

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, for a fiscal year, means an entity

(a) that files a prescribed form with the Minister in respect of the fiscal year or any prior fiscal year on or before the GIR due date for the fiscal year or prior fiscal year, as the case may be;

(b) that is located in Canada;

(c) that does not have any of its ownership interests quoted on a securities market;

(d) 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;

(e) 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*);

(f) 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

(g) 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 privée*)

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

2 (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 for the fiscal year, the following rules apply:

(a) subject to paragraph (b), the 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 paragraph, 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) paragraph (a) shall not apply for the purposes of

(i) the definition *private investment entity* in subsection 2(1),

(ii) subsections 18(13), (14) and (18) in calculating the GloBE income or loss, and subsections 48(4) to (9) in calculating the adjusted covered taxes, of any entity (referred to in this paragraph as a “subject entity”) that would, in the absence of paragraph (a), be a constituent entity of the actual group, except in determining

(A) the effective tax rate referred to in clause 18(14)(b)(ii)(B), and

(B) whether a subject entity is a low-tax entity or a high-tax counterparty referred to in subsection 18(18),

(iii) determining if the condition in paragraph 33(1)(b) or (c) is met,

(iv) the definitions *deduction/non-inclusion arrangement*, *duplicate loss arrangement* and *duplicate tax recognition arrangement* in subsection 47(1) in calculating the qualifying income tax expense of a subject entity and the profit (loss) before income tax for the jurisdiction in which a subject entity is located, and

(v) the *de minimis* threshold test in subsection 47(3);

(c) 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

(d) if, because of paragraph (c), 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 one of the main purposes of any transaction or event is to render 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.

