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THE GLOBAL MINIMUM TAX

Multinational enterprise groups and large-scale domestic groups operating in Portugal with at least €750 million in annual consolidated revenue will be subject to a global minimum tax rate of 15% under the new Global Minimum Tax Regime.

The Global Minimum Tax Regime approved by Law 41/2024 of 8 November implemented the Council Directive (EU) 2022/2523 of 14 December 2022 on ensuring a global minimum level of taxation for multinational enterprise groups and large-scale domestic groups in the Union.

The aim of this Directive is to reinforce the efforts to avoid aggressive tax planning within the internal market by establishing a global minimum tax, mitigating the practice of shifting profit to jurisdictions with low or no taxation.

The 15% global minimum tax applies to entities that are part of multinational groups or large domestic groups, with consolidated income of €750 million or more in at least two of the previous four years.

Under this regime, the effective tax rate in each jurisdiction where the group operates will be compared with the minimum rate of 15%. After this comparison, it will be determined whether the group is required to pay a top-up tax, in accordance with the following rules:

- **Income Inclusion Rule** (IIR). The parent of a multinational enterprise group or of the large-scale domestic group (or the intermediate entity, if the parent is not subject to the IIR) will calculate and pay its allocable share of the top-up tax with respect to the low-taxed constituent entities of the group, or to itself.
- **Under-Taxed Profits Rule** (UTPR). A constituent entity of a multinational enterprise group will be responsible for paying its allocable share of the top-up tax that has not been collected by the parent entities through the application of the IIR. The formula used for this purpose considers the proportion of employees and tangible assets in each jurisdiction, acting as a backstop to the IIR.
- **Qualified domestic minimum top-up tax** (QMDTT): Portuguese companies subject to this regime will have the option to deduct a percentage of the value of tangible assets and employee salaries located in Portugal when calculating the taxable profits. This percentage will gradually decrease over the coming years, reaching 5% by 2033.

This regime is expected to affect large Portuguese groups with subsidiaries in other jurisdictions.

The new rules have entered into force on 9 November 2024, with retroactive effect as from 1 January 2024. However, the UTPR rule will only apply from 1 January 2025 onwards.

It should be noted that the Global Minimum Tax Regime establishes various transitional periods during which the additional tax will be reduced to zero.

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