



OECD Minimum Tax, Tax Policy, Wirtschaft & Gesellschaft

OECD minimum tax: ***US exit definitive***

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At a glance

- The OECD confirms the "side-by-side solution" in a report at the beginning of the year and thus the USA's withdrawal from the OECD minimum tax.
- US corporations are subject to the US tax system, which is recognized as equivalent but differs significantly from the OECD minimum tax in terms of its structure.
- For Switzerland, little will change immediately. From January 1, 2026, the Income Inclusion Rule (IIR) will no longer apply to US companies in Switzerland. All other elements of the minimum tax regime will remain unchanged.

The USA's withdrawal from the OECD minimum tax has been certain since June 2025. At the beginning of 2026, the OECD's Inclusive Framework, formally the highest decision-making body of 145 countries, definitively confirmed this solution in a report. This makes it clear that US companies will not be part of the OECD minimum taxation for long stretches. US corporations are subject to the US tax system, which is considered equivalent in its effect. The so-called "side-by-side solution" provides that the international instruments of minimum taxation - the Income Inclusion Rule (IIR) and the UTPR - are not applied to US corporations. However, the national supplementary tax (QDMTT) remains applicable to US groups. In the USA, groups from countries other than the USA continue to be subject to OECD taxes. If, for example, the tax burden of a Swiss subsidiary in the USA is less than 15 percent, Switzerland levies the difference on the Swiss parent company via the IIR tax.

In response to pressure from China and India in particular, the OECD has also adopted a partial "side-by-side solution" in which only domestic profits of parent companies can be exempted from the minimum tax (so-called "UPE safe harbor"). As with the full side-by-side solution, the OECD defines criteria that must be met in order to benefit from the exemption. In the case of the full solution, the criteria are tailored to the USA. The OECD and the Inclusive Framework will decide over the course of the year whether China, India and possibly other countries will benefit from the partial exemption.

For all other countries and their companies that are subject to the minimum tax, nothing will change in principle. Because the minimum tax system is extremely complicated, the OECD has decided on simplifications. These are discussed in the currently published report, but are not yet ready for implementation. The introduction is planned for 2027. Until then, a simplifying transitional solution, the so-called "CbCR safe harbour", will remain in force.

Possible distortions of competition

Even if the US tax system is recognized as equivalent, it is only comparable with the minimum tax to a limited extent because the two systems are designed very differently. There are fears that this will result in an advantage for the USA, as specific features of the US tax system mean that effective tax rates of well below 15 percent may remain possible. In order to address fears of systematic distortions of competition, the OECD has decided to carry out a stocktake by the end of 2029 to examine how the tax systems are developing and whether the side-by-side solution is leading to significant distortions, particularly to the detriment of countries and their companies that apply the minimum tax. The consequences of the results and whether competitive disadvantages would be corrected remain to be seen.

Importance for Switzerland and the international tax system

For Switzerland, little will change immediately. From January 1, 2026, the start date of the "side-by-side solution", the IIR will no longer apply to US companies in Switzerland. All other elements of the minimum tax regime will remain unchanged. In particular, the national supplementary tax must also be levied unchanged for US companies. The OECD attaches great importance to the statement that only a continuous, consistent levying of this tax is accepted and that selective application (e.g. not to US companies) would result in the loss of the so-called "qualified status". This status is currently considered important for the legally compliant application of the minimum tax. Without "qualified" status, it is assumed that the companies concerned would face considerable legal uncertainty, higher bureaucratic costs and possibly double taxation. The effective value of the status will become clear for the first time in the course of this year. This is when affected companies will submit their first tax return for the minimum tax (for 2024). The data will then be exchanged internationally. Switzerland has "qualified status" for the 2024 tax year. The declared results should therefore be undisputed, provided the system works as planned.

The new OECD decisions must now be examined. This also applies in particular to a new incentive instrument that the OECD has introduced. With the so-called "Qualified Tax Incentive" (QTI), countries can support manufacturing

companies to a certain extent through tax incentives. The QTI complements the existing instrument of tax credits, some of which have already been introduced by the cantons. The effects of the two instruments are different, and the advantages and disadvantages need to be analyzed in more detail. The fact that the OECD has introduced a new incentive instrument shows the direction in which the organization and the major supporters of the minimum tax, particularly in the EU, are heading: away from tax competition and towards direct support for companies.



Frank Marty

Head of Department Finances & Taxes, Member of the Extended Executive Board



Thimea Haefliger

Project Associate Finances & Taxes