

GloBE Rules: The Brazilian Scenario

Pillar 2: Provisional Measure No. 1,262/2024 and Instruction No. 2,228/2024

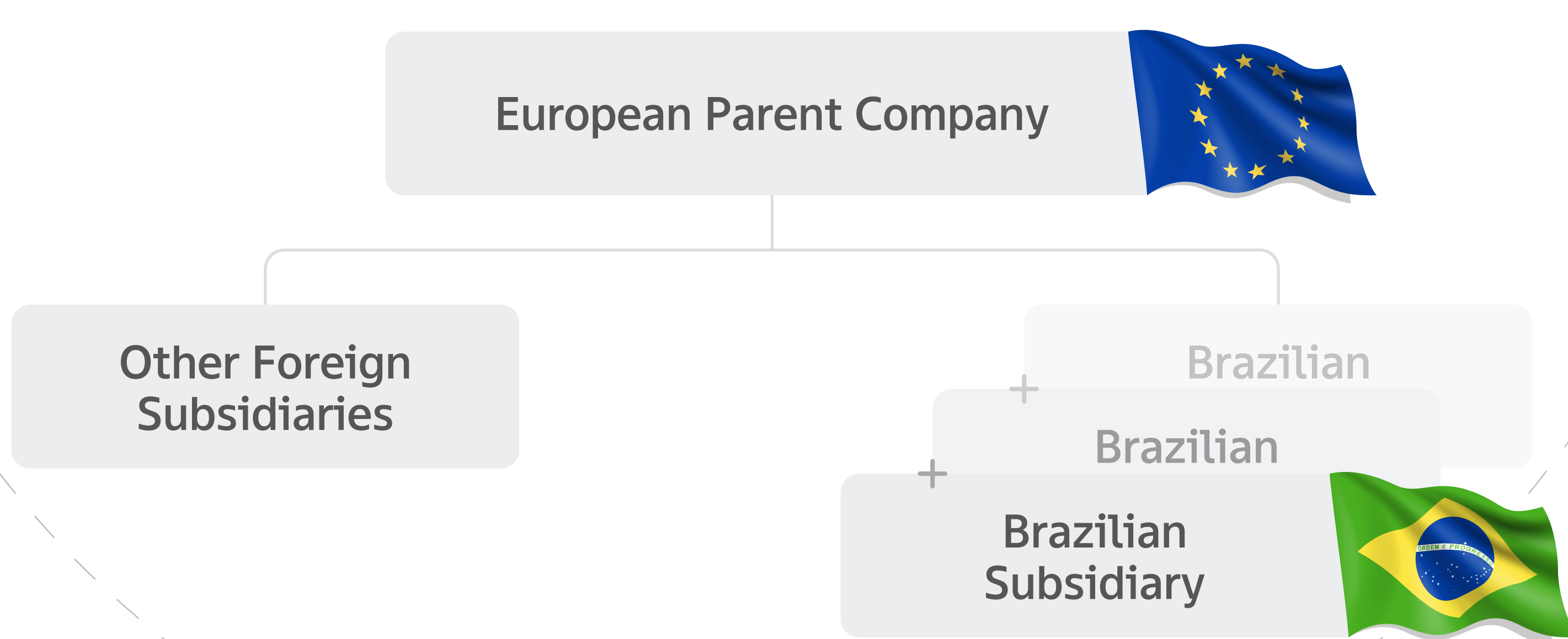
On October 3, 2024, Brazil formally introduced certain concepts of Pillar 2 of the GloBE rules into its tax legislation via Provisional Measure No. 1,262/2024 and Instruction No. 2,228/2024. These initiatives are part of Brazil's shift toward meeting international minimum taxation standards established by the Organization for Economic Cooperation and Development (OECD) and the G20, which aim to tackle base erosion and profit shifting (BEPS).

Pillar 2 of the GloBE rules seeks to ensure multinationals are subject to effective minimum taxation on their global profits, rendering tax planning strategies that shift profits to low-tax jurisdictions ineffective. The new rules establish that the profits of multinationals are taxed at a minimum rate of 15%, irrespective of where they are generated.



Multinationals

Provisional Measure No. 1,262/2024 applies to multinational groups with consolidated annual revenues of at least EUR 750 million in two of the last four fiscal years.



Illustrative Example

Consider the diagram above. If Brazil did not introduce the GloBE rules and local taxation were below 15%, given that the GloBE rules are generally already in effect in Europe, the European Parent Company would still impose a 15% minimum tax rate on its Brazilian subsidiaries' revenues. As such, the introduction of the GloBE rules in Brazil means this minimum 15% tax rate can be levied by Brazil, with the Qualified Minimum Domestic Top-Up Tax (QDMTT) taking the form of a Social Contribution on Net Profit (CSLL) surtax.

Validity

The new rules become valid from January 2025, with payments commencing on July 2026.

Conversion into Law

The Provisional Measure still needs to go through the standard conversion process in the Senate within 120 days to become a permanent law.

The QDMTT

Any top-up taxation levied in Brazil must be 'qualified' (meaning that the applicable rules comply with the OECD's provisions) for it to be used as a credit in calculating the multinational group's tax base.

Ancillary Obligations

Detailed submissions of information are required, and significant fines may be imposed for delays, errors, and inaccuracies.

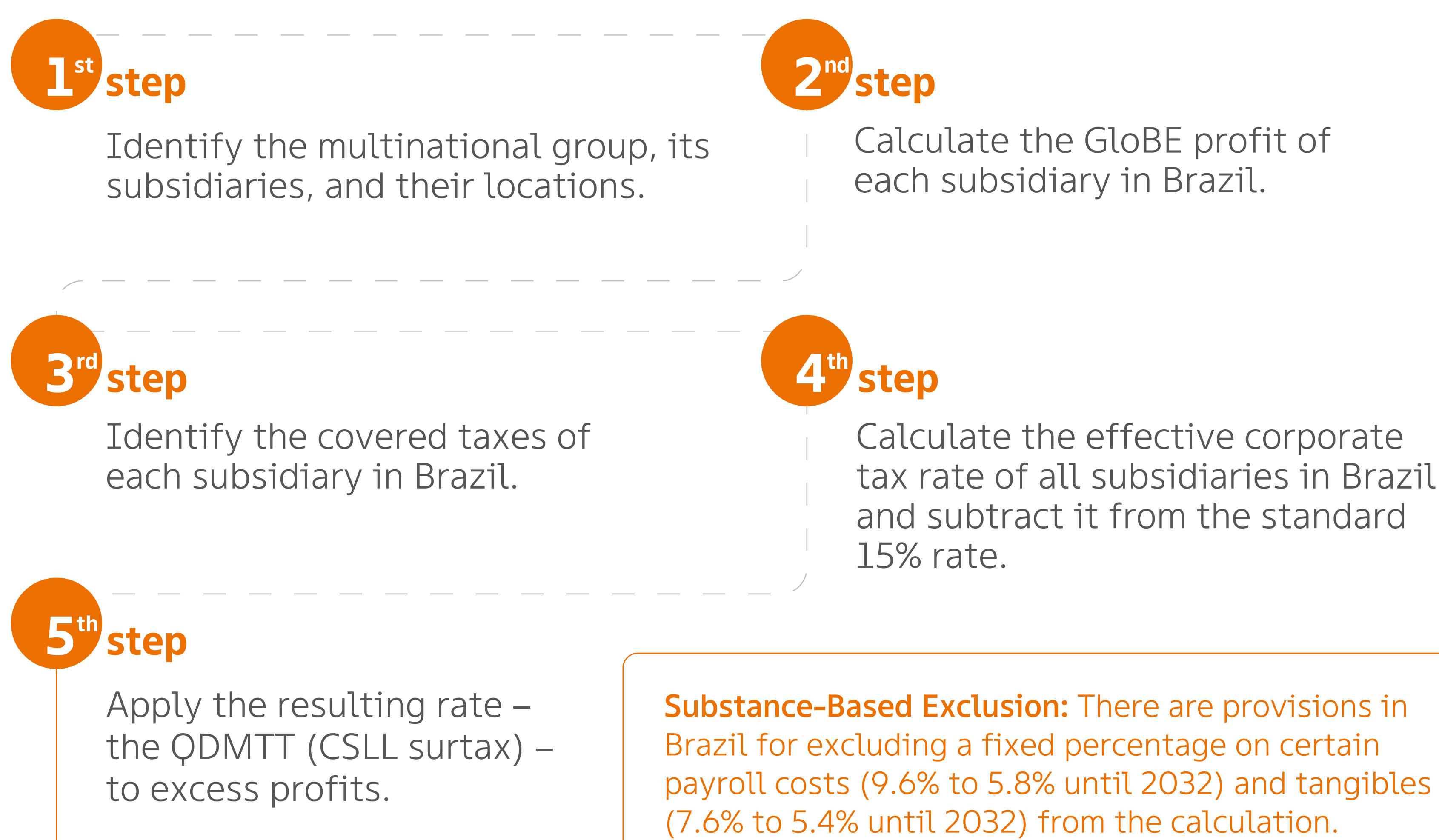
15% Minimum Effective Tax Rate

The Provisional Measure imposes a QDMTT through a CSLL surtax

**CSLL surtax calculation:** The difference between 15% and the effective corporate tax rate on what is treated as excess profits.

How to Proceed

Procedure for analyzing if the QDMTT applies in Brazil



Attention!

Factors that Potentially Impact the QDMTT

Various factors may impact the imposition of the 15% minimum tax rate in Brazil, which should be evaluated in detail.

- Court proceedings
- The calculation of tax losses
- Federal tax incentives
- Companies subject to the presumed profits regime
- Law No. 11,196/2005 (Lei do Bem)
- Goodwill amortization

Foreign Profits

There were no adjustments to the rules for taxing foreign profits (CFC), but there is an expectation that these rules will be reviewed and aligned with the GloBE rules.

Safe Harbors

Simplified rules have been introduced to be applied in certain situations.