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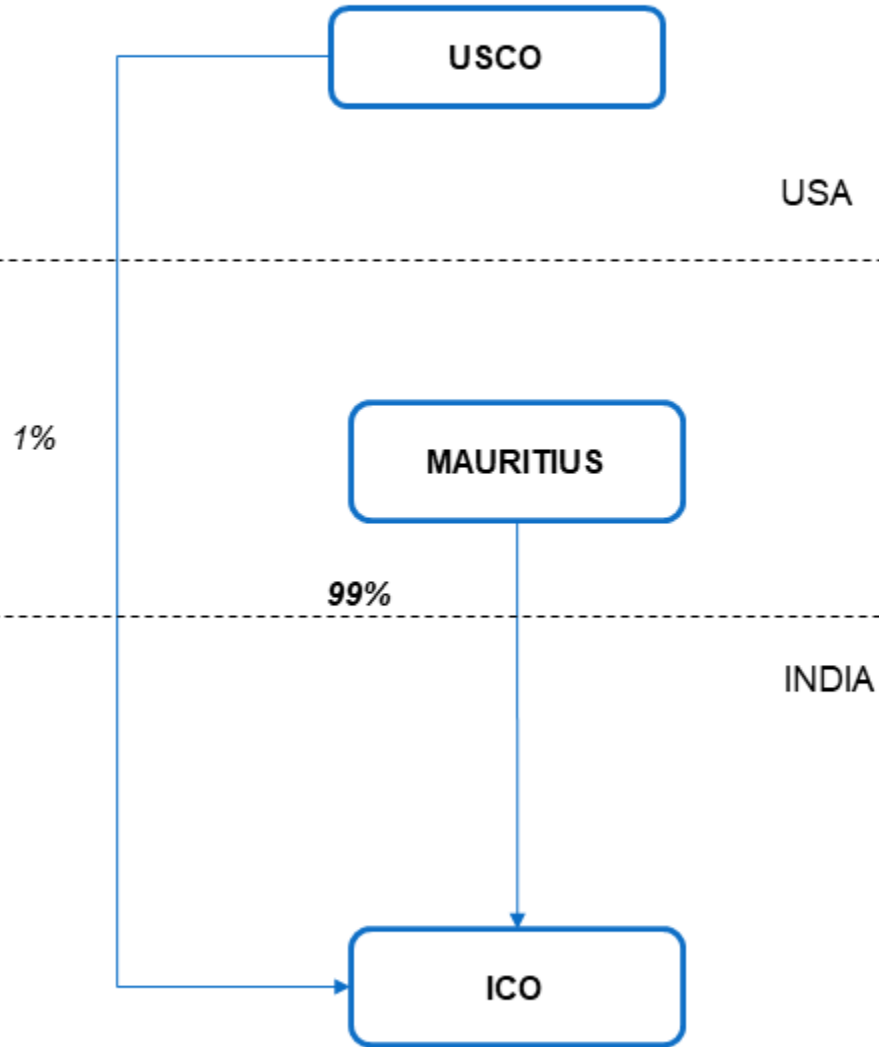
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# GLOBAL MINIMUM TAX



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## DEVELOPMENTS SO FAR

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**2018**

Difficulty in Taxation of profits of Digital Economy led to efforts for a new approach to tax MNC's

**June 2021**

June 2021 - G7 countries confirmed commitment to US Backed GMT – Proposed Rate of 15%

**October 2020**

OECD released Blueprints of Pillar 2  
- MNCs should pay Global Minimum Tax ("GMT")

**October 2021**

136 of 140 OECD Inclusive Framework members agree to a 15% tax rate – Minor changes to this position

**OECD - Countries intend to develop/sign a multilateral convention during 2022, with effective implementation in 2023**

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# OBJECTIVES AND SCOPE OF APPLICATION



Introduces a number of interlocking rules that seek to:

- Ensure minimum taxation while avoiding
  - (a) Double taxation ;
  - (b) No Tax where there is No economic profit ;
- Address different tax system of jurisdictions, and operating models of businesses
- Ensure transparency and a level playing field
- Minimize administrative and compliance costs
- Large MNCs pay a minimum level of tax on their Global income

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# PILLAR 2 – SCOPE OF APPLICATION

## Scope of Application

**MNE Groups and their Constituent Entities (“CE’s”) with a consolidated global group revenue of EUR 750 million**

**Following entities are not covered : -**

- **Funds – Pension and Investment funds ;**
- **Governmental entities ;**
- **International organizations ;**
- **Non-profit entities ;**
- **Entities subject to tax neutrality regimes.**

**Effective Tax Rate (“ETR”)**

- **(Amount of Covered taxes (including “STTR” taxes) ) / (Amount of Globe Income)**

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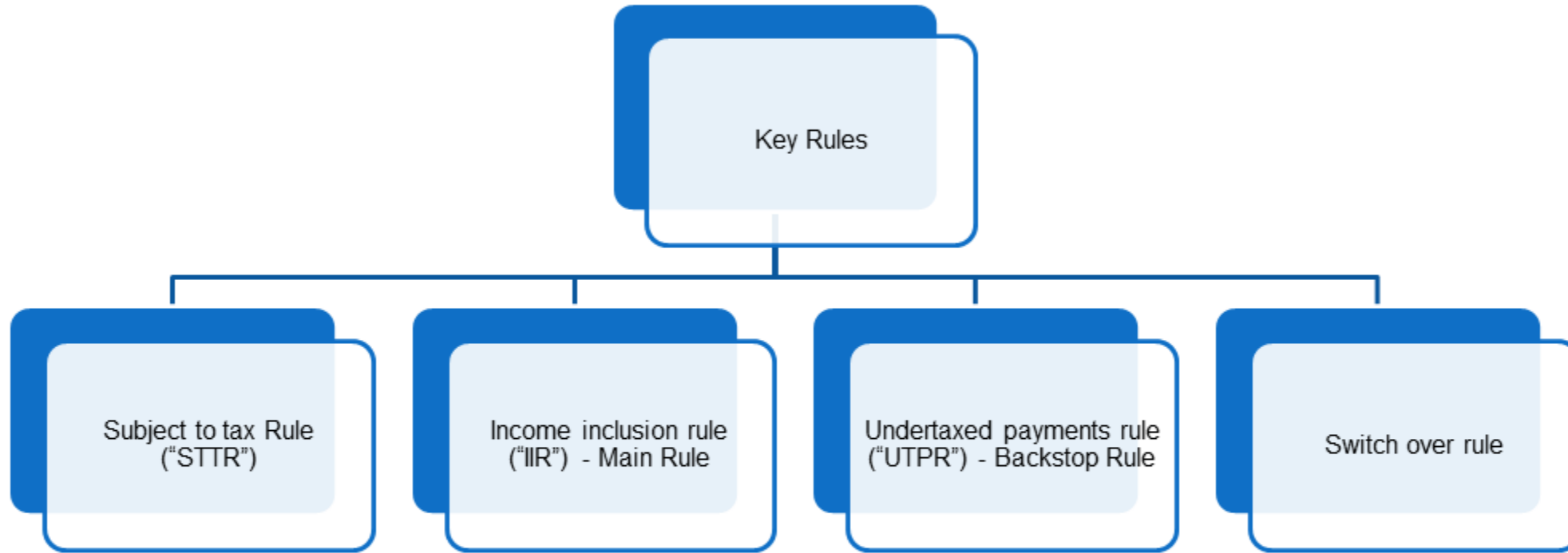


## KEY RULES

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Income inclusion rule (IIR)	Top-up-tax on a parent entity, in respect of low taxed income of constituent entities within an MNE Group
Undertaxed payment rule (UTPR)	Protect jurisdictions against base erosion through intra-group payments to low-taxed entities
Switch-over rule	Support the IIR, that would allow for a switch from an exemption to credit method where income of a PE is taxed locally at a rate that is below GMT.
Subject to tax rule	Support the UTPR by making payments that are taxed at a rate below GMT, subject to withholding tax and/or denying treaty benefits to such payments.

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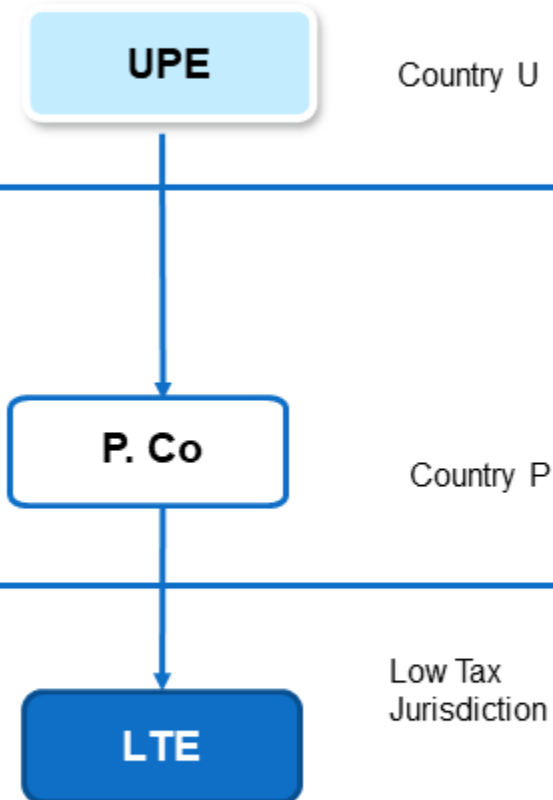


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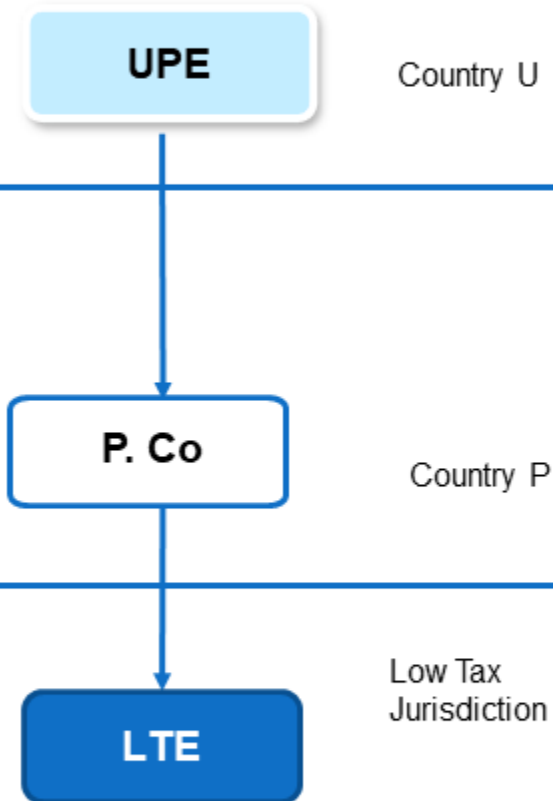
- Top-up-tax on a parent entity, in respect of low taxed income of constituent entities within an MNE Group ;
- Approach to IIR : –
  - Top-Down Approach ;
  - Split-ownership Approach – Where more than specified percentage of ownership is held by non – Group CE
- PE cases

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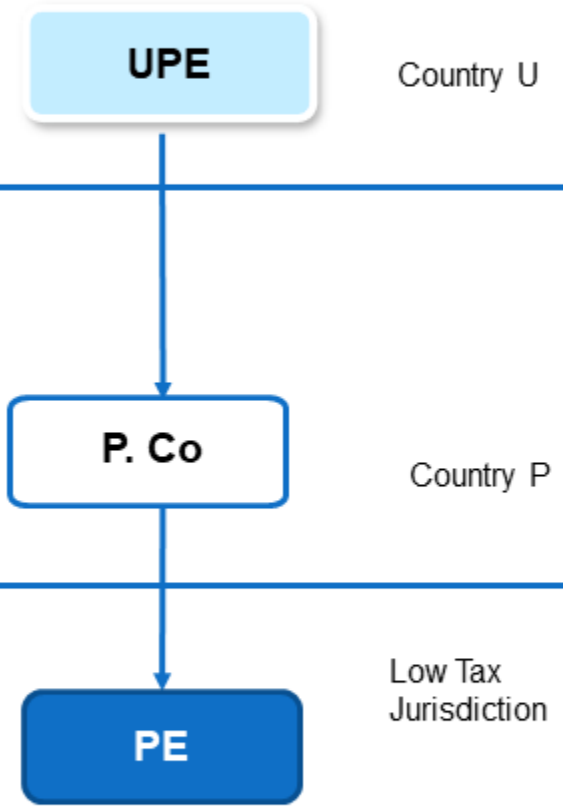


- Applicable to Parent Closest to top of ownership chain in MNE Group – UPE ;
- Should meet the following criterion : -
  - Equity interest ;
  - IIR implementation ;
  - Control by another CE subject to IIR ?

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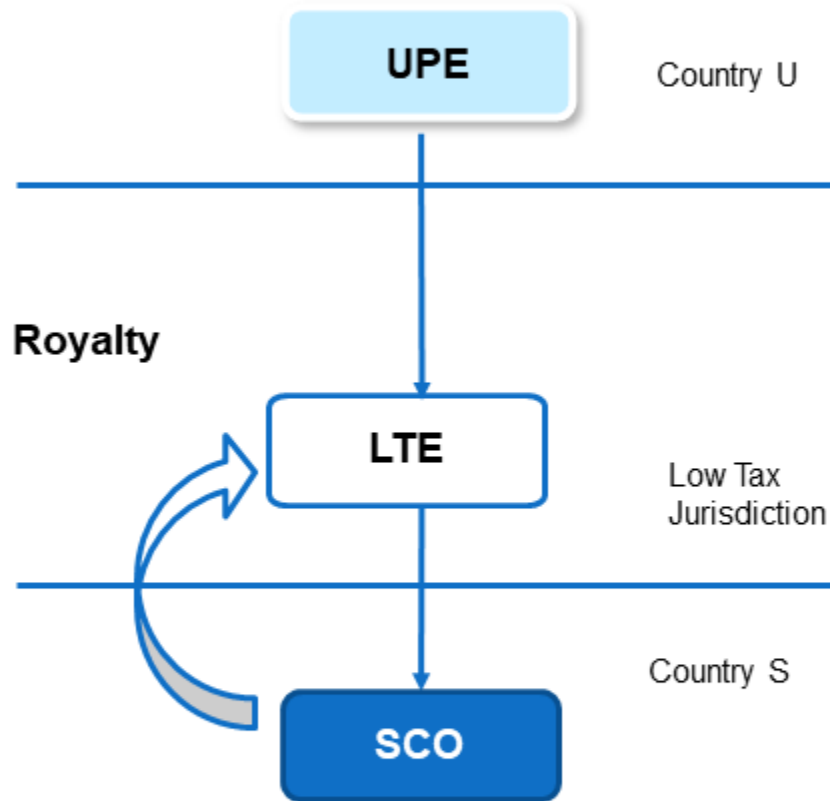




Where a foreign subsidiary of an MNE Group maintains a PE in another jurisdiction, an appropriate portion of the income and taxes of that subsidiary would be allocated to the PE jurisdiction for purposes of calculating the jurisdictional ETR in the foreign subsidiary, and PE jurisdictions.

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- Top-up tax computed in relation to an MNE's profits is collected either through the IIR or through the UTPR.
- If the UTPR applies, the UTPR would require a Constituent Entity that is located in a jurisdiction that has implemented the UTPR (a "UTPR Taxpayer") to make an adjustment in respect of any top-up tax that is allocated to that taxpayer from a low-tax Constituent Entity of the same group.
- Address base erosion through deductible intragroup payments
- Small scale exemption available based on Tangible Assets and Number of Jurisdiction

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IIR

Another CE that is subject to IIR and controls LTCE

UTPR

If conditions for applicability of IIR are not met

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# EXAMPLE ON GLOBAL MINIMUM TAX



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- MNE Group with consolidated revenue of > Euro 750m.
- No excluded entities.
- Profits before tax (PBT) and CIT Base for Various Entities is the same - USD 100 (assumed)
- There are no covered payments between Connected Person inviting application of STTR

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CIT – 30 %  
UPE Income – 100



Country X

Country S



CIT – 12.5%  
Globe Income – 100

Identification of low tax constituent entity (LTCE):

ETR calculation

Country	Covered Taxes	GloBE Income (GI)	ETR (CT/GI)
S	12.5	100	12.5%
UPE	30	100	30%

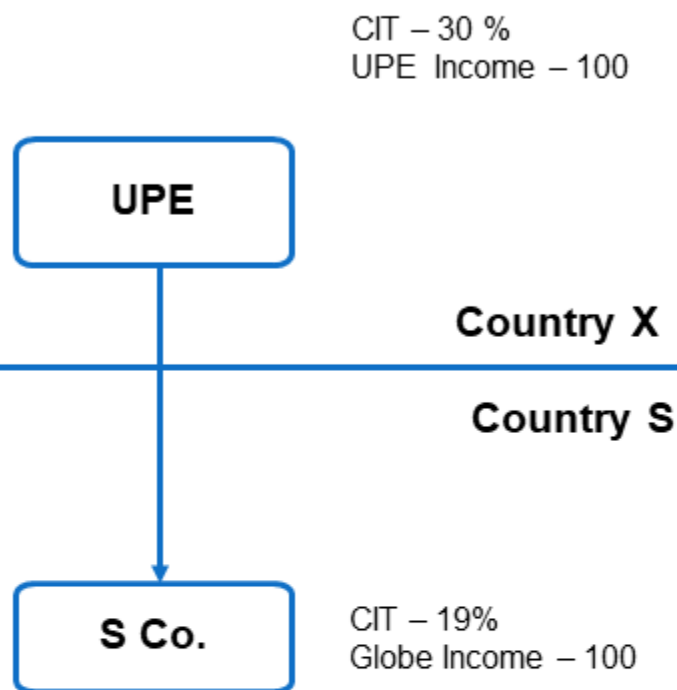
ETR for Country S is lower than the GMT, IIR will apply

Is UPE HQ liable to pay top-up tax if IIR is not implemented?

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## Identification of low tax constituent entity (LTCE):

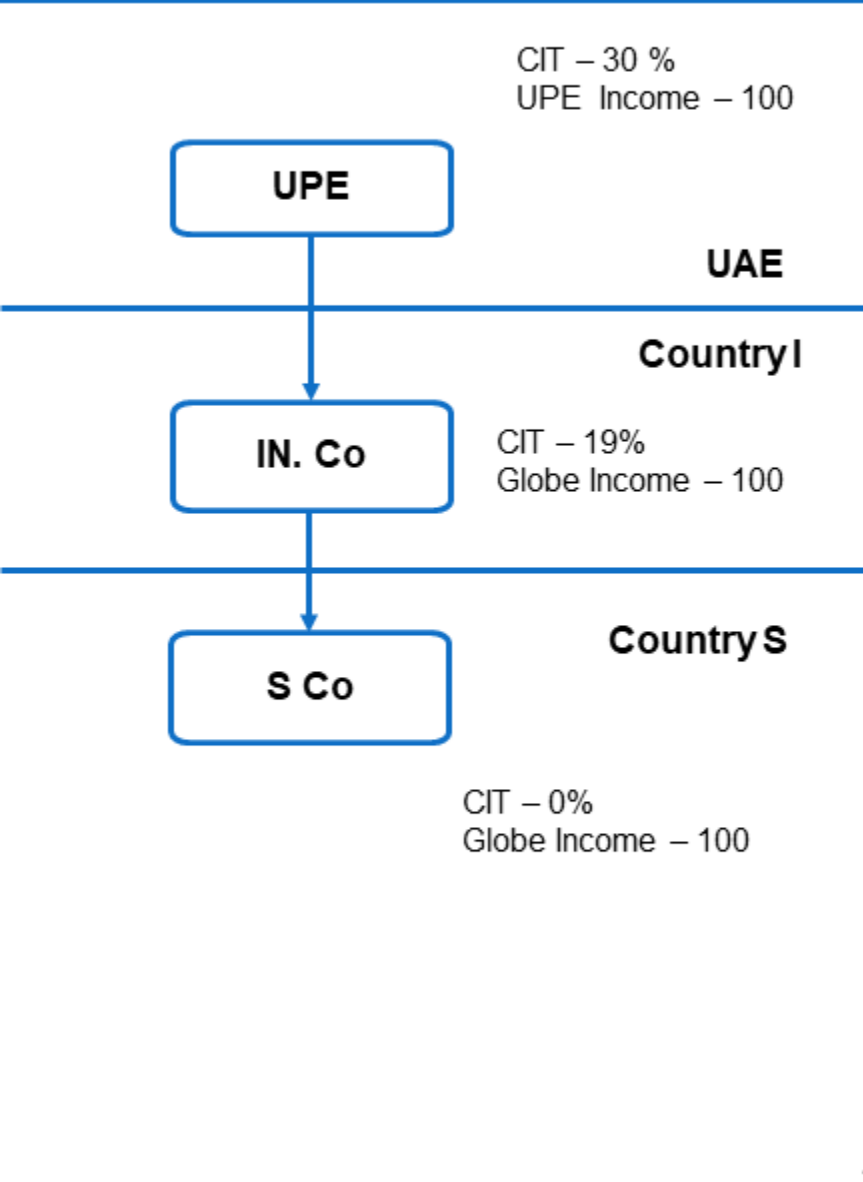
- ❑ ETR calculation

Country	Covered Taxes	GloBE Income (GI)	ETR (CT/GI)
S	19	100	19%
UPE	30	100	30%

- ❑ ETR for Country S is higher than the GMT, IIR will not apply
- ❑ UPE is not liable to pay top-up tax, even if IIR is implemented

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## Identification of low tax constituent entity (LTCE):

- ❑ ETR calculation

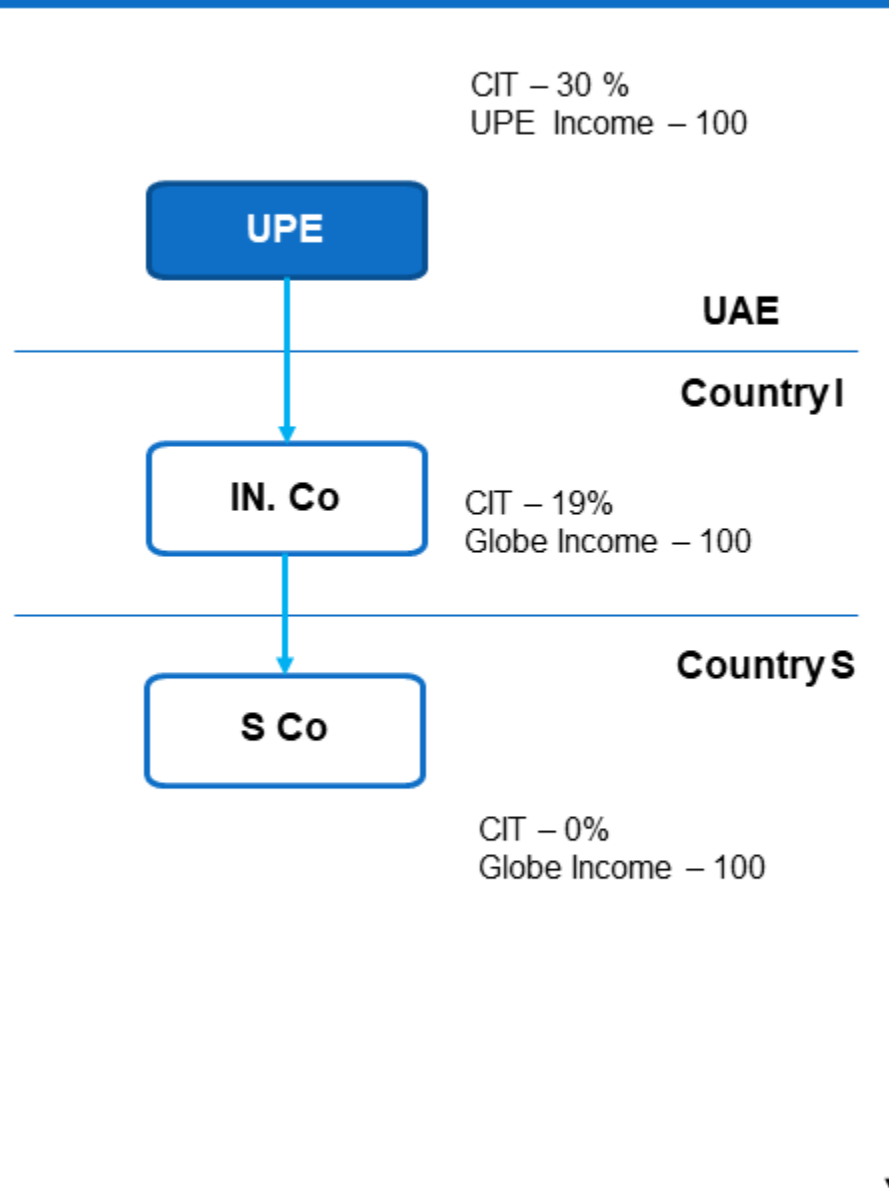
Country	Covered Taxes	GloBE Income (GI)	ETR (CT/GI)
IN Co	19	100	19%
S Co	0	100	0

- ❑ ETR for Country S is lower than the GMT, IIR will apply
- ❑ UPE is liable to pay top-up tax. However, UPE has not implemented IIR.
- ❑ Top-down approach will need to be followed and IN Co would be liable to pay top-up taxes

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Identification of low tax constituent entity (LTCE):

ETR calculation

Country	Covered Taxes	GloBE Income (GI)	ETR (CT/GI)
IN Co	19	100	19%
S Co	0	100	0

ETR for Country S is lower than the GMT, IIR will apply

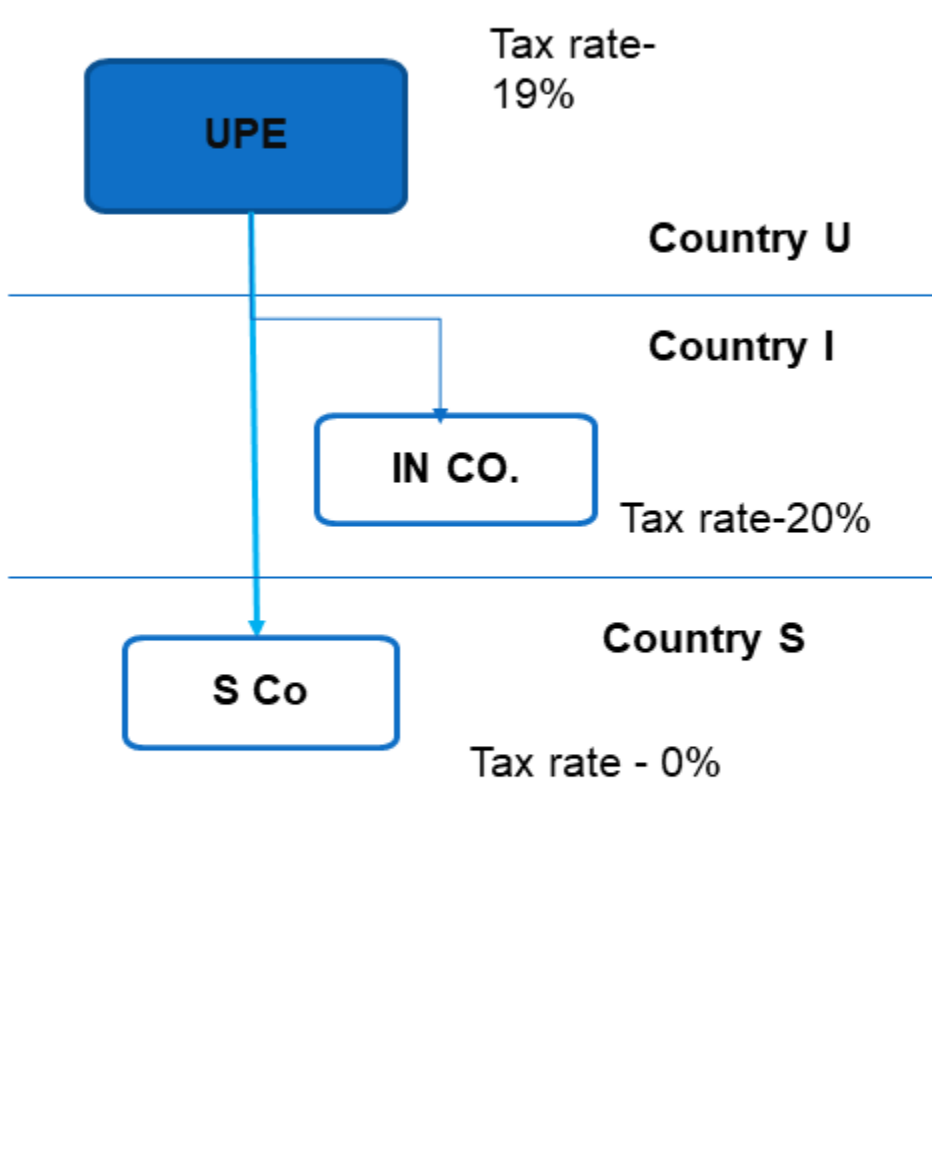
UPE HQ is liable to pay top-up tax. UPE has implemented IIR, and thus, no pushdown.

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- **Identification of low tax constituent entity (LTCE) :**

- ETR calculation

Country	Covered Taxes	GloBE Income (GI)	ETR (CT/GI)
IN CO	20	100	20%
S Cp	0	100	0

- **Alternate Options : -**
  - Option 2 – Tax Rate in Country S is 0% for FZE (profit AED 100) and 20% for Mainland (profit AED 100)
  - Option 3 – Tax Rate in Country S is 15% for all entities ?
- UPE has implemented IIR and thus, no pushdown.

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# IMPACT ON LOW-TAX COUNTRIES AND THEIR RESPONSE



- Levy or increase the Corporate Tax ;**
  - **Levy 15% or increase to 15%;**
- Provide a conducive business environment with ease of doing business**
- Lower WHT and exemptions for capital gains and dividend income**
- Tax Arbitrage may still exist if Corporate Tax is levied at 15%**

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- With over 20 years of experience, Arinjay has helped Clients on International Tax , M&A Tax and Direct tax matters impacting their business in India and UAE . He has worked on International tax with over 750 transaction of Inbound Investment, Outbound Investments, Due diligence, Family Structuring and Succession planning across sectors ;
- Arinjay has worked with over 500 UAE companies on UAE Economic Substance Regulations advisory services, and UAE Corporate Tax (proposed to be introduced from June 1, 2023) ;
- Delivered Live Seminar and Webinar on Economic Substance Regulations and UAE Corporate Tax
- Author of various books in International Tax and Direct Tax ;
- Trained more than 2000 CA's in Live international tax course (With two of the largest global tax firms) and over 5000 students in International Tax
- Created India's first e learning course on International tax for professionals in 2016 with students from over 30 countries.
- Editor International Tax at Taxmann Publications, New Delhi - Handled the Journal on International Tax with Taxmann Publications, India's oldest Publishing house on tax and corporate law publications.
- Faculty at the International tax Course of ICAI during the year 2009 & 10




**CA Arinjay Jain**

**Faculty**



# International Tax Course



**DTAA**  
Double taxation avoidance  
agreement

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## Contact us

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