



Communication-027-E-2025-e of 12.08.2025

# Top-up tax: application of Chapter 2.6 of the administrative guidance dated 18 December 2023

The administrative guidance of the Inclusive Framework on BEPS of the OECD<sup>1</sup> and the G20 countries, published on 18 December 2023 (hereinafter referred to as "the administrative guidance of December 2023")<sup>2</sup>, deals with hybrid arbitrage arrangements within the transitional CbCR safe harbour in Chapter 2.6. It provides that the document on safe harbours, published on 20 December 2022<sup>3</sup>, is to be supplemented by paragraphs 74.25 to 74.31 of the administrative guidance of December 2023.

Paragraph 74.31 of the administrative guidance of December 2023 allows jurisdictions that, based on constitutional grounds or other superior law, are unable to apply paragraphs 74.25 to 74.30 of the administrative guidance of December 2023 to transactions entered into after 15 December 2022, to apply them only to transactions entered into after 18 December 2023.

It is therefore necessary to determine the date of application of these rules for the Swiss jurisdiction:

Chapter 2.6 concerning hybrid arbitrage arrangements within the transitional CbCR safe harbour of the administrative guidance dated 18 December 2023 applies to transactions entered into after 18 December 2023.

This communication on practice was discussed with the Swiss Tax Conference.

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<sup>1</sup> Organisation for Economic Co-operation and Development

<sup>2</sup> The administrative guidance of December 2023 can be viewed free of charge at:

<https://www.oecd.org/en/topics/sub-issues/global-minimum-tax/global-anti-base-erosion-model-rules-pillar-two.html>.

<sup>3</sup> The document "Safe harbours and penalty relief" can be viewed free of charge at:

<https://www.oecd.org/en/topics/sub-issues/global-minimum-tax/global-anti-base-erosion-model-rules-pillar-two.html>. See also Annex A of the consolidated commentary to the GloBE Model Rules.