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Hong Kong Tax News Flash

Hong Kong proposes amendments to global minimum tax law

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In brief

In a briefing paper recently submitted to the Legislative Council (LegCo) Panel on Financial Affairs[1], the Government outlined its plan to introduce subsidiary legislation to:

(1) incorporate certain GloBE documents released by the OECD in 2026, including the administrative guidance (AG) on the side-by-side (SbS) package, into Hong Kong's global minimum tax and Hong Kong minimum top-up tax (HKMTT) legislation; and
(2) make certain amendments regarding the administration of top-up taxes.

The Government plans to table the proposed subsidiary legislation before the LegCo for negative vetting[2] in December 2026, with commencement in February 2027, although certain provisions are expected to apply in respect of fiscal years beginning before the commencement date.

This news flash summarises the proposed amendments together with our observations.

In detail

Proposed amendments to Hong Kong's global minimum tax and HKMTT legislation

1. Incorporation of OECD GloBE documents released in 2026

When the global minimum tax and HKMTT rules were first introduced in Hong Kong, the

Government indicated that subsequent AG issued by the OECD will be incorporated through subsidiary legislation, which can be enacted more swiftly compared to the main legislation. Accordingly, the Government recently proposed introducing subsidiary legislation to incorporate the following GloBE documents released by the OECD in 2026:

OECD GloBE document[3]	Issues involved
AG issued in January 2026 (Jan-2026 AG)	• The SbS package
AG issued in May 2026	• A transitional issue concerning the undertaxed profits rule (UTPR) safe harbour under the SbS package
Consolidated commentary issued in May 2026	• Incorporation of AG released up to May 2026 (i.e. including the two AG mentioned above)
AG issued in September 2026	• Certain conditional taxes • Fiscal-period mismatches under qualified domestic minimum top-up taxes (QDMTTs)

Specifically, the safe harbours under the SbS package will be available for election in Hong Kong as follows:

Safe harbour	Applicable fiscal years
SbS safe harbour	Not specified
Ultimate parent entity (UPE) safe harbour	Not specified
Simplified effective tax rate (ETR) safe harbour	Fiscal years commencing on/after 31 December 2025
Transitional country-by-country reporting (i.e. CbCR) safe harbour (one-year extension)	Fiscal years commencing on/before 31 December 2027
Substance-based tax incentive (SBTI) safe harbour	Fiscal years commencing on/after 1 January 2026

Our observations

SbS and UPE safe harbours

The Government has not yet indicated when the SbS and UPE safe harbours will become available for election in Hong Kong. The Jan-2026 AG provides that both safe harbours apply to fiscal years beginning on or after 1 January 2026.

Subject to the applicable eligibility requirements, the SbS and UPE safe harbours may provide qualifying multinational enterprise (MNE) groups with relief from the income inclusion rule (IIR) and/or UTPR, as applicable. However, they do not affect the application of QDMTTs, which continue to apply together with the related compliance obligations. Furthermore, an MNE group electing either safe harbour must continue to file a GloBE information return, although simplified reporting may be available.

Simplified ETR safe harbour

Hong Kong proposes to make the simplified ETR safe harbour available one year earlier than the general start date of fiscal years commencing on/after 31 December 2026 provided in the Jan-2026 AG. Early application for fiscal years commencing on/after 31 December 2025 but before 31 December 2026 is

subject to the satisfaction of any one of the conditions specified in the AG, one of which is that the QDMTT safe harbour applies with respect to the tested jurisdiction. Given that Hong Kong's QDMTT safe harbour has obtained transitional qualified status from 1 January 2025, this condition may be particularly relevant where Hong Kong is the tested jurisdiction.

Provisions for top-up tax liabilities under the GloBE rules

As 2026 draws to a close, in-scope MNE groups with a December year-end will need to determine whether a provision for top-up tax liabilities under the GloBE rules is required in their financial statements for the fiscal year ending 31 December 2026. In assessing whether they can rely on any of the safe harbours under the SbS package for this purpose, the key issue is whether the relevant legislation will have been enacted or substantively enacted by the reporting date.

While the position is generally clear for primary legislation, there is no official guidance on when subsidiary legislation subject to negative vetting is regarded as enacted or substantively enacted. There may nevertheless be technical grounds for treating such legislation as enacted upon gazettal, on the basis that it is already in legal existence even though it remains subject to potential amendment during the vetting period.

On that basis, and assuming that the subsidiary legislation is gazetted in December 2026 as scheduled (albeit with commencement in February 2027), MNE groups with a December year-end that satisfy the conditions of the relevant safe harbour may be able to take the position that no provision for top-up tax liabilities under the GloBE rules is required for the fiscal year ending 31 December 2026.

2. Amendments regarding the administration of top-up taxes

The Government proposes the following amendments regarding the administration of top-up taxes:

- Refining the Chinese definition of 'non-profit organisation' to reflect the OECD's latest clarification;
- Clarifying the effects on an objection against a top-up tax assessment, where a Hong Kong joint venture elects for its HKMTT to be paid by a Hong Kong constituent entity of the same MNE group;
- Extending the Inland Revenue Department's (IRD) existing information gathering power to the administration of top-up taxes;
- Providing a currency translation rule where a top-up tax is determined in a currency other than the Hong Kong dollar; and
- Amending the relevant rules to enable the introduction of new tax reserve certificate forms covering top-up tax assessments under objection or appeal.

Legislative timeline

The subsidiary legislation will be gazetted and tabled at the LegCo for negative vetting in December 2026, with commencement in February 2027. Certain provisions are expected to have retrospective effect, as noted above.

The takeaway

The proposed amendments are a welcome development, as they provide greater certainty that Hong Kong will implement the SbS package, which may further ease the compliance burden on in-scope MNE groups under the GloBE rules.

Regarding the SBTI safe harbour, the tax authority in another jurisdiction has recently published a list of tax incentives that it has identified as qualified tax incentives. It would be helpful if the IRD could consider publishing a similar list for Hong Kong, ideally after obtaining appropriate confirmation of the relevant incentives' qualifying status. Such a list would provide greater clarity and assist in-scope MNE groups in assessing their eligibility for this safe harbour in Hong Kong, quantifying the impact on their top-up tax exposure and evaluating the implications for their existing and planned investments.

Given the complexity of the rules, MNE groups should carefully assess their eligibility for the safe harbours and seek professional advice where necessary.

Endnotes

1. The paper can be accessed vis this link:
   https://www.legco.gov.hk/yr2026/english/panels/fa/papers/facb1-1388-1-e.pdf

2. Subsidiary legislation subject to the negative vetting procedure is first published in the Gazette and then tabled before the LegCo. The LegCo may amend it by resolution within 28 days after the meeting at which it was tabled. This vetting period may be extended by a further 21 days. Unless otherwise provided, the subsidiary legislation comes into operation on the date of its publication in the Gazette, and continues to operate unless and until an amending resolution is published in the Gazette.

3. The documents can be accessed via these links:
   https://www.oecd.org/content/dam/oecd/en/topics/policy-sub-issues/global-minimum-tax/side-by-side-package.pdf

   https://www.oecd.org/content/dam/oecd/en/topics/policy-sub-issues/global-minimum-tax/administrative-guidance-on-application-of-transitional-utpr-safe-harbour-to-mne-groups.pdf

   https://www.oecd.org/content/dam/oecd/en/publications/reports/2026/05/tax-challenges-arising-from-the-digitalisation-of-the-economy-consolidated-commentary-to-the-global-anti-base-erosion-model-rules-2026_24289ddf/4377e89f-en.pdf

   https://www.oecd.org/content/dam/oecd/en/topics/policy-sub-issues/global-minimum-tax/administrative-guidance-on-the-global-anti-base-erosion-model-rules-pillar-two-september-2026.pdf

   For a discussion of the AG issued January and September 2026 respectively, please refer to our previous news flashes which can be accessed via these links:
   https://www.pwchk.com/en/tax/publications/intl-tax-newsflash-jan2026-1.pdf
   https://www.pwchk.com/en/tax/publications/intl-tax-newsflash-sep2026-2.pdf

Let's talk

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