

Translation of Liechtenstein Law

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Law
of 10 November 2023
**on the minimum taxation of large enterprise
groups (GloBE Act)**

I hereby grant My consent to the following resolution adopted by Parliament:¹

I. General provisions

Article 1

Object

This Act governs the minimum taxation of multinational enterprise groups and large domestic groups by collecting the following top-up taxes on domestic constituent entities:

- a) a top-up tax in the form of a "Qualified Domestic Minimum Top-up Tax" (Liechtenstein top-up tax);
- b) a top-up tax according to the "Income Inclusion Rule" (IIR top-up tax);
and
- c) a top-up tax according to the "Undertaxed Payments Rule" (UTPR top-up tax).

¹ Report and Motion of the Government No. 65/2023, Statement of the Government No. 96/2023

Article 2

Applicable law

1) Unless otherwise provided for in this Act, the Global Anti-Base Erosion Model Rules (Pillar Two) of the OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting of 14 December 2021² (GloBE Model Rules) apply.

2) When applying the GloBE Model Rules, Liechtenstein is deemed an "implementing jurisdiction".

Article 3

Definitions and designations

1) For the purposes of this Act, the following definitions apply:

- a) "group" means a "Group" as defined in Articles 1.2.2 and 1.2.3 of the GloBE Model Rules;
- b) "multinational enterprise group" means an "MNE Group" as defined in Article 1.2 of the GloBE Model Rules;
- c) "large domestic group" means a group as defined in subparagraph (a) whose constituent entities are all located in Liechtenstein;
- d) "entity" means an "Entity" as defined in Article 10.1.1 of the GloBE Model Rules;
- e) "constituent entity" means a "Constituent Entity" as defined in Article 1.3.1 of the GloBE Model Rules;
- f) "domestic constituent entity" means a constituent entity that is deemed to be located in Liechtenstein under the GloBE Model Rules;
- g) "consolidated financial statements" means "Consolidated Financial Statements" as defined in Article 10.1.1 of the GloBE Model Rules;
- h) "taxpayers" means constituent entities for which a top-up tax is allocated and collected in accordance with this Act.

2) The designations of persons used in this Act shall be understood to mean all persons regardless of their gender, unless the designations of persons refer expressly to a specific gender.

² The GloBE Model Rules are published on the website of the Fiscal Authority at www.stv.llv.li.

II. Liechtenstein top-up tax

Article 4

Scope

1) The Liechtenstein top-up tax within the meaning of Article 10.1.1 of the GloBE Model Rules applies to domestic constituent entities of a multinational enterprise group or a large domestic group whose ultimate parent entity has generated annual revenue of EUR 750 million or more in its consolidated financial statements in at least two of the four fiscal years immediately preceding the reviewed fiscal year.

2) Joint ventures and constituent entities of joint ventures as referred to in Article 6.4 of the GloBE Model Rules are also subject to the Liechtenstein top-up tax.

3) If a lower threshold than the annual revenue set out in paragraph 1 applies in the tax jurisdiction of the ultimate parent entity of a multinational enterprise group, its domestic constituent entities are also subject to the Liechtenstein top-up tax.

Article 5

Computation

1) Subject to paragraphs 2 and 4, the Liechtenstein top-up tax is computed *mutatis mutandis* in accordance with Articles 5.1 to 5.6 of the GloBE Model Rules; the relevant special provisions of the GloBE Model Rules also apply *mutatis mutandis*.

2) The following in particular applies to the computation referred to in paragraph 1:

- a) The Liechtenstein top-up tax shall not be deducted in the computation in accordance with Article 5.2.3 of the GloBE Model Rules.
- b) The Liechtenstein top-up tax is collected in full on the constituent entity concerned, regardless of the amount of the shareholding of the ultimate parent entity.
- c) The accounting standard applied for the consolidated financial statements of the ultimate parent entity shall be used for the determination of the assessment basis.

- d) Joint ventures and constituent entities of joint ventures shall be treated as if they were a separate multinational enterprise group or a large domestic group.
- 3) The minimum rate for computing the Liechtenstein top-up tax shall be 15%.
- 4) Notwithstanding paragraphs 1 to 3, the Liechtenstein top-up tax owed shall be set to zero:
 - a) in the first five years of the initial phase of the international activity of the multinational enterprise group within the meaning of Article 9.3.2 of the GloBE Model Rules, provided that no top-up tax is applied abroad in relation to Liechtenstein constituent entities;
 - b) in the first five years from the first day of the fiscal year in which the large domestic group originally comes within the scope of this Act.

Article 6

Allocation and collection

- 1) If the domestic constituent entities of a multinational enterprise group or a large domestic group have designated one or more domestic constituent entities for the allocation and collection of the Liechtenstein top-up tax, the Liechtenstein top-up tax shall be allocated to and collected from these constituent entities. All domestic constituent entities shall be jointly and severally liable for the Liechtenstein top-up tax.
- 2) If no domestic constituent entity within the meaning of paragraph 1 has been determined, the Liechtenstein top-up tax shall be allocated to the individual domestic constituent entities in accordance with the amount of the Liechtenstein top-up tax resulting from a computation based on the individual financial statements of these constituent entities and collected from them. For this purpose, the relevant taxes, the relevant profit, and the profit surplus for each constituent entity are determined on the basis of the individual financial statements in accordance with the GloBE Model Rules.
- 3) Paragraphs 1 and 2 apply *mutatis mutandis* to domestic joint ventures and domestic constituent entities of joint ventures.

III. IIR and UTPR top-up tax

Article 7

Scope

1) The IIR top-up tax within the meaning of Articles 2.1 to 2.3 of the GloBE Model Rules shall apply to domestic parent entities of a multinational enterprise group or a large domestic group with the allocable share of the IIR top-up tax for low-tax constituent entities of the group, provided that their ultimate parent entity has generated annual revenue of EUR 750 million or more in its consolidated financial statements in at least two of the four fiscal years immediately preceding the reviewed fiscal year.

2) The UTPR top-up tax within the meaning of Articles 2.4 and 2.5 of the GloBE Model Rules shall apply to domestic constituent entities of a multinational enterprise group with the share of the UTPR top-up tax for foreign low-tax constituent entities allocable to Liechtenstein, provided that their ultimate parent entity has generated annual revenue of EUR 750 million or more in its consolidated financial statements in at least two of the four fiscal years immediately preceding the reviewed fiscal year.

Article 8

Computation

1) Subject to paragraph 3, the IIR and UTPR top-up tax are computed in accordance with Articles 5.1 to 5.6 of the GloBE Model Rules; the relevant special provisions of the GloBE Model Rules also apply.

2) The minimum rate for computing the IIR and UTPR top-up tax is 15%.

3) Notwithstanding paragraph 1, if the conditions set out in Article 5(4)(a) and (b) are met, the IIR top-up tax owed in relation to domestic constituent entities shall be set to zero.

Article 9

Allocation and collection

1) The IIR top-up tax shall be allocated to the domestic parent entities in accordance with the GloBE Model Rules and collected from them.

2) If the domestic constituent entities of a multinational enterprise group have designated one or more domestic constituent entities for the allocation and collection of the UTPR top-up tax, the UTPR top-up tax shall be allocated to and collected from this constituent entity or these constituent entities. All domestic constituent entities shall be jointly and severally liable for the UTPR top-up tax.

3) If no domestic constituent entity within the meaning of paragraph 2 has been determined, the UTPR top-up tax shall be allocated to the domestic constituent entities according to their results on the basis of the individual financial statements in accordance with the GloBE Model Rules and collected from them.

IV. Allocation of tax revenue

Article 10

Allocation of top-up tax revenue

The revenue from the top-up taxes shall be divided between the State and the municipalities by applying Article 74 of the Tax Act *mutatis mutandis*.

V. Organisation and implementation

A. Organisation

Article 11

Enforcement authority

The Fiscal Authority shall be responsible for the enforcement of this Act.

B. Procedural provisions

Article 12

Principle

Unless otherwise provided below, Articles 83 to 86, 88 to 91, 93 to 95, 97, 98, 102, 103, 111, 113 to 120, 123, 124, 128, 130, 131, 133 and 133a of the Tax Act apply *mutatis mutandis* to the procedure in connection with top-up taxes.

Article 13

Tax returns

1) Taxpayers must submit:

- a) a tax return for the collection of the Liechtenstein top-up tax;
- b) a tax return for the collection of the IIR and UTPR top-up tax;
- c) a GloBE top-up tax return ("GloBE Information Return") in accordance with Article 8.1 of the GloBE Model Rules.

2) Taxpayers shall be requested to submit a tax return as referred to in paragraph 1 by public announcement.

3) By ordinance, the Government shall provide details governing the tax returns as referred to in paragraph 1, in particular the form, submission deadline, language, and documents to be enclosed.

Article 14

Changes to legally binding assessments

Any change to a domestic or foreign tax assessment which is made after the assessment of the top-up tax has become final in accordance with this Act shall be admitted as a reason for collection of back taxes within the meaning of Article 120 of the Tax Act or as a reason for review within the meaning of Article 123 of the Tax Act, irrespective of any statute-barred and forfeiture periods, provided that such a change:

- a) establishes the proper collection of minimum taxation in accordance with the GloBE Model Rules; and
- b) avoids unintentional double taxation or prevents double non-taxation in accordance with the GloBE Model Rules.

VI. Penal provisions

A. Contraventions

Article 15

Breach of procedural duties

1) Anyone who, in spite of reminder, intentionally or negligently fails to fulfil, or does not properly fulfil, a duty incumbent upon that person in accordance with the provisions of this Act or the associated ordinances, or in accordance with an order imposed by the Fiscal Authority on the basis of this Act, shall be punished for committing a contravention with a fine of up to CHF 1 000, in the case of serious or repeated offences up to CHF 10 000.

2) Anyone who intentionally or negligently fails to comply with the obligation to submit the GloBE Information Return in accordance with Article 13(1)(c) shall be punished with a fine of up to CHF 250 000.

Article 16

Tax evasion

1) Anyone who, as a taxpayer, intentionally or negligently frustrates a demand for tax which that taxpayer is liable to pay, by making incorrect or incomplete statements on a tax return as referred to in Article 13, or by providing incorrect or incomplete information, or who otherwise culpably withholds payment of tax, shall be punished with a fine for committing a contravention.

2) The fine referred to in paragraph 1 shall as a rule be equal in amount to that of the tax evaded. The fine may be reduced to a minimum of one third of that amount in the case of slight culpability, or increased to a maximum of three times that amount in the case of serious culpability.

3) Attempted tax evasion is punishable. The fine shall be two thirds of the fine that would be imposed for completed and intentional tax evasion.

4) Anyone who intentionally induces another to commit tax evasion or who otherwise intentionally contributes to its commission shall be punished with a fine, regardless of the culpability of the taxpayer.

5) The fine referred to in paragraph 4 shall be up to CHF 10 000, in the case of serious or repeated offences up to CHF 50 000.

B. Misdemeanours

Article 17

Tax fraud

1) Anyone who evades tax by intentional use of false or falsified business accounts with untrue content, or other documents, shall be punished for committing a misdemeanour with a custodial sentence of up to six months or a monetary penalty of up to 360 daily rates.

2) Attempt and participation are governed by the provisions of the Criminal Code.

C. Common provisions

Article 18

Voluntary disclosure

1) If a taxpayer discloses, of their own accord, an instance of tax evasion or tax fraud committed by the taxpayer, without being induced to do so by an imminent risk of discovery, no penalty shall be imposed on that taxpayer, and they shall be liable only for back tax.

2) For each additional voluntary disclosure of tax evasion, the fine shall be reduced to one fifth of the tax evaded. Back tax shall be payable in addition to the fine.

3) If a participant (Article 16(4)) discloses an offence as referred to in paragraph 1 of their own accord, without being induced to do so by an imminent risk of discovery, no penalty shall be imposed on that participant.

Article 19

Responsibility of constituent entities

1) If offences as referred to in Article 15 or Article 16(1) are committed, or an attempt is made to commit tax evasion as referred to in Article 16(3), with effect for a constituent entity, that constituent entity shall be fined.

2) If participatory acts (Article 16(4)) to tax evasion (Article 16(1)) are committed by third parties in the business operations of a constituent entity, Article 16(4) applies to that constituent entity.

3) The governing bodies authorised to represent the constituent entity at the time of the offence shall be jointly and severally liable for the fines imposed if the fine is not paid by the constituent entity.

4) In the case of misdemeanours referred to in Article 17, the governing bodies authorised to represent the constituent entity at the time of the offence shall be punished.

Article 20

Liability of representatives

If, in cases where a representative has been appointed, an offence pursuant to this Act is committed by a legal representative, or an officially or contractually appointed representative, in the course of their activities on behalf of the represented party, the represented party shall be required to pay the fine or monetary penalty. The represented party may be released from this obligation only by demonstrating that they were unable to prevent the actions of the representative and the effects of those actions. The representative shall be subject to the provisions of Articles 15 to 17.

Article 21

Statute-barring

1) Prosecution and enforcement of sentences shall be statute-barred:

- a) in one year in the case of breach of procedural duties;
- b) in five years in the case of tax evasion and tax fraud.

2) The statute-barred period for prosecution shall commence at the end of the year in which the violation of the law was last committed. It shall be suspended for any length of time during which the perpetrator is abroad. The statute-barred period shall be interrupted by any investigative acts conducted against the perpetrator by the competent authority. The statute-barred period shall begin anew after any interruption. The original statute-barred period may not be more than doubled.

3) The statute-barred period for enforcement of sentences shall commence upon the legally enforceable conclusion of the criminal proceedings. It shall be suspended for any period during which the penalty

cannot be enforced in Liechtenstein. The statute-barred period for enforcement of sentences shall be interrupted by any enforcement acts conducted against the sentenced person by the competent authority. The statute-barred period shall begin anew after any interruption. The original statute-barred period may not be more than doubled.

Article 22

Suspended sentences

Suspended sentences are ruled out for fines.

D. Criminal proceedings

Article 23

Competences

1) Breaches of procedural duties and tax evasion shall be prosecuted by the Fiscal Authority.

2) The prosecution of tax fraud falls within the jurisdiction of the Court of Justice.

Article 24

Proceedings for breach of procedural duties

1) In proceedings for breach of procedural duties, the Fiscal Authority may, if the facts and the legal situation are clear, act by way of an administrative penalty order. Unless provided otherwise in this Act, Articles 147 to 149 of the National Administration Act apply *mutatis mutandis*.

2) In other cases, unless provided otherwise in this Act, the proceedings shall be governed *mutatis mutandis* by Articles 152 to 159 of the National Administration Act.

Article 25

Proceedings for tax evasion

1) Unless provided otherwise in this Act, Articles 152 to 159 of the National Administration Act apply *mutatis mutandis* in proceedings for tax evasion.

2) The person affected by the proceedings shall be given an opportunity to respond to the accusations against them; the person shall be informed of their right to refuse to testify and cooperate.

3) Evidence from back tax proceedings may be used in criminal proceedings only if that evidence has not been obtained with the threat of an assessment based on due discretion, with a reversal of the burden of proof (Article 102 of the Tax Act), nor with the threat of a fine for a breach of procedural duties.

4) Professional confidentiality must be maintained.

Article 26

Appeal proceedings

1) Administrative penalty decisions of the Fiscal Authority may be appealed within 14 days of service by way of complaint to the National Tax Commission.

2) Objections (Article 149 of the National Administration Act) may be lodged with the Fiscal Authority against administrative penalty orders of the Fiscal Authority within 14 days of service. If an administrative penalty order imposes a fine of up to CHF 2 000, only an appeal as set out in paragraph 1 is permitted instead of an objection.

3) Appeal decisions of the National Tax Commission may be appealed within 14 days of service by way of complaint to the Administrative Court.

Article 27

Criminal court proceedings

Proceedings for tax fraud shall be governed by the provisions on criminal court proceedings.

VII. Transitional provisions

Article 28

Safe harbour

By ordinance, the Government may provide for a simplified calculation of top-up taxes for tax years beginning on or before 31 December 2026 and ending before 1 July 2028, taking into account the Safe Harbours and Penalty Relief: Global Anti-Base Erosion Rules (Pillar Two) of the OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting of 15 December 2022.³

Article 29

Exemption from punishment

No fines shall be imposed for contraventions under Articles 15 and 16 committed within three years of the applicability of this Act, provided that appropriate measures have been taken to apply the provisions of this Act properly.

VIII. Final provisions

Article 30

Implementing ordinances

The Government shall issue the ordinances required for the implementation of this Act.

Article 31

Entry into force and applicability

1) This Act shall enter into force on 1 January 2024 and, subject to paragraph 2, shall apply for the first time to assessments for tax years

³ The guidelines are published on the website of the Fiscal Authority at www.stv.llv.li.

beginning on or after 1 January 2024; the Government may set the date of initial applicability to 1 January 2025 by ordinance.

2) The Government shall determine the initial applicability of the provisions on the UTPR top-up tax by ordinance; this may be at the earliest for assessments of tax years beginning on or after 1 January 2025.

3) When determining the applicability pursuant to paragraphs 1 and 2, the Government shall take into account the status of implementation of the GloBE Model Rules at the global level.

Representing the Reigning Prince:

signed *Alois*

Hereditary Prince

signed *Dr. Daniel Risch*

Prime Minister