

**SERIES** ATAF POLICY BRIEF

# RESPONDING TO THE IMPLEMENTATION OF THE GLOBAL MINIMUM TAXATION: POLICY CONSIDERATIONS

---



**AFRICAN TAX  
ADMINISTRATION FORUM**

**FORUM SUR  
L'ADMINISTRATION  
FISCALE AFRICAINE**





## Background

ATAF has long advocated for the need for policy changes to address, firstly, the current imbalance in the allocation of taxing rights between residence and source jurisdictions, which is detrimental to source jurisdictions; secondly, to stem Illicit Financial Flows (IFFs) out of Africa through artificial profit shifting by some multinational enterprises (MNEs); and thirdly to put an end to the granting of often ineffective and wasteful tax incentives, while providing certainty that fosters economic growth of countries, and encourages investment opportunities.

In 2022 the Inclusive Framework on BEPS agreed on a global minimum tax on larger MNEs (the “GloBE rules”). This ensures that MNEs pay at least a minimum effective tax rate of 15% in each jurisdiction in which they operate, which is a step in the right direction in reducing tax competition and the race to the bottom including through the granting of often ineffective and wasteful tax incentives.

The GloBE rules comprise two interlocking domestic rules: (i) an Income Inclusion Rule (IIR), which imposes top-up tax on a parent entity in respect of the low-taxed income of a constituent entity of that MNE (e.g. a subsidiary); and (ii) an Under Taxed Profits Rule (UTPR), which operates as a backstop and denies deductions or requires an equivalent adjustment to the extent the low-taxed income of a constituent entity is not subject to tax under an IIR. The rules also provide for a Qualifying Domestic Minimum Top-Up Tax (QDMTT) which gives the source jurisdiction the primary taxing right on low-taxed profits. *The implementation of these rules will affect both Inclusive Framework and non-Inclusive Framework members.*

The GloBE rules work by:

- Calculating the effective tax rate in every jurisdiction in which an MNE operates. The

effective tax rate (i.e. the tax as a proportion of income) is measured based on the accounting profit reported in the accounting statements, with some adjustments, giving a common baseline to measure all MNEs in a consistent way;

- Calculating the difference between the MNE’s effective tax rate in each jurisdiction and the 15% minimum effective rate. If the effective tax rate is less than the 15% minimum effective tax rate, the difference is charged as an extra tax (a “top-up tax”);
- Identifying which jurisdiction collects the top-up tax to coordinate the rules. The priority of the rules is first the source jurisdiction (if there is a QDMTT); if the top-up tax is not fully charged under a QDMTT, then to the residence jurisdiction where the ultimate parent entity is located (if there is a “qualified IIR”); if that jurisdiction does not introduce the rules, then the tax is collected by the next jurisdiction that is down in the ownership chain of the MNE that has introduced the rules, and/or in other jurisdictions that have introduced the rules where the MNE has constituent entities. If there is no qualified IIR imposed by any jurisdiction in the ownership chain and in some other limited circumstance, will the UTPR apply.

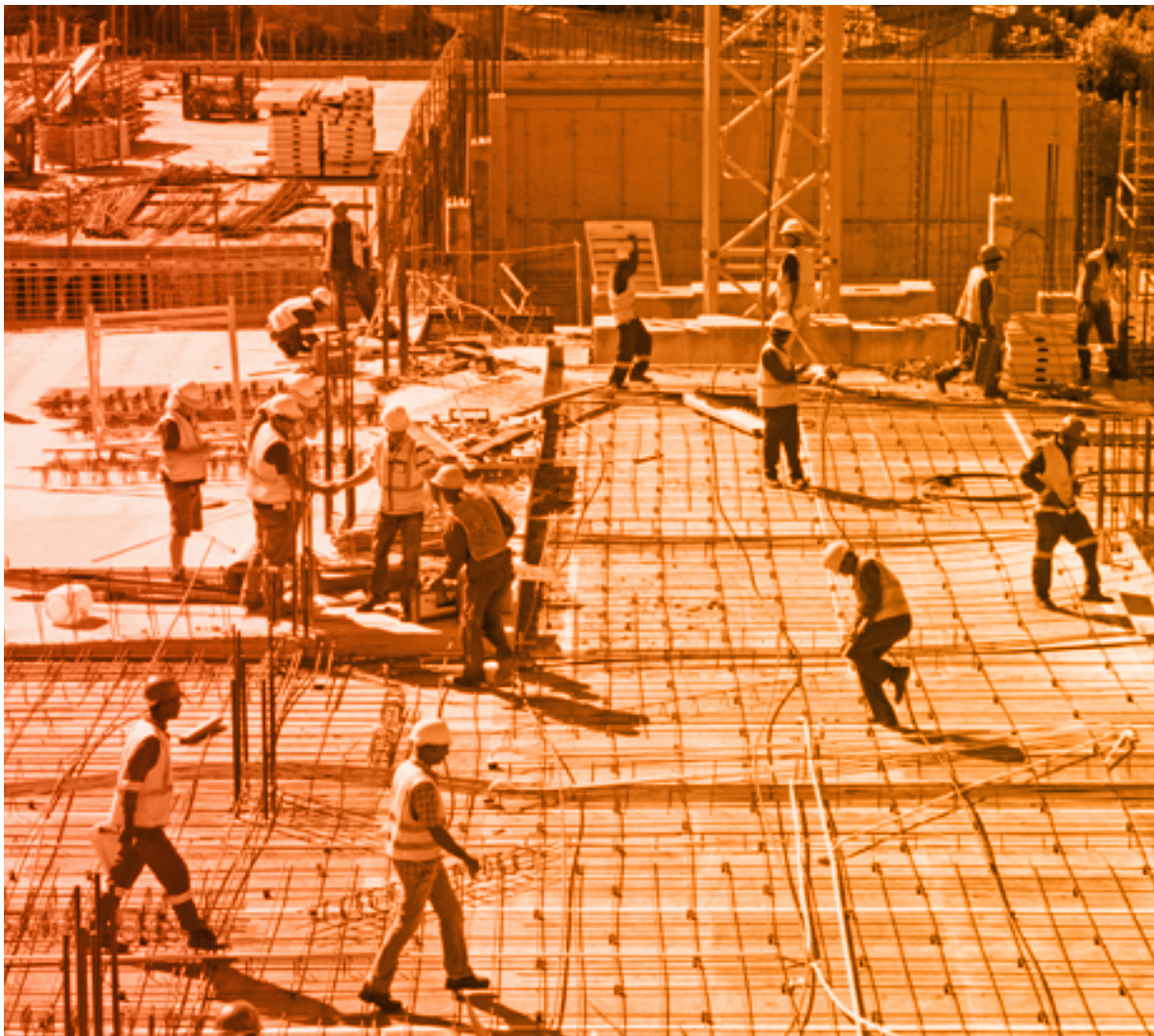
Throughout the long negotiations of these rules, ATAF consistently called for the source-based rule of the UTPR to be the primary rule under the GloBE rules to assist in redressing the current imbalance in the allocation of taxing rights between residence and source jurisdictions.

We also advocated for the minimum effective tax rate to be at least 20%, and in our view, a 15% minimum effective tax rate will not stem IFFs out of African countries through artificial profit-shifting strategies.

However, given that many residence countries are already moving to legislate the GloBE rules doing nothing is not an attractive option for African countries. *They have the option of re-structuring their tax incentives regimes to ensure no effective rate is below 15%, as a primary move*, or exploit the opportunity of enacting the Domestic Minimum Top-Up Tax (DMTT) legislation as an initial process of addressing the issue of granting wasteful tax incentives. To assist our members who wish to enact DMTT legislation, ATAF as guided by the

African Union released a Suggested Approach for a Domestic Minimum Top-up Tax.<sup>1</sup> This takes the mechanics of the GloBE rules and ensures that source jurisdictions implementing such a rule take priority over residence jurisdictions in collecting the top-up tax for low-taxed profits arising in their own jurisdiction, largely due to tax incentives.

This Policy Brief sets out the policy issues African countries should consider in adopting a DMTT and placing the DMTT in its wider context.



1. See [https://events.ataftax.org/index.php?page=documents&func=view&document\\_id=191](https://events.ataftax.org/index.php?page=documents&func=view&document_id=191)