

Osler submission on Canada's draft Global Minimum Tax Act

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On August 4, 2023, the Department of Finance released [draft legislation](#) [PDF] implementing two key measures of the OECD's Pillar Two global minimum tax in Canada: the income inclusion rule (IIR) and a domestic minimum top-up tax. These rules will apply to fiscal years of qualifying multinational enterprise (MNE) groups beginning on or after December 31, 2023.

Osler made a [submission](#) [PDF], focused on the proposed implementation and technical considerations related to the *Global Minimum Tax Act* (GMTA), including corresponding amendments that should be made to the *Income Tax Act*. In addition to certain technical comments, Osler has requested that Canada delay the coming-into-force date of the GMTA to allow sufficient time for (i) the OECD/G20 Inclusive Framework to finalize the design and operation of Pillar Two, (ii) the GMTA to be amended to reflect the final Pillar Two framework, (iii) the Department of Finance to make requisite corresponding changes to the *Income Tax Act* and (iv) detailed Explanatory Notes to be released to facilitate the ability of taxpayers to comply with the GMTA, and to ensure consistent administration of the GMTA by the CRA.

Osler has also recommended that Canada use the introduction of the GMTA as an opportunity to amend or repeal past "unilateral" legacy measures in the *Income Tax Act* that should no longer be necessary, including (i) replacing the foreign affiliate surplus regime with a participation exemption, (ii) repealing Canada's thin capitalization rules and (iii) repealing Canada's foreign affiliate dumping rules.