

EXPLANATORY STATEMENT

Issued by authority of the Assistant Minister for Productivity, Competition, Charities and Treasury

Taxation (Multinational—Global and Domestic Minimum Tax) Rules 2024

Taxation (Multinational—Global and Domestic Minimum Tax) (Qualified GloBE Taxes) Determination 2025

Section 29 of the *Taxation (Multinational—Global and Domestic Minimum Tax) Act 2024* (the Act) provides that the Minister may make Rules prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act. Section 30 of the Act provides that these Rules may confer a power on the Minister to make a legislative instrument.

The relevant sections of the *Taxation (Multinational—Global and Domestic Minimum Tax) Rules 2024* (the Rules) that allow the Minister to make the *Taxation (Multinational—Global and Domestic Minimum Tax) (Qualified GloBE Taxes) Determination 2025* (the Determination) are:

- paragraph 10-15(a) – specifying a tax that is a Qualified Income Inclusion Rule (IIR);
- paragraph 10-15(b) – specifying a tax that is a Qualified Domestic Minimum Top-up Tax (DMTT); and
- subsection 8-200(2) – specifying a jurisdiction that has QDMTT Safe Harbour status for the Fiscal Year.

The purpose of the Determination is to specify that a jurisdiction has a Qualified IIR tax, a Qualified DMTT or that the Minister is satisfied a jurisdiction has QDMTT Safe Harbour status for a Fiscal Year.

In March 2025 the OECD released a central record that lists jurisdictions that have implemented IIR and DMTT legislation with transitional qualified status. Transitional qualified status is obtained where OECD Inclusive Framework members determine whether the legislation of an implementing jurisdiction is sufficiently consistent with the OECD GloBE Rules, via a common peer review process. Qualification status is important for the agreed rule order of the GloBE Rules and ensures that a jurisdiction's domestic legislation is implemented and applied consistently to the GloBE Rules.

Sections 5 and 6 of the Determination specifies an IIR or DMTT imposed under a law of a jurisdiction is qualified for Fiscal Years beginning on or after a specified date.

Section 7 of the Determination specifies jurisdictions that the Minister is satisfied have a Qualified DMTT and have Qualified DMTT Safe Harbour Status for Fiscal Years beginning on or after a specified date.

The list of jurisdictions that have qualified GloBE taxes will continue to be updated as the appropriate.

The Act does not specify any conditions that need to be satisfied before the power to make the Determination may be exercised.

The Determination is a legislative instrument for the purposes of the *Legislation Act 2003*. The Determination is subject to disallowance and sunseting in accordance with sections 42 and 50, respectively, of the *Legislation Act 2003*.

The Determination commenced on the day after the Determination was registered on the Federal Register of Legislation.

A Statement of Compatibility with Human Rights is at Attachment A.

The Determination operates to specify jurisdictions with qualifying GloBE taxes retrospectively. This retrospective application is necessary and consistent with the policy outlined in the OECD GloBE Rules that allows jurisdictions to adopt the Rules from 31 December 2023. The retrospective application of the Determination is supported by section 32 of the Act which provides that any legislative instruments made under the Rules are not affected by the operation of subsection 12(2) of the *Legislation Act 2003*.

The Office of Impact (OIA) Analysis has been consulted. A list of reports certified as equivalent to a Policy Impact Analysis can be found at <https://oia.pmc.gov.au/published-impact-analyses-and-reports/two-pillar-solution-addressing-tax-challenges-arising>. The full list of reports and executive summaries of those reports are also available in the Explanatory Memorandum for the *Taxation (Multinational-Global and Domestic Minimum Tax) Act 2024* as these reports have been certified for the Assessment Act and the Rules.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*

Taxation (Multinational—Global and Domestic Minimum Tax) (Qualified GloBE Taxes) Determination 2025

This Determination is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The purpose of the Determination is to specify that a jurisdiction has a Qualified IIR tax, a Qualified DMTT or that the Minister is satisfied a jurisdiction has QDMTT Safe Harbour status for a Fiscal Year.

Human rights implications

This Determination does not engage any of the applicable rights or freedoms.

Conclusion

This Determination is compatible with human rights as it does not engage any human rights issues.