

Concerns and proposals regarding the ongoing negotiations on Global Minimum Taxation (Pillar 2) and their impact on competitiveness

As the Tax Commission of ICC Spain, by majority, we wish to convey our serious concerns about the direction and current state of negotiations on the global minimum tax (GTM) rules. While we remain supportive of a coherent, robust and internationally coordinated framework, the present configuration risks undermining the competitiveness of Multinational Enterprises (MNEs) headquartered in jurisdictions where GTM regulation has been passed (e.g. EU, UK, Canada) against those where no implementation has taken place.

Pillar Two seeks to ensure that MNEs pay at least a 15% effective rate in each jurisdiction. In more than 30 jurisdictions the regime is already in force and relies on the OECD complex Model Rules and extensive administrative guidance exceeding a thousand pages. It requires granular data gathering, consolidation and annual jurisdiction-by-jurisdiction effective tax rate (ETR) testing. However, several major economies have not implemented the rules or operated materially different minimum-tax mechanisms. In particular, the United States claims for the application of its domestic minimum tax regimes (e.g., GILTI/NCTI and CAMT) that allow global blending and generally preserve the impact of key incentives (and it is not expected to introduce a Qualified Domestic Minimum Top-up Tax (QDMTT)). At the same time, the rules backstop (Under-taxed payments rule – UTPR-) faces legal and policy challenges and has triggered concerns regarding potential retaliatory measures.

This asymmetric landscape weakens the original level-playing-field objective and increases compliance burdens for MNEs headquartered in P2 implementing jurisdictions—often without corresponding top-up tax collections.

- rules as currently designed create a significant disadvantage for these MNEs relative to competitors based in jurisdictions that have not adopted the rules (e.g. US, India, China), even when a side-by-side agreement is reached. The absence of simple, full, synchronized global uptake, particularly across key investment destinations, the level playing field and bears directly on the competitiveness of affected companies.
- The compliance burden associated with these rules is exceptionally high and disproportionate, applying even where top-up liabilities are expected to be immaterial and may divert scarce resources away from investment, innovation and scaling activities. This imbalance is especially acute for groups with complex footprints in higher-tax jurisdictions that already comply with extensive anti-avoidance standards.

These dynamics coincide with the global debate on competitiveness and simplification, where the need to rationalize reporting and reduce administrative costs has been put at stake.

Against this backdrop, ICC Spain respectfully proposes a targeted package of simplification and competitiveness-enhancing measures that remain fully consistent with the policy goal of a robust GMT and focus on the strategic needs of the international tax framework:

1. Safe harbour (SH) measures

It's advisable to establish a coherent SH architecture that reduces unnecessary compliance where tax risk is demonstrably low and reserves full-scope calculations for genuinely higher-risk cases. Specifically:

- a. The current SH based on the Country-by-Country report should be extended, with a view to making it a permanent, streamlined simplification tool.
- b. A risk-based SH should be introduced based on a Global ETR derived from consolidated financial statements. This gateway approach is consistent with international developments and would materially reduce costs for both tax administration and compliant groups.
- c. A (really) simplified permanent SH should be regulated, providing a calculation methodology with only the minimum necessary adjustments to the tax base and covered taxes. This would support predictability and ease of administration, reflect business reality while retain the core integrity of the minimum tax.

2. Treatment of critical fiscal policy incentives

The current framework significantly diminishes the effectiveness of key investment incentives. To restore neutrality, we recommend:

- a. Improving the treatment of strategically important incentives (e.g. by excluding certain categories—such as innovation, decarbonization, etc.—from the Pillar Two income and/or tax computation).
- b. Eliminating rigid distinctions that penalize non-refundable credits in the ETR calculation when they serve priority policy goals and are administered under robust transparency and state-aid controls.
- c. Ensure coordination between the OECD and States to adopt durable rules that prevent the undermining of approved incentives.

3. Simplify compliance

Compliance burden should be critically reduced for groups that are not subject to top-up tax. In particular, in jurisdictions that have implemented QDMTT, compliance should be a domestic duty, i.e. should not be filed through centralized Global Information Return.

The proposed measures are pragmatic, targeted and aligned with the ultimate goal of the GMT rules. They would substantially reduce compliance expenditure, improve investment certainty and ensure that incentives continue to work as intended. They would also promote constructive international engagement by focusing enforcement on higher-risk outcomes while avoiding disproportionate burdens for groups that already demonstrate robust overall tax profiles.

In light of the above, the GMT rules should be either temporarily put on hold while a broad agreement is reached or, at least, agree on a one- or two-years extension of the transitional SH rules – removing the “once out, always out” rule - to ensure simplicity and certainty in its application.



ICC Spain remains committed to supporting a fair and sustainable international tax system and advocate for these simplifications and incentive-alignment reforms in the ongoing global discussions, so that the GMT contributes to, rather than detracts from, competitiveness, investment, and growth.