

Legislative Proposals Relating to the Global Minimum Tax Act

1 (1) Subsection 2(1) of the *Global Minimum Tax Act* is amended by adding the following in alphabetical order:

private investment entity means an entity

- (a) that is located in Canada;
- (b) that does not have any of its ownership interests quoted on a securities market;
- (c) the controlling interest in which is not held, directly or indirectly, by an entity that has any of its ownership interests quoted on a securities market;
- (d) that holds, directly or indirectly, a controlling interest in at least one corporation (referred to in this definition as a “subsidiary public company”) that is located in Canada and that has a class of shares of its capital stock listed on a *designated stock exchange* (as defined in subsection 248(1) of the *Income Tax Act*);
- (e) whose assets, liabilities, income, expenses and cash flows are included in an entity’s consolidated financial statements that are described in paragraph (d) of the definition *consolidated financial statements* and that include the assets, liabilities, income, expenses and cash flows of a subsidiary public company; and
- (f) that prepares – or the controlling interest in which is held, directly or indirectly, by an entity (referred to in this paragraph as the “controlling entity”) that prepares – actual financial statements in accordance with the Accounting Standards for Private Enterprises established by the Accounting Standards Board (Canada) and that chooses – or the controlling entity in respect of which chooses – under paragraph 1591.24(b) of those standards, to not consolidate its subsidiaries. (*entité d’investissement privé*)

(2) The portion of paragraph (d) of the definition *états financiers consolidés* in subsection 2(1) of the French version of the Act before subparagraph (i) is replaced by the following:

d) si l’entité n’établit pas d’états financiers visés aux alinéas a) à c), des états financiers — dans lesquels les actifs, les passifs, les produits, les charges et les flux de trésorerie de cette entité et d’autres entités sont présentés comme les éléments d’une seule entité économique — qui auraient été établis en application d’une norme de comptabilité financière agréée qui, selon le cas :

(3) Paragraph (a) of the definition *recapture exception accrual* in subsection 2(1) of the Act is replaced by the following:

(a) cost recovery allowance in respect of a tangible asset;

(4) The definition *substitute loss carry-forward recapture amount* in subsection 2(1) of the Act is replaced by the following:

substitute loss carry-forward recapture amount, of a constituent entity that is located in a particular jurisdiction, means an amount if

- (a) the amount is offset, in determining the constituent entity’s taxable income for a taxation year, against another amount (referred to in this definition as the “income amount”) in respect of the income of
 - (i) another entity (referred to in this definition as the “foreign subsidiary”) that is located in a jurisdiction other than the particular jurisdiction and in which the constituent entity holds, directly or indirectly, an ownership interest, or
 - (ii) a permanent establishment in respect of which the constituent entity is the main entity;

(b) the amount would be a domestic source tax loss for the taxation year of the constituent entity if it were not offset against the income amount or is a domestic source tax loss carry-forward claimed in the taxation year by the constituent entity (referred to in this definition as the “consumed domestic loss”); and

(c) the income tax laws of the particular jurisdiction allow the consumed domestic loss to be recaptured by the constituent entity in subsequent taxation years, by recharacterizing amounts of domestic source income of the constituent entity as amounts in respect of income of the foreign subsidiary or permanent establishment, or as amounts of income from another foreign source, that are included in computing the constituent entity’s taxable income in the particular jurisdiction. (*montant de récupération du report de pertes de remplacement*)

(5) The portion of the definition *substitute loss carry-forward tax credit* before paragraph (c) in subsection 2(1) of the Act is replaced by the following:

substitute loss carry-forward tax credit, of a constituent entity that is located in a particular jurisdiction, means all or a portion of a tax credit of the constituent entity that

(a) arises under the income tax laws of the particular jurisdiction in respect of tax paid to the government of a jurisdiction other than the particular jurisdiction by

(i) another entity (referred to in this definition as the “foreign subsidiary”) that is located in a jurisdiction other than the particular jurisdiction, in which the constituent entity holds, directly or indirectly, an ownership interest, on income (referred to in this definition as the “foreign subsidiary income”) of the foreign subsidiary, or

(ii) the constituent entity, on income (referred to in this definition as the “PE income”) of a permanent establishment in respect of which the constituent entity is the main entity;

(b) is not used in the particular taxation year in which it arises because the income tax laws of the particular jurisdiction require, in determining the constituent entity’s taxable income, that an amount claimed in the particular taxation year in respect of a domestic source tax loss carry-forward, or an amount that would be a domestic source tax loss of the constituent entity in the absence of the foreign subsidiary income or PE income in the particular taxation year, be offset against the foreign subsidiary income or PE income in priority to the use of the tax credit, or portion of the tax credit, to reduce or eliminate any covered taxes for which the constituent entity would otherwise be liable in respect of that income under the income tax laws of the particular jurisdiction; and

(6) The definition *unclaimed accrual* in subsection 2(1) of the Act is replaced by the following:

unclaimed accrual, of a constituent entity of an MNE group for a fiscal year, means an increase in a deferred tax liability, or aggregation of deferred tax liabilities, recorded in the financial accounts of the constituent entity for the fiscal year if

(a) the following conditions are met:

(i) the increase is not expected to reverse, or to be considered to have reversed, on or before the last day of the fifth fiscal year following the fiscal year, and

(ii) the filing constituent entity of the MNE group elects to not include the increase in determining the constituent entity’s total deferred tax adjustment amount for the fiscal year; or

(b) an election under subsection 25(7) applies to the increase. (*accumulation non réclamée*)

(7) Subsections (1) to (6) apply to fiscal years of a qualifying MNE group that begin on or after December 31, 2023.

2 (1) Paragraph 5(1)(b) of the Act is replaced by the following:

(b) in any other case, in the jurisdiction where it was created or last continued.

(2) Subsection (1) applies to fiscal years of a qualifying MNE group that begin on or after December 31, 2023.

3 (1) Subsection 7(1) of the Act is replaced by the following:

Currency conversion – GloBE calculations

7 (1) Subject to subsection (2), if a particular amount is relevant to the determination of the top-up amount, or of any other amount or result relevant to the determination of the top-up amount, of a constituent entity of an MNE group for a fiscal year,

(a) the currency in which the particular amount is to be denominated for use in that determination is the reporting currency of the consolidated financial statements of the ultimate parent entity of the MNE group for the fiscal year; and

(b) where the particular amount is denominated in a currency other than the reporting currency and is not converted to the reporting currency in the course of preparing the consolidated financial statements, it is to be converted, for use in that determination, to the reporting currency using the foreign currency translation principles of the financial accounting standard that would have been used to convert the amount to the reporting currency if that conversion were undertaken in the course of preparing the consolidated financial statements.

(2) Paragraph 7(3)(a) of the French version of the Act is replaced by the following:

a) la monnaie dans laquelle cette somme doit être libellée aux fins d'utilisation dans le calcul est la monnaie de présentation des états financiers consolidés de l'entité mère ultime du groupe d'EMN;

(3) Paragraph 7(3)(b) of the Act is replaced by the following:

(b) where that amount would not, in the absence of this paragraph, be denominated in the reporting currency, it is to be converted, for use in the determination or computation, to the reporting currency using the average for the fiscal year of the daily rates of exchange quoted by the Bank of Canada or, if there is no daily rate quoted by the Bank of Canada for a particular day, a daily rate of exchange acceptable to the Minister, in respect of the two currencies.

(4) Subsections (1) to (3) apply to fiscal years of a qualifying MNE group that begin on or after December 31, 2023.

4 (1) Section 9 of the Act is amended by adding the following after subsection (2):

Private investment entities – de-consolidation

(2.1) If an entity that would, in the absence of this subsection, be a constituent entity of a qualifying MNE group (referred to in this subsection and subsection (2.2) as the “actual group”) for a fiscal year is a private investment entity, the following rules apply:

(a) except for the purposes of the definition *private investment entity* in subsection 2(1), that private investment entity is deemed to not have, directly or indirectly, any controlling interest for the fiscal year in any entity that

(i) would, in the absence of this subsection, be a constituent entity of the actual group,

(ii) is a corporation located in Canada, and

(iii) has a class of shares of its capital stock listed on a *designated stock exchange* (as defined in subsection 248(1) of the *Income Tax Act*);

(b) if, because of paragraph (a), two or more entities (or a main entity and one or more of its permanent establishments) that would be constituent entities of the actual group form a different group, or an entity that would be a constituent entity of the actual group is not included in any group, that group or entity, as the case may be, is deemed to be a qualifying MNE group for the fiscal year; and

(c) if, because of paragraph (b), a single entity (other than a main entity in respect of a permanent establishment) is deemed to be a qualifying MNE group,

(i) that entity is deemed to be the ultimate parent entity of the group for the fiscal year, and

(ii) the consolidated financial statements of that ultimate parent entity for the fiscal year are the financial statements of that entity that are or would be prepared in accordance with an authorized financial accounting standard that is

(A) an acceptable financial accounting standard, or

(B) a financial accounting standard that is adjusted to prevent any material competitive distortions.

De-consolidation – avoidance transactions

(2.2) Subsection (2.1) does not apply in respect of an actual group if any transaction is undertaken with the main purpose of rendering that subsection applicable to the actual group.

(2) Subsection (1) applies to fiscal years of a qualifying MNE group that begin on or after December 31, 2023.

5 (1) Section 18 of the Act is amended by adding the following after subsection (26):

Adjustments for impairments and reversals

(27) If the conditions in subsection 25(9) are met in respect of a particular impairment loss or reversal of an impairment loss in respect of an asset of a constituent entity, the constituent entity's GloBE income or loss is to be determined

(a) using the adjusted GloBE carrying value (within the meaning assigned by subsection 25(8)) of the asset after taking into account

(i) all reductions and increases referred to in paragraphs (10)(a) and (b), respectively, for all impairments and reversals in respect of the asset that occurred prior to the particular impairment loss or reversal, and

(ii) either

(A) in the case of a particular impairment loss, the reduction referred to in paragraph 25(10)(a) in respect of the particular impairment loss, or

(B) in the case of a particular reversal, the increase referred to in paragraph 25(10)(b) in respect of the particular reversal; and

(b) on the basis that the amount of the particular impairment loss or reversal, as the case may be, is deemed to be equal to the absolute value of the difference between

(i) the carrying value determined under paragraph (a), and

(ii) the carrying value that would be determined under paragraph (a) if that paragraph were read without reference to its subparagraph (ii).

(2) Subsection (1) applies to fiscal years of a qualifying MNE group that begin on or after December 31, 2023.

6 (1) The portion of subsection 22(5) of the Act before paragraph (a) is replaced by the following:

Adjusted covered taxes – no double counting

(5) An amount is not to be taken into account more than once in determining the adjusted covered taxes of

(2) Subsection (1) applies to fiscal years of a qualifying MNE group that begin on or after December 31, 2023.

7 (1) Subsection 24(3) of the Act is replaced by the following:

Allocation – tax transparent entities

(3) An amount in respect of covered taxes is allocated from a tax transparent entity to a constituent entity-owner, to the extent that

(a) the constituent entity-owner holds an ownership interest in the tax transparent entity; and

(b) the amount is

(i) in respect of any portion of the net income or loss of the tax transparent entity that is included in computing the financial accounting income of the constituent entity-owner because of paragraph 17(6)(b), and

(ii) either

(A) recorded in the financial accounts of the tax transparent entity, or

(B) allocated to the tax transparent entity under subsection (4) from another constituent entity-owner that holds its ownership interest in the tax transparent entity through the constituent entity-owner.

(2) The portion of paragraph 24(4)(a) of the Act before subparagraph (i) is replaced by the following:

(a) subject to paragraphs (b) and (c), an amount in respect of covered taxes arising in a fiscal year (other than deferred tax expense arising in respect of covered taxes under a blended controlled foreign company tax regime) is allocated from the constituent entity-owner to the controlled foreign company, if

(3) The description of G in paragraph 24(4)(b) of the Act is replaced by the following:

G is the specified jurisdictional effective tax rate of the controlled foreign company for the fiscal year in respect of the constituent entity-owner, as determined under subsection (4.1), and

(4) The description of C in paragraph 24(4)(b) of the Act is replaced by the following:

C is the total of all amounts each of which is an amount that would be determined for B if all references in the description of B to “the controlled foreign company” and “the subsidiary jurisdiction” were read as references to “an entity in which the constituent entity-owner holds, directly or indirectly, an ownership interest” and “the jurisdiction where the entity is located”, respectively; and

(5) Paragraph 24(4)(c) of the Act is replaced by the following:

(c) if the covered taxes, in respect of which an amount would, in the absence of this paragraph, be allocated from the constituent entity-owner to the controlled foreign company under paragraph (a), are applicable in whole or in part in respect of passive income of the controlled foreign company, the amount allocated under paragraph (a) in respect of the particular portion of the covered taxes that are applicable in respect of the passive income is not to exceed the amount determined by the formula

$$A \times B$$

where

A is the amount of the controlled foreign company’s passive income included under the controlled foreign company tax regime in computing the covered taxes, and

B is the top-up percentage of the MNE group for the subsidiary jurisdiction, determined without regard to the particular portion of the covered taxes.

(6) Section 24 of the Act is amended by adding the following after subsection (4):

Specified jurisdictional effective tax rate

(4.1) The specified jurisdictional effective tax rate, of a particular entity located in a particular jurisdiction for a fiscal year, in respect of another entity (referred to in this subsection as the “parent entity”) that is a constituent entity of an MNE group, that holds – directly or indirectly – an ownership interest in the particular entity and that has a share of the particular entity’s income attributed to it under a blended controlled foreign company tax regime of the jurisdiction in which the parent entity is located, is

(a) if the particular entity is a constituent entity of, or joint venture entity in respect of, the MNE group (referred to in this subsection as an “in-scope entity”), and neither its top-up amount for the fiscal year nor the top-up percentage that is applied in computing that top-up amount is deemed to be nil under any provision of this Act, the rate that would be the effective tax rate determined under this Act that is applied in computing the particular entity’s top-up amount for the fiscal year if the jurisdictional adjusted covered taxes of the MNE group for the particular jurisdiction were

(i) calculated without reference to any covered taxes imposed under a controlled foreign company tax regime for the fiscal year, and

(ii) increased by the total of all amounts each of which is an amount of tax payable

(A) under the qualified domestic minimum top-up tax of the particular jurisdiction for the fiscal year in respect of the particular entity, or any other in-scope entity of the MNE group whose equivalent of the domestic top-up amount under the qualified domestic minimum top-up tax is computed applying the same effective tax rate as is used to compute the domestic top-up amount equivalent of the particular entity, and

(B) in respect of which the blended controlled foreign company tax regime allows a foreign tax credit on the same terms as any creditable covered tax;

(b) if the particular entity is an in-scope entity of the MNE group, and either its top-up amount or the top-up percentage that is applied in computing its top-up amount is deemed to be nil under a provision of this Act for the fiscal year,

(i) where the top-up amount of the particular entity is deemed to be nil under section 47, the rate that is or would be, if it were required to be determined, the simplified effective tax rate under subsection 47(5) in respect of the particular entity,

(ii) where the top-up amount of the particular entity is deemed to be nil under section 44, the rate that would be the effective tax rate, determined under the particular jurisdiction’s qualified domestic minimum top-up tax, that is applied in computing the equivalent of the domestic top-up amount of the particular entity under that qualified domestic minimum top-up tax if all tax amounts that satisfy the following conditions were included in determining that effective tax rate:

(A) the tax amount is payable under the qualified domestic minimum top-up tax for the fiscal year in respect of the particular entity, or any other in-scope entity of the MNE group whose domestic top-up amount equivalent is computed applying the same effective tax rate as is used to compute the domestic top-up amount equivalent of the particular entity, and

(B) the blended controlled foreign company tax regime allows a foreign tax credit for the tax amount on the same terms as any creditable covered tax, and

(iii) where the top-up amount of the particular entity or the top-up percentage that is applied in computing its top-up amount is deemed to be nil under any provision of this Act other than section 44 or 47, the rate that would be the simplified effective tax rate determined under subsection 47(5) in respect of the particular entity if that rate were required to be determined and the references in the definition *profit (loss) before income tax* in subsection 47(1) to “qualified country-by-country report” and “country-by-country report” were read as references to “qualified financial statements”; or

(c) if the particular entity is not an in-scope entity of the MNE group,

(i) where the top-up amounts of all the in-scope entities of the MNE group located in the particular jurisdiction for the fiscal year are computed applying the same effective tax rate, that rate,

(ii) where the top-up amounts of one or more in-scope entities of the MNE group located in the particular jurisdiction for the fiscal year is computed applying an effective tax rate that is different from the effective tax rate applied in computing the top-up amount of any other of those in-scope entities, the effective tax rate that is applied in computing the top-up amounts of the subgroup of those in-scope entities in respect of which the parent entity has the greatest aggregate amount of income attributed to it under the blended controlled foreign company tax regime, and

(iii) in any other case, the rate that would be the effective tax rate of the MNE group for the particular jurisdiction for the fiscal year if

(A) all of the entities located in the particular jurisdiction in which the parent entity holds – directly or indirectly – an ownership interest, and in respect of which the parent entity has income attributed to it under the blended controlled foreign company tax regime, were deemed to be standard constituent entities,

(B) the effective tax rate were computed using the aggregate income and taxes recorded in the financial accounts of those entities instead of net GloBE income and jurisdictional adjusted covered taxes, respectively, and

(C) the amount determined for B in the formula in paragraph 29(1)(b) were deemed to be nil.

(7) Subsection 24(5) of the Act is replaced by the following:

Allocation – hybrid and flow-through entities

(5) The following rules apply for the purposes of allocating amounts in respect of covered taxes from a constituent entity-owner to a constituent entity (referred to in this subsection as the “relevant entity”) of an MNE group that is a hybrid entity in relation to the constituent entity-owner or that is a flow-through entity to which financial accounting income is allocated because paragraph 17(6)(c) applies in respect of the constituent entity-owner’s ownership interest in the flow-through entity:

(a) subject to paragraph (b), an amount in respect of covered taxes recorded in the financial accounts of the constituent entity-owner for a fiscal year is allocated from the constituent entity-owner to the relevant entity to the extent the covered taxes are in respect of income of the relevant entity; and

(b) if the covered taxes are, in whole or in part, in respect of passive income of the relevant entity, the amount to be allocated from the constituent entity-owner to the relevant entity under paragraph (a), in respect of the particular portion of the covered taxes that are in respect of the relevant entity’s passive income, is not to exceed the amount determined by the formula

$$A \times B$$

where

A is the amount of the relevant entity’s passive income that is included in computing the covered taxes of the constituent entity-owner under the fiscal transparency rule in the jurisdiction where the constituent entity-owner is located, and

B is the top-up percentage of the MNE group for the jurisdiction where the relevant entity is located, determined without regard to the particular portion of the covered taxes.

(8) Section 24 of the Act is amended by adding the following after subsection (6):

Election – deferred tax expense exclusion

(7) Despite any other provision of this Act, if the filing constituent entity of an MNE group elects in respect of a jurisdiction, the following rules apply:

(a) any deferred tax expense in respect of covered taxes that would, in the absence of this subsection, be available for allocation from a constituent entity of the MNE group located in the jurisdiction to another entity or a permanent establishment under subsection 24(1), (4), (5) or (6) in a fiscal year for which the election is in effect, shall be deemed to be nil; and

(b) the election is a five-year election.

(9) Subsections (1) to (8) apply to fiscal years of a qualifying MNE group that begin on or after December 31, 2023.

8 (1) The description of A in subsection 25(1) of the Act is replaced by the following:

A is the total of all amounts each of which is – in respect of a deferred tax expense, in respect of covered taxes, recorded in the constituent entity’s financial accounts or allocated to it under subsection 24(1), (4), (5) or (6) for the fiscal year – an amount equal to

(a) where the tax rate applicable in determining the deferred tax expense exceeds the minimum rate, the amount that would be the deferred tax expense (subject to the exclusions under subsection (2)), if the applicable tax rate were the minimum rate, and

(b) in any other case, the deferred tax expense (subject to the exclusions under subsection (2));

(2) Paragraph (b) of the description of B in subsection 25(1) of the Act is replaced by the following:

(b) the recaptured portion of a deferred tax liability or aggregation of deferred tax liabilities determined for a preceding fiscal year that reverses or is considered to have reversed in the year; and

(3) The portion of paragraph 25(4)(b) of the Act before subparagraph (i) is replaced by the following:

(b) reverse, in any fiscal year (referred to in this paragraph as a “recharacterization year”) in which a recharacterization of income (referred to in this paragraph as the “recharacterized income”) described in paragraph (c) of the definition *substitute loss carry-forward recapture amount* in subsection 2(1) occurs, in an amount equal to the tax credits used by the constituent entity solely as a result of the recharacterization of income in the recharacterization year, to the extent that

(4) The portion of subsection 25(6) of the Act before paragraph (a) is replaced by the following:

Recaptured deferred tax liability

(6) For the purpose of applying subsection 31(1) in a fiscal year (referred to in this subsection as the “current fiscal year”), the adjusted covered taxes of a constituent entity for a fiscal year (referred to in this subsection as the “adjustment fiscal year”) that is the fifth fiscal year preceding the current fiscal year are to be reduced to the extent of all or the portion of any deferred tax liability or aggregation of deferred tax liabilities that is

(5) Paragraph (b) of subsection 25(6) of the Act is replaced by the following:

(b) not reversed (or not considered to have been reversed) in any of the five fiscal years following the adjustment fiscal year; and

(6) Section 25 of the Act is amended by adding the following after subsection (6):

Unclaimed accruals – election

(7) The filing constituent entity of an MNE group may elect to not include any increases in the amount of a deferred tax liability, or aggregation of deferred tax liabilities, in determining the total deferred tax adjustment amount of a constituent entity of the MNE group for the fiscal year in which the election is made and any subsequent year prior to the revocation year of the election, and the election is a five-year election.

GloBE deferred tax assets and deferred tax liabilities

(8) If, due to any provision of this Part applicable in computing the GloBE income or loss of a constituent entity for a fiscal year, the carrying value (referred to in this subsection as the “GloBE carrying value”) of an asset or liability differs from the carrying value (referred to in this section as the “accounting carrying value”) recorded in the financial accounts of the constituent entity, in applying this section for the fiscal year, the deferred tax asset or liability, and the deferred tax expense, recorded in the financial accounts of the constituent entity at any time are deemed to be the deferred tax asset or liability (referred to in this section as the “GloBE deferred tax asset” or “GloBE deferred tax liability”, respectively) and deferred tax expense that would be so recorded at that time, in accordance with the accounting standard used in computing the constituent entity’s financial accounting income, if they were determined by reference to the GloBE carrying value of the asset or liability, adjusted in accordance with the following rules (referred to in this section as the “adjusted GloBE carrying value”):

- (a)** the GloBE carrying value is to be adjusted for capitalized expenditures, amortization and depreciation; and
- (b)** in determining the GloBE carrying value of an asset, no impairments or reversals of impairment losses in respect of the asset are to be taken into account.

Conditions for application of subsection (10)

(9) Subsection (10) applies in respect of an asset if

- (a)** the asset is subject to an impairment or an impairment loss in respect of the asset is reversed; and
- (b)** the accounting carrying value of the asset after the impairment or before the reversal (referred to in subsection (10) as the “impaired accounting carrying value”) is less than the adjusted GloBE carrying value of the asset.

Adjustments for impairments or reversals

(10) Despite paragraph (8)(b), if this subsection applies in respect of an asset, in applying this section, any GloBE deferred tax asset or GloBE deferred tax liability and deferred tax expense otherwise determined in accordance with subsection (8) are to be adjusted on the basis that the adjusted GloBE carrying value were, in accordance with the accounting standard used in computing the constituent entity’s financial accounting income,

- (a)** in the case of an impairment, reduced to match the impaired accounting carrying value; and
- (b)** in the case of a reversal of an impairment loss, increased to an amount equal to the lesser of
 - (i)** the asset’s adjusted GloBE carrying value, and
 - (ii)** the asset’s accounting carrying value after the reversal.

(7) Subsections (1) to (6) apply to fiscal years of a qualifying MNE group that begin on or after December 31, 2023.

9 (1) Section 38 of the Act is amended by adding the following after subsection (1):

Pre-GloBE transition year transactions

(1.1) If a transaction occurs in a particular fiscal year preceding the GloBE transition year and, had this Act applied to the particular fiscal year, subsection (1) would have applied in respect of the transaction, this Act is to be applied as though paragraph 38(1)(c) applied in respect of the transaction unless

- (a)** the transaction occurs before December 1, 2021; and
- (b)** it is not reasonably practicable to determine the financial accounting income of the transferred entity (within the meaning assigned by subsection (1)) on the basis of the historical carrying value referred to in paragraph (1)(c).

(2) Subsection (1) applies to fiscal years of a qualifying MNE group that begin on or after December 31, 2023.

10 (1) Paragraph 44(c) of the Act is replaced by the following:

(c) the filing constituent entity of the MNE group is permitted to elect, in accordance with annex A, chapter 3 of the GloBE Commentary, the qualified domestic minimum top-up tax safe harbour for the fiscal year in respect of the particular entity; and

(2) Subsection (1) applies to fiscal years of a qualifying MNE group that begin on or after December 31, 2023.

11 (1) The definition *qualifying income tax expense* in subsection 47(1) of the Act is amended by striking out “and” at the end of paragraph (a), by adding “and” at the end of paragraph (b) and by adding the following after paragraph (b):

(c) any amount of deferred tax expense that is not taken into account because of the application of the rules in subsection 48(2.2) or (2.3).

(2) Paragraph 47(2)(g) of the Act is replaced by the following:

(g) any payment received or receivable by a particular standard constituent entity located in the jurisdiction for the fiscal year, that is treated as income in the qualified financial statements of the particular constituent entity for the fiscal year, from another constituent entity of the MNE group that is treated as an expense in the qualified financial statements of the other constituent entity for the fiscal year is included, for the purposes of applying the transitional safe harbour, in the total revenues and profit (loss) before income tax of the MNE group for the jurisdiction where the particular standard constituent entity is located for the fiscal year.

(3) Subsections (1) and (2) apply to fiscal years of a qualifying MNE group that begin on or after December 31, 2023.

12 (1) The portion of subsection 48(1)(a) of the Act before subparagraph (i) is replaced by the following:

Transition – deferred tax assets and liabilities

48 (1) Subject to subsections (2), (2.2), (2.3), (3) and (5), in determining the total deferred tax adjustment amount of a constituent entity of an MNE group that is located in a jurisdiction for the GloBE transition year of the MNE group in respect of the jurisdiction and each subsequent fiscal year in which the constituent entity is included in the MNE group,

(a) each deferred tax asset and deferred tax liability (other than a deferred tax asset or deferred tax liability arising in respect of the application of a blended controlled foreign company tax regime) that is reflected in the constituent entity's financial accounts at the beginning of the GloBE transition year is to be taken into account to the extent of

(2) Subsection 48(2) of the Act is replaced by the following:

Excluded deferred tax assets

(2) In applying subsection (1),

(a) a deferred tax asset that is reflected in a constituent entity's financial accounts at the beginning of the GloBE transition year of its MNE group in respect of the jurisdiction in which the constituent entity is located is not to be taken into account in determining the constituent entity's total deferred tax adjustment amount if the deferred tax asset arises

(i) as a result of a transaction (which includes any agreement, ruling, decree, grant or similar arrangement with a general government or any change to such an arrangement) that occurs on or after December 1, 2021, and

(ii) in respect of

(A) an amount that would not be taken into account in computing the constituent entity's GloBE income or loss for the GloBE transition year if the amount arose in the GloBE transition year, or

(B) an amount that

(I) is not included in the constituent entity's income or profits in respect of which an entity is subject to an income or profits tax imposed by the government of the jurisdiction, and

(II) would be included in computing the constituent entity's GloBE income or loss for the GloBE transition year if the amount arose in the GloBE transition year;

(b) for greater certainty, a deferred tax asset is not to be taken into account in determining a constituent entity's total deferred tax adjustment amount to the extent that the deferred tax asset is attributable to

(i) a tax credit or other tax relief a specific entitlement to which arises under an agreement, ruling, decree, grant or similar arrangement with a general government where that arrangement is concluded, or any change to such an arrangement is made, on or after December 1, 2021, unless no critical aspect of the tax credit or other tax relief relies on the exercise of discretion by the general government,

(ii) an election or choice that is made or changed on or after December 1, 2021 and that results in a change to the treatment of a transaction in determining the constituent entity's taxable income for a taxation year in respect of which the tax authority has made an assessment, or a tax return has been filed, before the election or choice is made or changed, or

(iii) differences between the accounting carrying values and tax bases of assets or liabilities if

(A) those tax bases were established under a corporate income tax regime of any jurisdiction that was enacted on or after December 1, 2021, and

(B) the jurisdiction did not have a corporate income tax regime immediately prior to the enactment of the regime referred to in clause (A); and

(c) paragraph (a) is deemed to apply to any deferred tax asset to the extent that the deferred tax asset is attributable to a loss — under a corporate income tax regime of a jurisdiction enacted on or after December 1, 2021 where the jurisdiction did not have a corporate income tax regime immediately prior to the enactment of the regime — for a fiscal year of the constituent entity preceding the five fiscal years that immediately precede the fiscal year that includes the date of such enactment.

(3) Section 48 of the Act is amended by adding the following after subsection (2):

Definition of *pre-GloBE arrangement deferred tax asset*

(2.1) For the purposes of this section, a *pre-GloBE arrangement deferred tax asset*, of a constituent entity of an MNE group located in a jurisdiction, means a deferred tax asset that is reflected in the constituent entity's financial accounts to the extent that the deferred tax asset is attributable to

(a) a tax credit or other tax relief described in subparagraph (2)(b)(i), unless it arises under an arrangement with a general government that is concluded or amended after November 18, 2024;

(b) an election or choice described in subparagraph (2)(b)(ii) that is not made or changed after November 18, 2024; or

(c) any differences described in subparagraph (2)(b)(iii), unless the corporate income tax regime described in clause (2)(b)(iii)(A) is enacted after the earlier of November 18, 2024 and the first day of the GloBE transition year of the MNE group in respect of the jurisdiction.

Grace period rules — pre-GloBE arrangements

(2.2) Subject to subsection (2.3), the following rules shall apply to the deferred tax expense, for a particular fiscal year, in respect of the reversal of a pre-GloBE arrangement deferred tax asset of a constituent entity of an MNE group located in a jurisdiction:

(a) in applying subsection (1), despite subsection (2) but subject to paragraphs (b) and (c), the deferred tax expense may be taken into account in determining the constituent entity's total deferred tax adjustment amount for the particular fiscal year;

(b) the amount of the deferred tax expense that may be taken into account in determining the constituent entity's total deferred tax adjustment amount or *qualifying income tax expense* (as defined in subsection 47(1)) for the particular fiscal year shall not exceed the amount determined by the formula

$$[(A \div B \times C) \times 0.2] - D$$

where

A is the amount of the deferred tax asset reflected in the constituent entity's financial accounts at the later of

(i) the time when it is originally reflected in the accounts, and

(ii) the beginning of the first fiscal year that the MNE group is a qualifying MNE group,

B is the greater of

(i) the minimum rate, and

(ii) the tax rate applicable in determining the amount referred to in the description of A,

C is the minimum rate, and

D is the total of all amounts each of which is an amount of deferred tax expense in respect of the deferred tax asset taken into account in determining the constituent entity's total deferred tax adjustment amount or *qualifying income tax expense* (as defined in subsection 47(1)) for a fiscal year preceding the particular fiscal year; and

(c) no amount of the deferred tax expense may be taken into account in determining the constituent entity's total deferred tax adjustment amount or *qualifying income tax expense* (as defined in subsection 47(1)) if the particular fiscal year

(i) in the case of a deferred tax asset that satisfies the condition in subparagraph (2.1)(a) or (b), begins after December 31, 2025 or ends after June 30, 2027, and

(ii) in the case of a deferred tax asset that satisfies the condition in subparagraph (2.1)(c), begins before December 31, 2024 or after December 30, 2026 or ends after June 30, 2028.

Grace period rules — anti-acceleration

(2.3) Any amount of deferred tax expense in respect of the reversal of a pre-GloBE arrangement deferred tax asset of a constituent entity that may, in the absence of this subsection, be taken into account in determining the constituent entity's total deferred tax adjustment amount or *qualifying income tax expense* (as defined in subsection 47(1)) for a fiscal year shall not be taken into account for those purposes to the extent that it arises from any of the following occurrences taking place after November 18, 2024:

(a) a change in

(i) law,

(ii) the accounting methodology used, or

(iii) the terms of an agreement, ruling, decree, grant or similar arrangement with a general government; or

(b) the making or changing of an election or choice.

(4) Subparagraph 48(5)(b)(ii) of the Act is amended by striking out “and” at the end of clause (A), by adding “and” at the end of clause (B) and by adding the following after clause (B):

(C) the amount of any deferred tax asset (other than a pre-GloBE arrangement deferred tax asset) of the transferor (or, where a group taxation regime applies, the entity that pays taxes in respect of the transferor under that regime) that

(I) would have been taken into account under subsection (1), and

(II) is demonstrated to have been reversed or not created solely because any gain arising on the transfer was included in the domestic taxable income of the transferor.

(5) The description of B in paragraph 48(9)(b) of the Act is replaced by the following:

B is the amount of any deferred tax asset (other than a pre-GloBE arrangement deferred tax asset) in respect of a tax loss of the transferor that

(i) would have been taken into account under subsection (1), and

(ii) is demonstrated to have been reversed or to not have been created solely because any gain arising from the transfer of the asset was included in the taxable income of the transferor,

(6) Subsections (1) to (5) apply to fiscal years of a qualifying MNE group that begin on or after December 31, 2023.

13 (1) Paragraph (b) of the definition *designated filing entity* in subsection 55(1) of the Act is replaced by the following:

(b) is located in a jurisdiction in the fiscal year that has a qualified IIR, a qualified UTPR or a qualified domestic minimum top-up tax that has qualified domestic minimum top-up tax safe harbour status in effect for the fiscal year. (*entité déclarante désignée*)

(2) Subsection (1) applies to fiscal years of a qualifying MNE group that begin on or after December 31, 2023.