided with an opportunity to engage with us before we impose other applicable penalties.

105. Our existing guidance material covering the administration of these penalties also applies in respect of the Minimum tax law. This guidance includes:

- *Miscellaneous Tax Ruling MT 2008/2 Shortfall penalties: administrative penalty for taking a position that is not reasonably arguable*
- *Law Administration Practice Statement PS LA 2014/4 Default assessment penalty*
- *Law Administration Practice Statement PS LA 2005/2 Penalty for failure to keep or retain records.*

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**Commissioner of Taxation**

16 July 2025

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## Your comments

106. You are invited to comment on this draft Guideline. Please forward your comments to the contact officer by the due date.

107. A compendium of comments is prepared when finalising this Guideline and an edited version (names and identifying information removed) may be published to the Legal database on [ato.gov.au](http://ato.gov.au).

Please advise if you do not want your comments included in the edited version of the compendium.

**Due date:** 29 August 2025

**Contact officer:** Matthew Evans

**Email:** [Pillar2Project@ato.gov.au](mailto:Pillar2Project@ato.gov.au)

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