



Forvis Mazars Tax landscape in Romania – legislative changes **Powered by the Turkish Businessmen Association (TIAD)**

11 September 2024

Agenda

1. About Forvis Mazars in Romania
2. VAT updates | Mihaela Hampu, Senior Tax Manager
3. Transfer pricing updates/ Pillar 2 – from Romania's perspective | Liviu Gheorghiu, Tax Partner
4. Transfer pricing updates/ Pillar 2 – from Türkiye's perspective | Gökçe Gücüyener, Tax Partner
5. Q&A

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About Forvis Mazars in Romania



About Forvis Mazars in Romania

Key figures

€16.7m

turnover*

+1,000

active clients

370

professionals

+25,5%

year-on-year growth

29

years on the local market

12

partners

*financial year 1 September 2023 - 31 August 2024



About Forvis Mazars in Romania

Our services



Audit and assurance

- Financial audit
- Independent assurance & reviews
- Corporate reporting
- Training services

Consulting

- Cybersecurity & data protection
- Regulatory compliance
- Enterprise solution transformation
- Governance
- Internal audit & internal controls
- Enterprise risk management

Financial advisory

- Acquisition due diligence
- Vendor due diligence & vendor assist
- Post-merger integration

Outsourcing - Accounting & reporting

- Accounting & tax compliance
- Financial & managerial reporting
- ERP localization & GAAP bridge

Outsourcing - HR & payroll

- Payroll processing & reporting
- HR & payroll integration
- HR advisory
- Internal documents (internal policies, collective agreement, etc.)
- HR & payroll audit

Sustainability

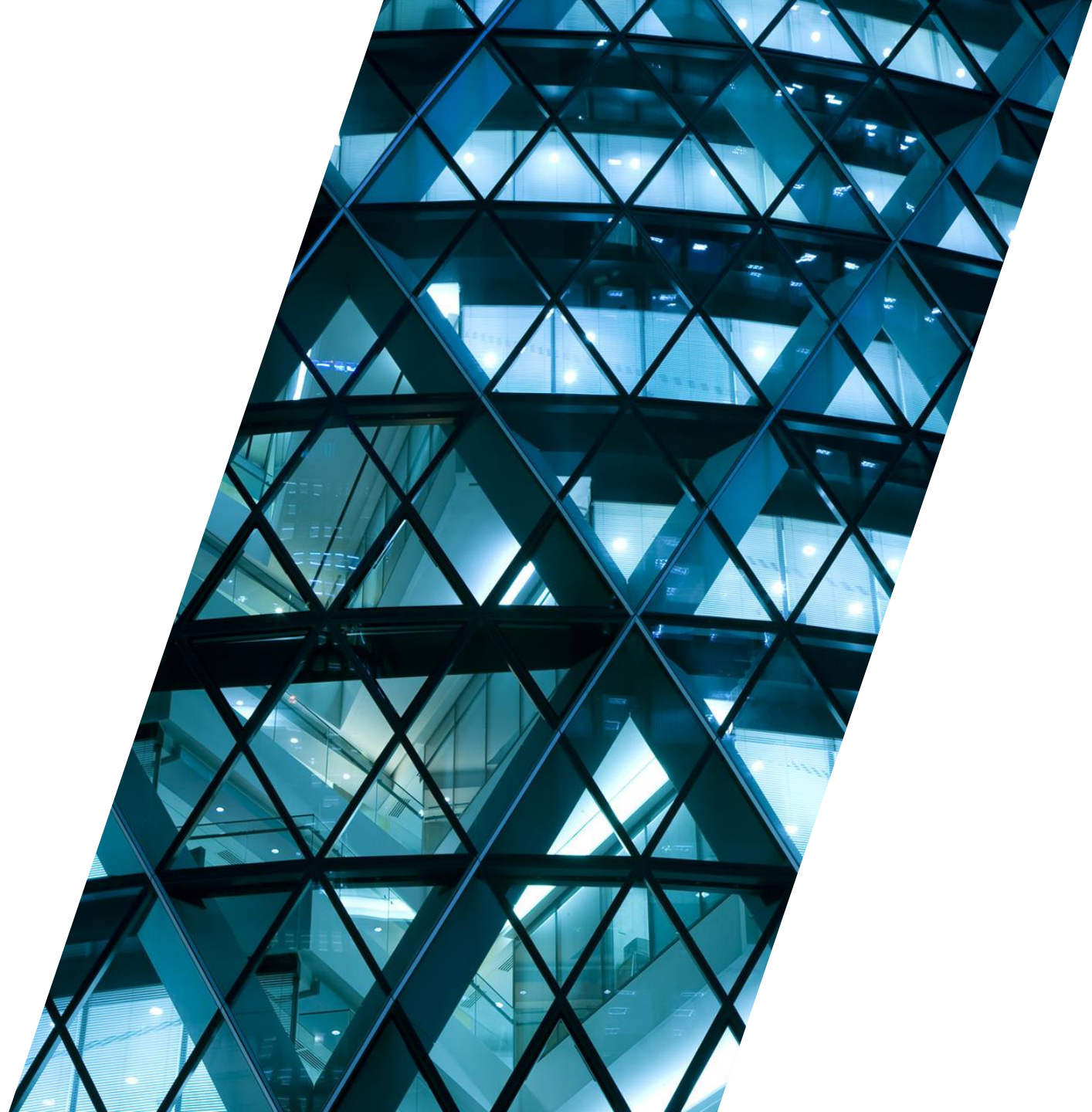
- Sustainability reporting/ CSRD
- Sustainability assurance services/ CSRD
- Carbon footprint & net zero strategy
- Compliance/ EU Green Taxonomy

Tax

- Direct tax
- Indirect tax
- Transfer pricing
- Environmental tax
- Compliance
- Private clients
- Global mobility

02

VAT updates | Mihaela Hampu,
Senior Tax Manager



e-VAT: Romania's new digital VAT system - pre-filled returns, data integration, and compliance challenges.



Context

- To increase tax compliance and reduce tax evasion, the Romanian government is implementing advanced digital measures within the Ministry of Finance and the National Agency for Fiscal Administration (ANAF). These actions aim to improve VAT collection and reduce the fiscal gap, in line with the National Recovery and Resilience Plan.
- By digitalising fiscal systems and creating an efficient governance framework, the goal is to simplify procedures and enhance transparency, with a positive impact on budget revenues and the financing of public services.
- In this context, the pre-filled e-VAT return is introduced compiling data previously declared by VAT payers and transmitted to the ANAF's IT systems, with the purpose of helping to prevent errors in VAT reporting.



Relevant aspects regarding e-VAT




The e-VAT pre-filled return is implemented as of 1 August 2024, and covers operations carried out starting from 1 July 2024.

The pre-filled e-VAT return contains information on economic operations declared and transmitted in the IT systems of the Ministry of Finance and the ANAF, such as e-Invoice, e-Transport, e-SAF-T, e-Electronic cash registers, the integrated customs IT systems, and other IT systems within the Ministry of Finance.

The pre-filled e-VAT return **is sent** to the taxable persons registered for VAT purposes via the Virtual Private Space, by the 5th of the month following the VAT return filing deadline.

Relevant aspects regarding e-VAT

ANEXA



DECONT PRECOMPLETAT RO e-TVA

Perioada de raportare (luna/trimestru/semestru/an)
Anul

☐ Decont consolidat de TVA, precompletat pentru reprezentantul grupului fiscal unic, constituit potrivit art.269 alin.(9) din Legea nr.227/2015 privind Codul fiscal, cu modificările și completările ulterioare

DATE DE IDENTIFICARE A PERSOANEI IMPOZABILE

Cod de identificare fiscală	RO	
Denumire		
Domiciliu fiscal		
Județ	Localitate	Sector
Strada	Cod poștal	Număr
Bloc	Scara	Etaj
Telefon	Fax	Email

TAXA PE VALOAREA ADĂUGATĂ COLECTATĂ

- lei -

Denumire indicatori	Valoare	TVA
COMERȚ INTRACOMUNITAR ȘI ÎN AFARA UE		
1 Livrări intracomunitare de bunuri, scutite conform art. 294 alin.(2) lit.a) și d) din Codul fiscal		
Surse de date ⁹⁾ :		
2 Regularizări livrări intracomunitare scutite conform art. 294 alin.(2) lit.a) și d) din Codul fiscal		
Surse de date ⁹⁾ :		
3 Livrări de bunuri sau prestări de servicii pentru care locul livrării/locul prestării este în afara României (în UE sau în afara UE), precum și livrări intracomunitare de bunuri, scutite conform art. 294 alin.(2) lit.b) și c) din Codul fiscal, din care:		

- After receiving the pre-filled RO e-VAT return, taxable persons registered for VAT purposes check the pre-filled data and information in accordance with the taxable operations performed and the fiscal status.
- If ANAF identifies significant differences between the pre-filled values of the e-VAT return and the VAT return filed by the taxpayer (**of at least 20% and an absolute value of at least RON 5,000**), ANAF will notify the taxpayer by the 5th of the month following the VAT return filing deadline. A reply should be provided within 20 days of receiving the Notification.
- Failure to reply to the notification with differences within the legal deadline is subject to a fine between RON 5,000 to RON 10,000 for large taxpayers, RON 2,500 to RON 5,000 for medium-sized taxpayers, and RON 1,000 to RON 2,500 for other legal entities and individuals.

Note: In certain cases, Notification can be sent to taxpayers even if the differences are below the threshold.

Relevant aspects regarding e-VAT



- Failure to provide or partial provision of information to clarify the differences represents a fiscal risk indicator as of 1 January 2025.
- All fines will apply as of 1 January 2025, respectively as of 1 August 2025, for the taxable persons applying the VAT cash accounting scheme.
- The pre-filled e-VAT return does not constitute a debt title to the tax authorities.
- Taxable persons are at risk of **tax inspection, anti-fraud control or improper VAT refund**, if they do not submit the response to the Notification within the deadline or the explanations provided are not relevant.

Authentication in RO e-VAT

- Authentication in RO e-VAT is performed similarly to authentication for accessing RO e-Invoice and RO e-Transport.

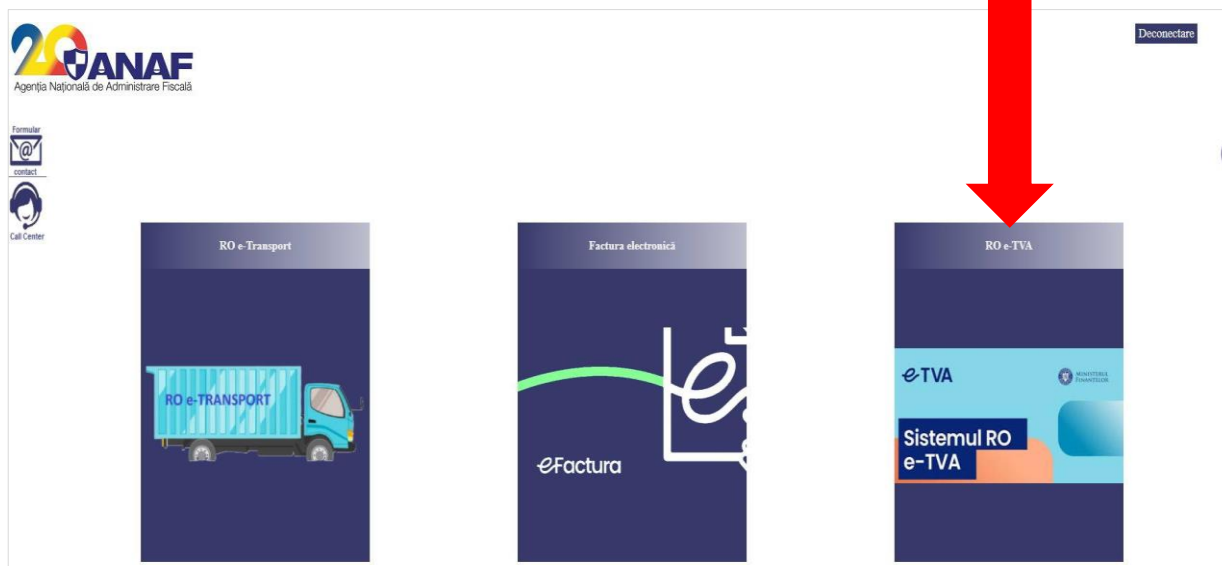
1.

ANAF Portal:
<https://www.anaf.ro>

2.



3.



Authentication in RO e-VAT

- The user can view the documents made available in the "Information available electronic documents " section by accessing the "PDF" button.
- The user can electronically request reports on the data and information from the data sources used, by pressing the “Solicitare ETVA ” button.
- The user will have access to the following reports:
 - ✓ informative statement report;
 - ✓ report extracted from the RO e-Electronic cash registers;
 - ✓ report extracted from the national RO e-Invoice System (section “Achizitii” and section “Vanzari”);
 - ✓ report extracted from the Register of Local Purchases with a reduced VAT rate;
 - ✓ report extracted from the RO e-Transport National System;
 - ✓ report extracted from the National Customs System (section “Situatie exporturi AES*” and section “Situatie importuri”).



Raport extras din Sistemul național RO e-Factura:
pentru perioada de raportare: Luna 7 si An 2024

Cod de identificare fiscală : RO
Denumire : SRL
Domiciliu fiscal : JUD.
ACHIZITII

Index	Data inreg.	CIF emitent	Denumire emitent	CIF beneficiar	Denumire beneficiar	Nr. factur	Data emitere	Data exigib	Data livrare	Data scadent	Tip fact.	Data selectie	Cota TVA	Baza	TVA



Raport extras din Registrul achizițiilor de locuințe cu cotă redusă de TVA
Perioada de raportare Luna: 7 An:2024

Cod de identificare fiscală:RO
Denumire: SA
Domiciliu fiscal: JUD.

Data înregistrare în registru	Încheiere autentificare		Valoare locuință (lei)
	Număr	Data	

Conclusions on e-VAT

- Taxable persons who fail to provide or provide unsatisfactory clarifications regarding the differences between the pre-filled e-VAT return and the submitted VAT return face a **high risk of being subject to tax control starting on 1 January 2025**.
- Moreover, taxable persons who are in VAT refundable positions, and have not provided complete information, are considered with **risk of improper VAT refund**, and subject to VAT refund with prior tax inspection.
- It's very important to provide accurate and complete explanations to the Notification, starting with the first Notification received.



Practical aspects of the tax audits:
insights on potential increase in tax
inspections



Romanian tax authority latest news

- ANAF activity for revenue collection in June: 4,200 fiscal inspections and 1,700 anti-fraud controls.
- ANAF's strategy, in terms of fiscal control activity, is centered around two principles:
 - ✓ encouraging the increase in the voluntary compliance of taxpayers;
 - ✓ preventing and combating tax evasion.
- In June 2024, 69.30% of the additional tax obligations following the tax inspection actions were established for taxpayers who carried out their activity in the following activities in the national economy:
 - ✓ transport and storage – 34.80%;
 - ✓ wholesale, retail trade, repair of motor vehicles and motorcycles – 20.32%.
 - ✓ manufacturing industry – 14.18%.
- More than 68% of the amount of tax obligations additionally established by the tax inspection bodies was on account of the VAT, which confirms the commitment of the tax administration to reduce the VAT gap.
- ANAF to hire in the following period high number of personnel as anti-fraud inspectors.

Tax risk



- The general criteria according to which the fiscal risk class/subclass is determined are the following:
 - ✓ criteria regarding fiscal registration;
 - ✓ criteria regarding the submission of tax returns;
 - ✓ criteria regarding the declaration level;
 - ✓ criteria regarding the fulfillment of payment obligations to the general consolidated budget and to other creditors.
- The risk analysis is carried out periodically, in which case the fiscal body also establishes the tax risk class/subclass of the taxpayer.
- The taxpayer cannot make objections regarding the way of establishing the risk and the tax risk class/subclass in which he was placed.

Prescription period

- The prescription period is 5 years. The prescription begins to run from 1 July of the year following the year for which the fiscal obligation is due, unless the law provides otherwise.
- However, for the period 2017 - 2019, extraordinary special rules apply, due to the suspension of the limitation period in the context of the coronavirus crisis. Compared to the normal term (+5 years), 253 days were added for 2017 – 2018 and 177 days for 2019.
- The tax inspection can be performed only once for each type of tax and for each taxable period. However, the tax authorities can audit a period that was already verified only if they identify additional data unknown at the time of the first inspection, which can alter the results of the respective tax inspection.
- The decision of re-verification can be challenged by the taxpayer.

Year	Prescription period
2017	<i>01.07.2018 - 11.03.2024</i>
2018	01.07.2019 - 11.03.2025
2019	01.07.2020 - 29.12.2025
2020	01.07.2021 - 01.07.2026
2021	01.07.2022 - 01.07.2027
2022	01.07.2023 - 03.07.2028
2023	01.07.2024 - 02.07.2029
2024	01.07.2025 - 01.07.2030

Draft audit report and Tax challenges

- The taxpayer has the right to submit a written point of view to the draft audit report within 5/7 working days from the date of the final discussion with the tax inspectors.

SUBMISSION DEADLINE

within 45 days from the date the tax audit report/ tax decision was issued

ARGUMENTS

- Taxpayers can submit new documents for justifying the challenge
- Taxpayers can request a meeting with the tax body in charge of solving the challenge (*oral hearing of the tax challenge*)

FINAL DECISION

RTA can analyse and solve the tax challenge within 45 days from the submission date. However, if additional documents are requested, the deadline can be extended, however not exceeding the following deadlines:

- 2 months if the additional documents are requested from the taxpayer;
- 3 months if the additional documents are requested from a national authority or third parties;
- 6 months if additional documents are requested from international tax authorities.

The solution to the tax challenge cannot create a worse situation for the taxpayer

Tax audits highlights

Expenses related to services

Solid back-up documentation is necessary to justify that the services were effectively rendered in the benefit of the Company

Intra-community supplies of goods

In order to justify the VAT exemption, relevant set of transport documents needs to be provided to the tax authorities

Overlapping of services

Services supplied by administrators, vs services from other parties

Correlation inputs – outputs

Need of justification of the entire circuit of goods from the purchase to the sale

Differences from the amounts declared by the suppliers/beneficiaries

Should justify any mismatch with the amounts declared by the business partners

02

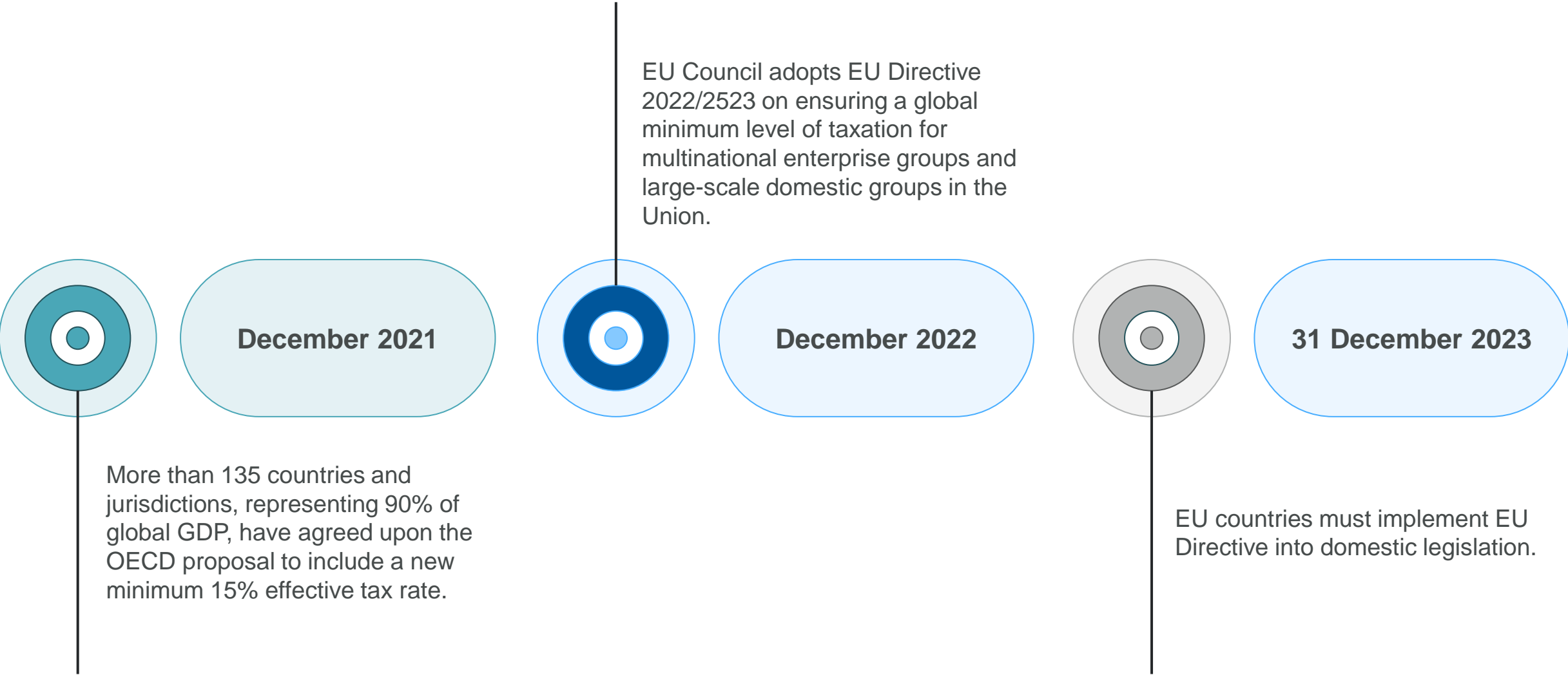
Transfer pricing updates/ Pillar 2 – from
Romania's perspective | Liviu Gheorghiu,
Tax Partner



Global minimum tax - Pillar 2



OECD Pillar 2 Project. EU Directive



Pillar 2 in Romania

On 5 January 2024, the legislation on the global minimum tax was transposed in the Romanian domestic tax legislation through Law no. 431/2023.

Pillar 2 was designed by the OECD to discourage base erosion and profit shifting by ensuring that multinational groups pay a minimum effective corporate tax of 15% in every jurisdiction in which operations are performed.

Directive (EU) 2022/2523, which was transposed in the Romanian legislation under Law no. 431/2023, sets forth rules and a framework for the implementation of a global minimum level of taxation for large multinational and domestic groups operating in the EU.

Romanian has also adopted the Qualified Domestic Minimum Top-up Tax (QDMTT) which means that the Romanian tax authorities will be entitled to collect an additional tax or top-up tax in cases where the effective tax rate of a multinational group operating in Romania is below the minimum 15% effective tax rate (ETR).

ETR = Covered taxes of constituent entities in Romania / Net qualified profit of the constituent entities in Romania

Although the first filing deadline for multinational and domestic groups in scope is estimated for June 2026, entities should start gathering the significant amount of information necessary to determine the impact and reporting obligations at the group level and in Romania.

The first reporting year is FY 2024 for the main rule.

In the financial statements for FY 2024, which is the first year when the new rules apply, the impact of Pillar 2 will have to be estimated.

Given the complexity of the new legislation, it is advisable that domestic and multinational groups understand and assess how the rules work, and their impact, and start preparing the effective tax calculations as soon as possible.

General presentation of main
concepts: IIR, UTPR and QDMTT



Pillar 2 general rules - IIR, UTPR and QDMTT

A top-up tax, where applicable, can be collected under the following 3 rules:

IIR (Income Inclusion Rule)

- A Constituent Entity, that is the Ultimate Parent Entity of a group is required to compute and pay its allocable share of the Top-up Tax on the Constituent Entities of the group which are subject to a reduced tax rate.
- Applicable in cases where the jurisdiction where the low-taxed constituent entities are located does not have a QDMTT in place.
- Taxing rights are allocated to the parent entity jurisdiction under the IIR.

UTPR (Under Taxed Profits Rule)

- UTPR shall be applied when the IIR is not in place;
- A Constituent Entity of a multinational group shall be liable to a tax that is recorded as an additional expense equal to its share of the Top-up Tax that was not charged under the UPE's IIR on the Constituent Entities of the Group that are subject to a reduced tax rate;
- Allocations in UTPR jurisdictions are made on a formula basis.

QDMTT (Qualified Domestic Minimum Top-up Tax)

- The QDMTT is owed by all Constituent Entities of a multinational group or large domestic group which are subject to a reduced tax rate. The countries/ jurisdictions apply a Top-up Tax in order to ensure that the tax difference up to 15% remains at a local level.
- **Romania has opted for the application of the QDMTT as per domestic Pillar 2 legislation.** This means that the Romanian tax authorities will be entitled to collect an additional tax or top-up tax in cases where the effective tax rate of a multinational group operating in Romania is below the minimum 15% effective tax rate.

If certain conditions are met, the Romanian Tax Authorities will be entitled to collect an additional tax in cases where the effective tax rate of a multinational group operating in Romania is below the minimum 15% effective tax rate. Turkish groups doing business in Romania should start to estimate the tax impact of the new Pillar 2 rules.

Transitional CbCR Safe Harbour



Transitional CbCR Safe Harbour

Transitional CbCR Safe Harbour rules are set out in the Romanian Pillar 2 legislation.

If one of the three tests is met, the Top-up Tax for that jurisdiction shall be deemed to be zero for a Fiscal Year.

Based on the CbCR reports already prepared, the groups can determine the extent to which certain jurisdictions, e.g. Romania, are eligible for this Transitional CbCR Safe Harbour.

1) De minimis Test	<p>The tested jurisdiction records:</p> <ul style="list-style-type: none">• Total Revenue based on the qualified CbCR data less than €10 million;• Profit (Loss) before Income Tax based on the qualified CbCR data below the €1 million threshold.
2) Simplified ETR test	<ul style="list-style-type: none">• The tested jurisdiction may apply the transitional CbCR Safe Harbour if it has a Simplified Effective Tax Rate that is equal to or higher than the transitional rates• The effective transitional tax rates at the jurisdiction level will be: 15% for FY2024; 16% for FY2025; 17% for FY2026.• The Simplified Effective Tax Rate (Simplified ETR) will be calculated based on data from the CbC report.
3) Routine profits test	<p>Under this test, a group would calculate the jurisdiction’s Substance-based Income Exclusion (SBIE) in accordance with the Pillar 2 rules and compare that to the jurisdiction’s Profit (Loss) before Income Tax as reported in the MNE’s Qualified CbC Report.</p> <p>If a Tested Jurisdiction’s SBIE amount is equal to or exceeds its Profit (Loss) before Income Tax, the Tested Jurisdiction would qualify for the Transitional CbCR Safe Harbour test.</p>

Public & Non-public Country-by-Country Reporting (CbCR)



Non-public CbCR

EU Directive 2016/881 on the Content of the Country-by-Country Report. **Applicable in Romania since 2017.**

Its purpose is to present the global allocation of income, the taxes paid and certain indicators of the location of the economic activity.

Applicable to multinational groups with an annual consolidated turnover **exceeding €750m in the preceding fiscal year.**

Revenues
(Unrelated party,
Related party,
Total)

Profit (loss)
before income
tax

Income tax
paid (on cash
basis)

Income tax
accrued -
current year

Stated
capital

Accumulated
earnings

Number of
employees

Tangible assets
other than cash and
cash equivalents

In Romania, there can be 2 types of obligations depending on the jurisdiction in which the CbC report is filed, as per below.

Case A - CbC notification

If the CbC report for FY 2024 will be submitted by the group in an EU state, the obligation of the Romanian entity is to submit a CbC notification (form R405) to the Romanian tax authorities regarding its status within the multinational group, namely the identity and the tax residence of the group reporting entity.

The deadline for submitting the FY 2024 CbC notification is **no later than the deadline for filing in the annual corporate income tax return, meaning end of June 2025 for calendar FY 2024.**

Case B – CbC report (local filling)

If the CbC report for FY 2023 will be submitted by the group only in a non-EU state, the obligation of the Romanian entity is to submit the CbC report also in Romania (form R404).

Turkish groups that operate subsidiaries in Romania must also submit the Group CbC report to the Romanian tax authorities (local filling of the CbC report), unless the Group also submits the CbC report in another EU jurisdiction.

The deadline for submitting the FY 2023 CbC report is 12 months from the last day of the group's tax year of reporting, e.g. 31.12.2024 for calendar FY 2023.

Failure to submit the CbC report is subject to **penalties ranging from €14,000 to €20,000 per FY.**

Public CbCR

Public CbCR serves as an instrument for enabling the public to assess tax information from large multinational groups. It aims to allow the public to understand the extent to which multinational groups are committed to ensuring that profits are paid where genuine economic value is generated. Public CbCR requires **both EU and non-EU multinational groups with a consolidated annual turnover of over €750m in the last two consecutive financial years** to publicly report their income tax information (e.g. revenues, profit/loss, number of employees, etc).

Since 1 September 2022, Romania has been the first EU country to transpose the (EU) Directive 2021/2101 on Public Country-by-Country Reporting (Public CbCR) into domestic law, through Order no. 2048 further amended by Order no. 1730/2023.

The Romanian legislation follows the general rule set forth in (EU) Directive 2021/2101 on Public CbCR, whereby the **publication obligation lies with the EU parent**. Romanian medium-sized and large subsidiaries controlled by an **ultimate parent entity that is not governed by the legislation of an EU Member State** are subject to **Public CbCR obligations in Romania**.

This means that Public CbCR obligations are applicable only to Romanian medium-sized and large subsidiaries controlled by **a non-EU ultimate parent entity**.

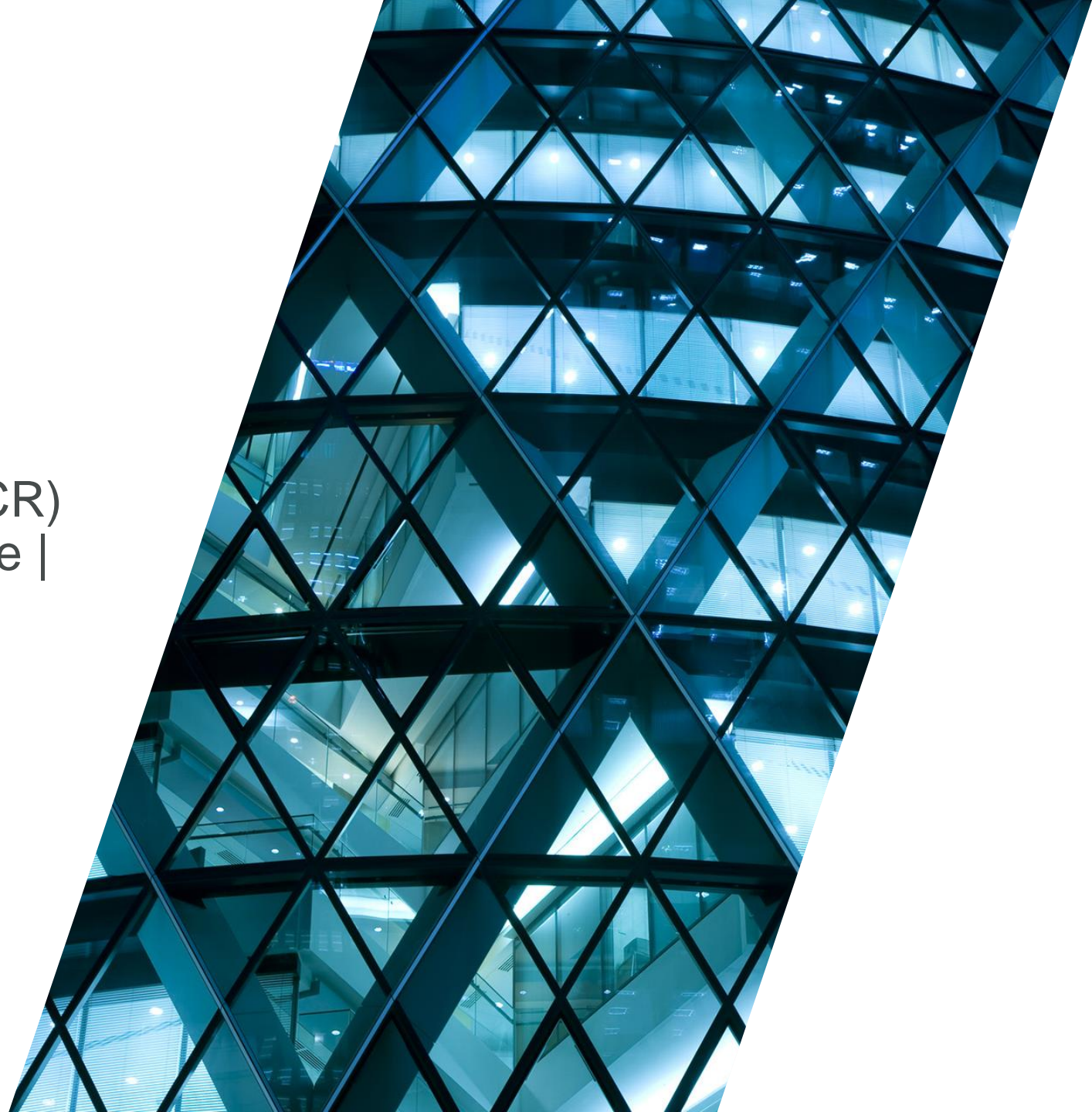
Publication deadline is by the end of 31 December 2024 for calendar FY 2023.

Public CbCR should be first reviewed from a Public Relations and Communication perspective, as such **information may be misinterpreted by the public, in light of corporate social governance expectations**.

This new reporting means that commercially sensitive information of Turkish groups, such as level of profit and corporate income tax paid in each country, will have to be published and made available to the general public. Turkish groups should be prepared to mitigate potential risks of tax data misinterpretation from the public, from a reputational perspective.

03

Country-by-Country Reporting (CbCR)
and Pillar II from Türkiye perspective |
Gökçe Gücüyener, Tax Partner



Pillar 2 from Türkiye Perspective



Pillar 2 from Türkiye perspective

Pillar 2 rules are in affect in Türkiye for FY24.

Further Communique is expected in the following months in line with the Commentary.

Türkiye based in-scope MNE groups or MNE groups operating in Türkiye through subsidiaries should evaluate and simulate the impact of Pillar Two within their organisations



16 July 2024 Draft legislation

- In line with the EU Minimum Tax Directive and the Pillar Two Model Rules as approved by OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting (BEPS)
- the **IIR** and the **QDMTT** will be applicable for fiscal years starting from **1 January 2024**,
- **UTPR** will apply for fiscal years starting from **1 January 2025**.
 - Transitional safe-harbours are in line with the EU Directive
 - QDMTT approach seems to be also in line with the OECD but we need to wait for further legislation to confirm it.



2 August 2024 Final legislation

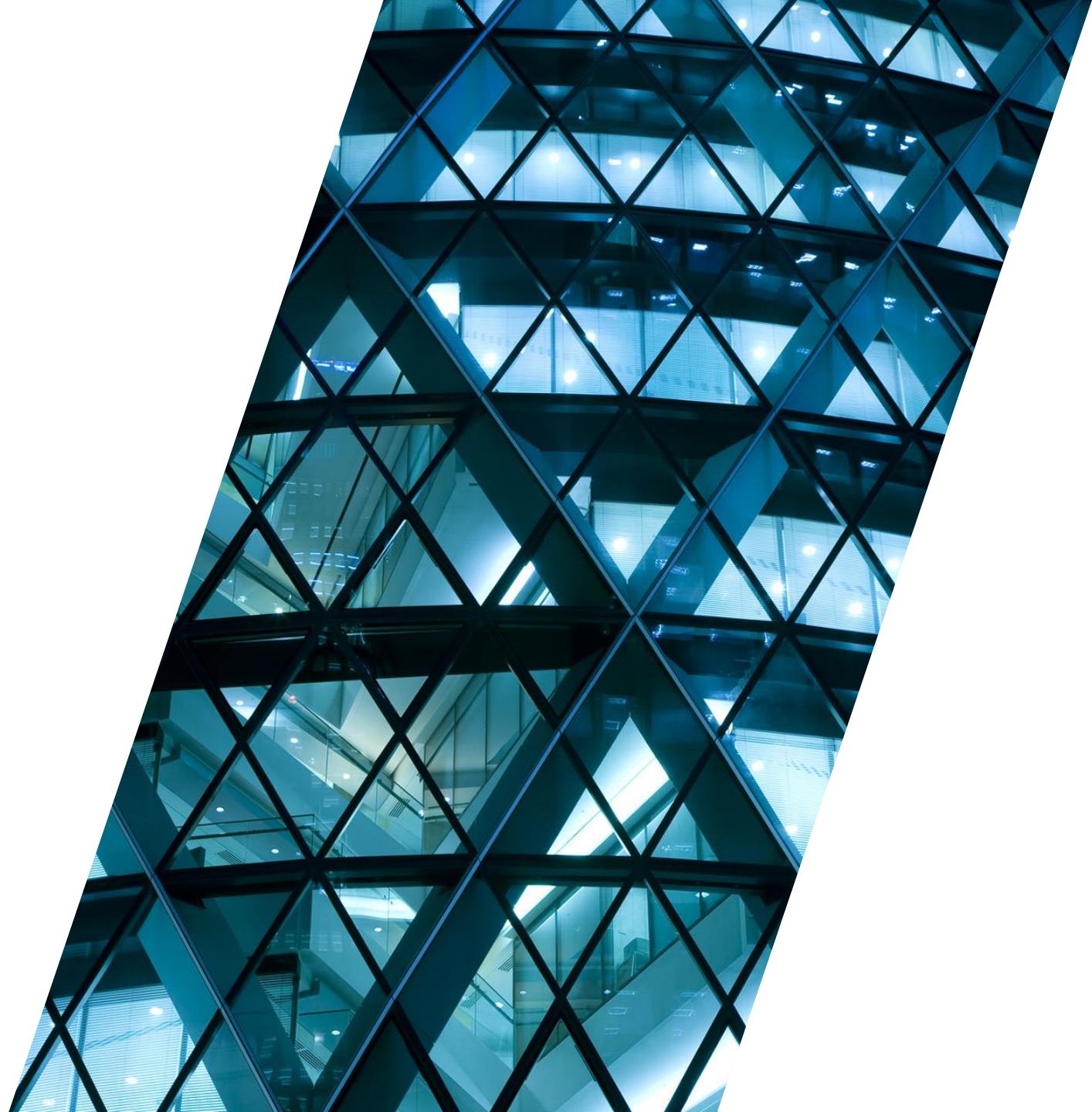
- Approved and published in the Official Gazette of Turkey
 - Further Communique is expected in the following months in line with the Commentary.
 - Two types of minimum taxation system
 - Pillar 2
 - Local minimum tax (for all taxpayers)
- In addition to Pillar 2 - **Turkish Domestic Minimum Tax (DMT)**
 - Article 36 introduces a Turkish Domestic Minimum Tax and states that the CIT calculated cannot be less than 10% of the corporate earnings/profits before the additions and deductions to corporate tax base.
- This article will be applied to each taxpayer in Türkiye and different from the Domestic Top-Up Tax

Country by Country Reporting from Türkiye perspective

Obligation	<ul style="list-style-type: none"> • The first filing obligation for a CbC report in Türkiye commences in respect of fiscal periods commencing on or after 1 January 2019. <ul style="list-style-type: none"> • Two types of compliance obligations <ul style="list-style-type: none"> • Notification <ul style="list-style-type: none"> • Through online tax office until 30 th of June • Mandatory for all the MNE's • penalty regime in the case of late, inaccurate or non-filing of CbC reports. • Country by Country Report <ul style="list-style-type: none"> • Until the 12th month of the following year • No local filing is necessary where there is information-sharing agreement for CbCR or with which the CbC Multilateral Competent Authority Agreement is activated
Public CbCR	<ul style="list-style-type: none"> • No
Audit	<ul style="list-style-type: none"> • Türkiye has not started CbCR focused tax audits but the results should be always auditable for future and for Pillar 2 calculations

04

Q&A



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Forvis Mazars

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Forvis Mazars is a multicultural and united partnership with shared goals, values and service standards across the world. We take pride in our technical expertise and the quality of our work. We have the skills and the scale to serve clients of all sizes, across all sectors, while remaining agile, personal and distinct in our approach.

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