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Global Minimum Tax Act

In a significant move to curb tax avoidance by large MNEs and to secure its share of global tax revenue from these MNEs, South Africa has implemented the Global Minimum Tax (**GMT**) Act (**GMT Act)**. The GMT Act was signed by President Ramaphosa on 24 December 2024 and then published in Government Gazette No. 51830 dated 24 December 2024, with retrospective effect to apply for tax years starting from 1 January 2024. The law applies to MNE Groups with global consolidated group turnover exceeding €750 million in at least two of the tax years preceding the reporting year.

The GMT is based on the Global Anti-Base Erosion (**GloBE**) Rules, which were developed by the OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting and were designed to enforce a jurisdictional minimum effective tax rate of 15% on the foreign income earned by certain large MNEs. This initiative aims to ensure that multinational corporations contribute their proportionate share of taxes to the countries in which they conduct business, and also seeks to curb “tax competition” whereby nations reduce corporate tax rates with the intention of attracting investments.

For South Africa, the GMT introduces a mechanism that provides firstly for a top-up tax payable by qualifying South African tax resident MNE Groups on income from Constituent Entities (**CEs**) in foreign jurisdictions where the GloBE effective tax rate is below 15% (IIR or Income Inclusion Rule), and secondly for a Domestic Minimum Top-Up Tax (**DMTT**) on the profits of foreign inbound MNEs with low taxed CEs in South Africa. This ensures that if a foreign headquartered MNE Group operating in South Africa has a South African jurisdictional effective tax rate below 15%, it would be liable to pay the South African DMTT in South Africa. In addition, a South African headquartered MNE Group is required to pay top-up tax under South Africa’s IIR for its low taxed CEs in foreign jurisdictions in which it operates, to the extent that it does not achieve the 15% minimum tax in those foreign jurisdictions, unless the foreign jurisdictions local DMTT mechanism overrides South Africa’s IIR right to tax. Large MNEs will therefore be liable to pay a minimum level of tax on the income generated in every jurisdiction in which they operate, essentially preventing profits from being shifted to low-tax jurisdictions resulting in the erosion of the local South African tax base.

The GMT Act will have an impact on qualifying outbound MNE Groups as well as on foreign tax resident MNE Groups that have branches (permanent establishments), subsidiaries and/ or joint ventures in South Africa. The calculation of the IIR and the DMTT is outlined in the GMT Act. Due to the complexity of the rules, the GMT Act provides for a "Transition Year" to allow for a smooth implementation process. The reporting and payment details in respect of the top-up tax are set out in the GMT Administration Act which was signed by the President and published in Government Gazette No 51884 on 9 January 2025.

MNE groups operating in South Africa should therefore assess the applicability and impact of the new legislation, and consider factors such as jurisdictional effective tax rates, the calculation methodology of the IIR and the DMTT, and the new compliance and reporting obligations for the MNE group.

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