



THOMAS HUG

**IMPACT OF PILLAR 2 ON  
CORPORATE TAX  
INCENTIVES AND INCENTIVES  
POST PILLAR 2**

**DELOITTE & TAX EXECUTIVE INSTITUTE, 18 APRIL & 15 MAY 2024**

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## Impact of Pillar 2 on Corporate Tax Incentives and Incentives Post Pillar 2

# Agenda & Speakers

## Agenda

- Overview;
- Tax Incentives under Pillar II;
- (Non-) Qualified Refundable Tax Credits;
- (Non-) Marketable Transferable Tax Credits;
- QRTC World Tour;
- QRTC Swiss Tour;
- Take-Aways / Q&A / Discussion

## Speakers



**Vikram Chand**  
Professor of Law,  
University of Lausanne



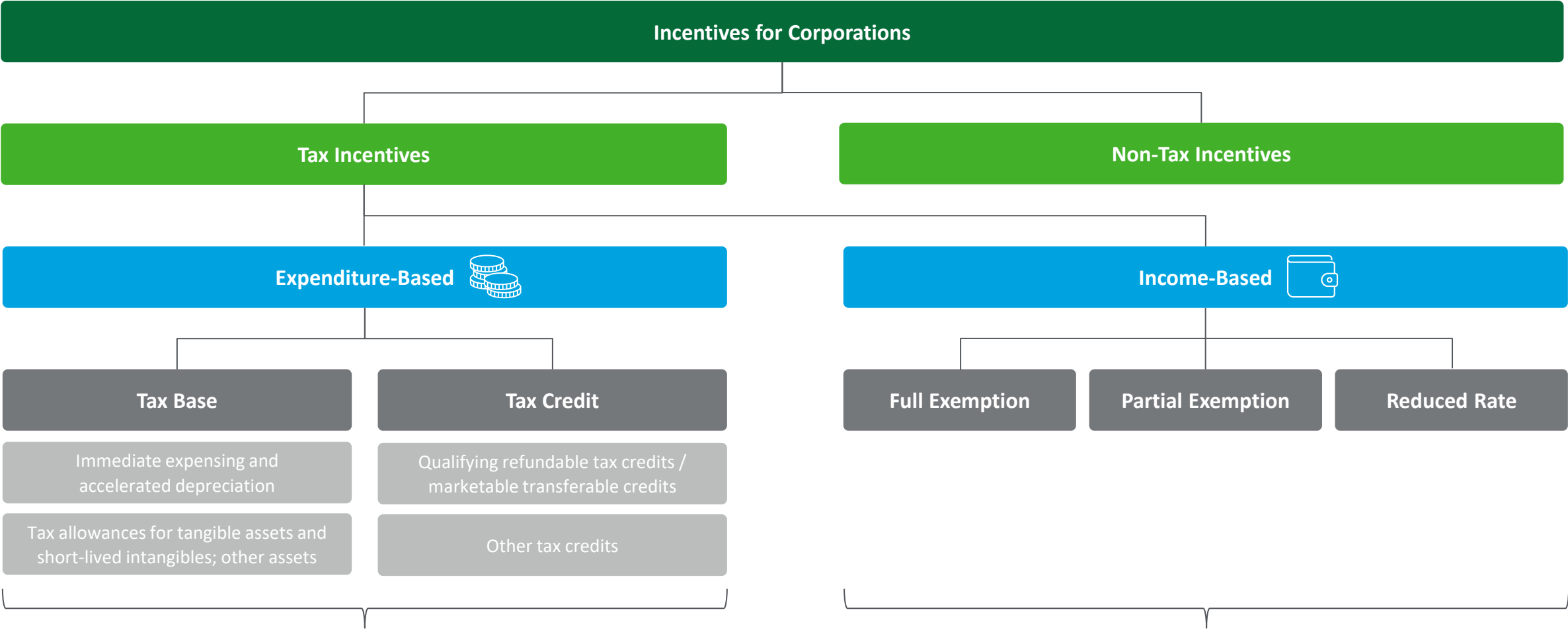
**Thomas Hug**  
Deloitte  
Partner, National Tax Office



**Martin Krivinkas**  
Deloitte  
Partner, International Tax & Transfer Pricing

# Overview (1)

## Different Types of Tax Incentives

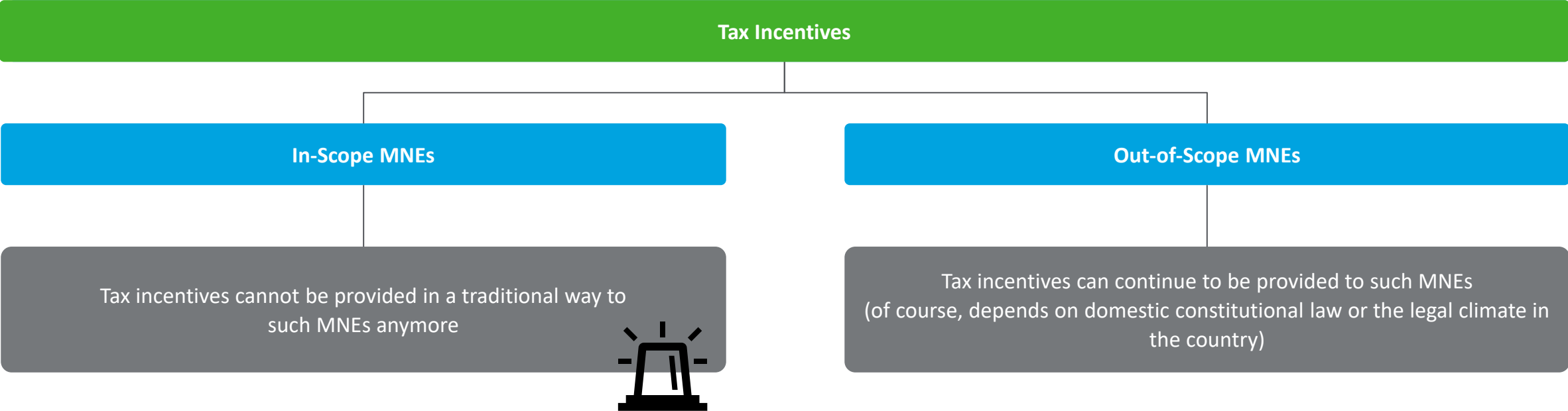


more common in developed countries

more common in developing countries and are usually based on certain investment standards linked to minimum employment or / and capital investment. Could also be sectoral

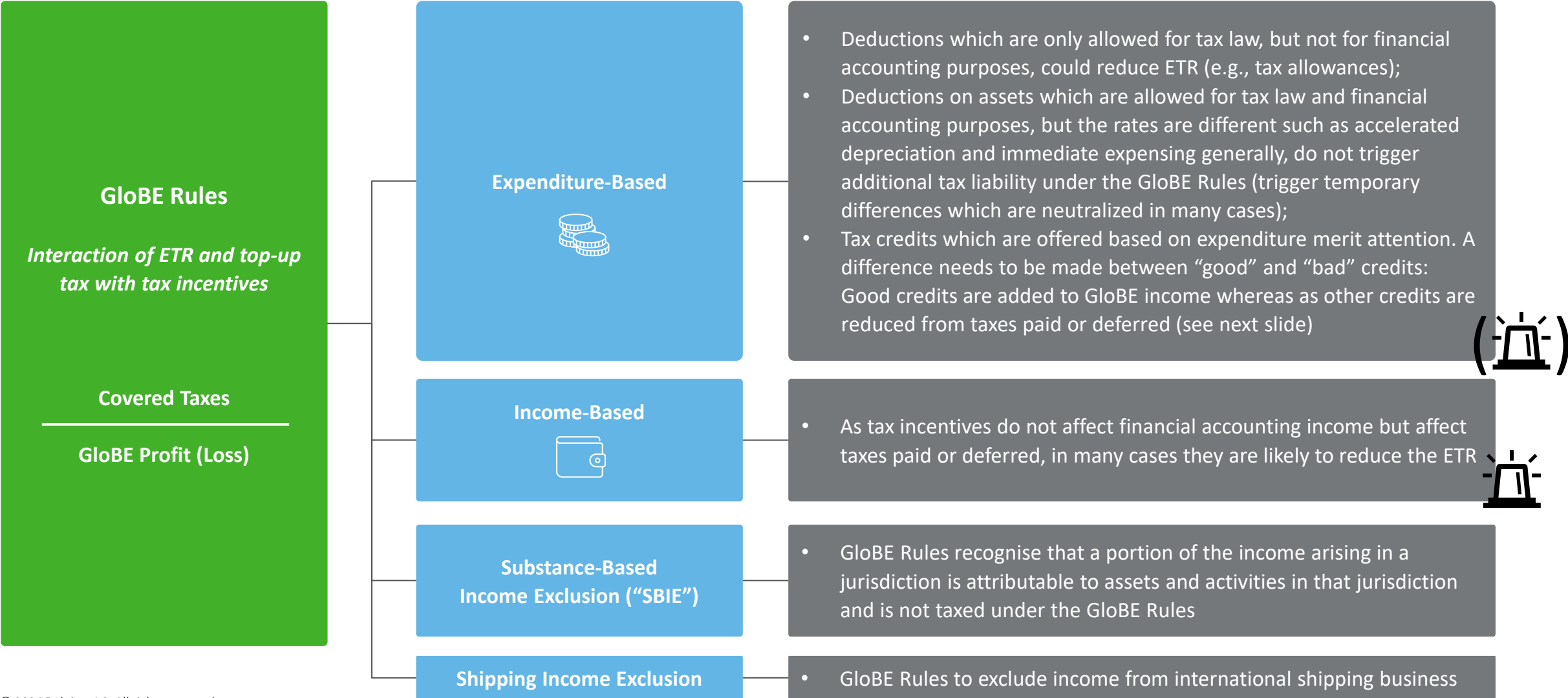
# Overview (2)

## Tax Incentives in a “Two-Tier Tax World”



# Tax Incentives under Pillar II

## Impact of Tax Incentives on Pillar II Effective Tax Rate (“ETR”)



# (Non-) Qualified Refundable Tax Credits (1)

## Overview

### Qualified Refundable Tax Credits ("QRTC") "Good" Tax Credits

Art. 10.1 MR

- Paid as cash or available as cash equivalents within 4 years from when a constituent entity is eligible to the credit;
- If refundable in part it is a QRTC to the extent it is paid as cash or available as cash equivalents within 4 years from when a constituent entity is eligible to receiving the credit

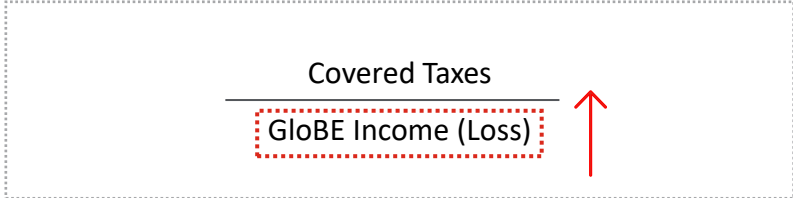
Art. 3.2.4 MR

- Shall be treated as income in the computation of GloBE Income (Loss) of a constituent entity – NOTE: if already recorded as "other income" in financial accounts no need to make adjustments

Art. 4.1.2 (d) MR

- Shall be added to Covered Taxes if recorded as a reduction to the current (or deferred) tax expense

In a Nutshell



### Non-Qualified Refundable Tax Credits "Bad" Tax Credits

Art. 10.1 MR

- Tax credit that is not a QRTC (e.g., tax credit not refundable, refundable only after 4 years)

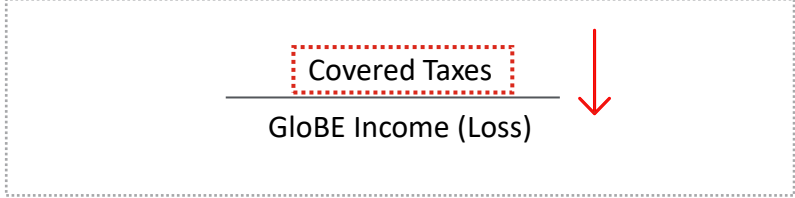
Art. 3.2.4 MR

- Shall not be treated as income in the computation of GloBE Income (Loss) of constituent entity

Art. 4.1.3 (b) MR  
Art. 4.4.1 (e) MR

- Shall be reduced from Covered Taxes if not recorded as a reduction to the current (or deferred) tax expense

In a Nutshell



# (Non-) Qualified Refundable Tax Credits (2)

## Case Study

### Fact Pattern

- Group company A has a GloBE profit of CHF 100m and covered taxes of CHF 15m.
- Option 1: The group company is entitled for a QRTC of CHF 10m in the current year.
- Option 2: The group company is entitled for a Non-QRTC of CHF 10m in the current year.



### Option 1: Qualified Refundable Tax Credits ("QRTC")

$$\frac{15\text{m}}{(100\text{m} + 10\text{m})} = 13.6\% \quad \text{Top-up Tax: } 100\text{m} \times (15\% - 13.6\%) = 1.4$$



### Option 2: Non-Qualified Refundable Tax Credits

$$\frac{(15\text{m} - 10\text{m})}{100\text{m}} = 5\% \quad \text{Top-up Tax: } 100\text{m} \times (15\% - 5\%) = 10$$



# (Non-) Marketable Transferable Tax Credits (1)

## Overview

### Marketable Transferable Tax Credits ("MTTR")

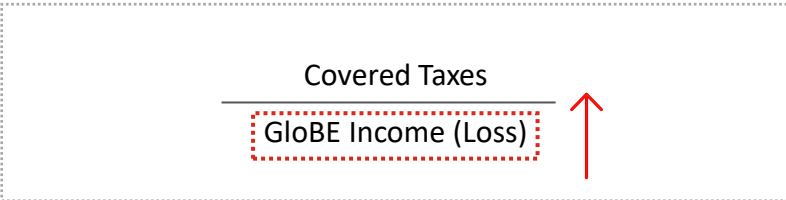
AG 06/2023

- For the original recipient: Is transferred to an unrelated party within 15 months of the end of the year in which it satisfies the eligibility criteria for the credit, at a price that equals or exceeds the marketable price floor (80 % of the net present value of the tax credit).
- For the purchaser: Is acquired from an unrelated party at a price that equals or exceeds the marketable price floor abovementioned

AG 06/2023

- Shall be treated the same way as QRTC

In a Nutshell



### Non-Marketable Transferable Tax Credits ("MTTR")

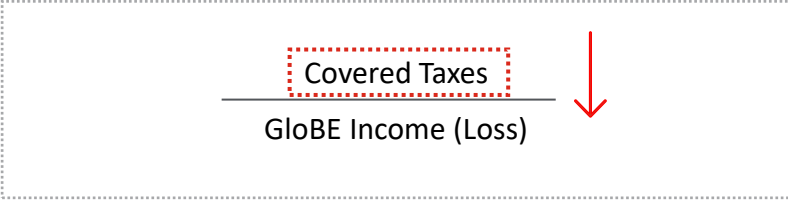
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- Tax credit that is not an MTTR
- QRTC (e.g., tax credit not refundable, refundable only after 4 years)

AG 06/2023

- Shall be treated the same way as Non-QRTC

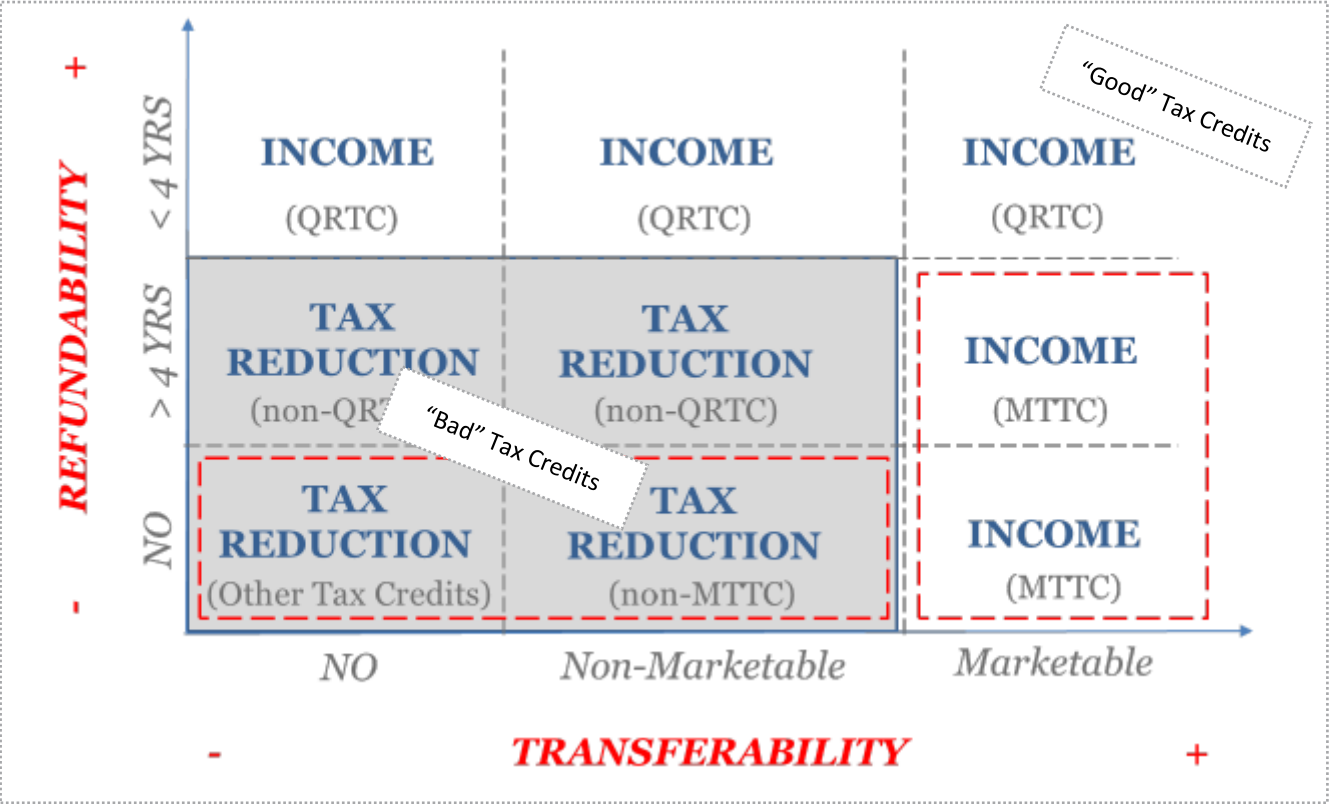
In a Nutshell



# (Non-) Marketable Transferable Tax Credits (2)

## Overview

### Summary



# QRTC World Tour (1)

## Overview

### Linked to Research & Development

Canada



- SR&ED program in Canada offers tax incentives up to 35% for small to medium-sized businesses and 15% for larger corporations on eligible scientific research and experimental development expenditures to promote innovation and economic development

France



- R&D tax credit that can be carried forward and set off against taxes for up to three years and the unutilized part refunded

Ireland



- R&D tax credit payable and distributed over three fixed instalments: 50% of the credit in the first year, 30% of the credit in the second year and 20% of the credit in the third year with an option to claim each instalment in cash each year or offset against CIT tax liabilities

New Zealand



- R&D relief: a refundable tax credit with the refundability of tax credit capped to the amount of the taxpayer's payroll tax expenses

### Linked to ESG

Canada



- The clean technology refundable investment tax credit (Clean Technology ITC) of up to 30% of qualified clean technology property that is purchased and ready for utilization after March 27, 2023.
- Amendments to the draft for the carbon capture, utilization, and storage investment tax credit (CCUS ITC) extend a refundable investment tax credit ranging from 37.5% to 60%.

France



- The new draft Finance bill *“provides for the creation of a tax credit for investments in green industry. This tax credit would benefit companies setting up or developing production facilities related to batteries, photovoltaic panels, wind turbines and heat pumps in France”*.
- Tax credit of 20% of the expenditure made towards the acquisition of certain tangible assets or intangible assets (in certain cases it could be higher).

# QRTC World Tour (2)

## Overview

### Linked to Others

Barbados



- **“Qualified Job Credit”**
  - Target sectors: fintech activities, wholesale distribution / trading without inventory / storage, research and development;
  - Refundable payroll tax credit on eligible payroll costs, with a maximum effective credit of 300%;
  - Average payroll cost:
    - First 50 employees: 75% credit
    - 51-100 employees: 175% credit
    - 101-150 employees: 300% credit
    - 151-200 employees: 400% credit
    - Over 200 employees: 475% credit

Most attractive  
QRTC in the world?

Singapore



- **Refundable Investment Credit (RIC)**
  - Investing in new productive capacity (e.g., new manufacturing plant, production of low-carbon energy); expanding or establishing the scope of activities in digital services, professional services, and supply chain management; expanding or establishing headquarter activities, or Centres of Excellence;
  - RIC is awarded on qualifying expenditures incurred by the company in respect of a qualifying project, during the qualifying period. Each RIC award will have a qualifying period of up to 10 years.
  - The credits are to be offset against Corporate Income Tax payable. Any unutilised credits will be refunded to the company in cash within four years from when the company satisfies the conditions for receiving the credits

# QRTC World Tour (2)

## Overview

### Linked to Others

Brazil

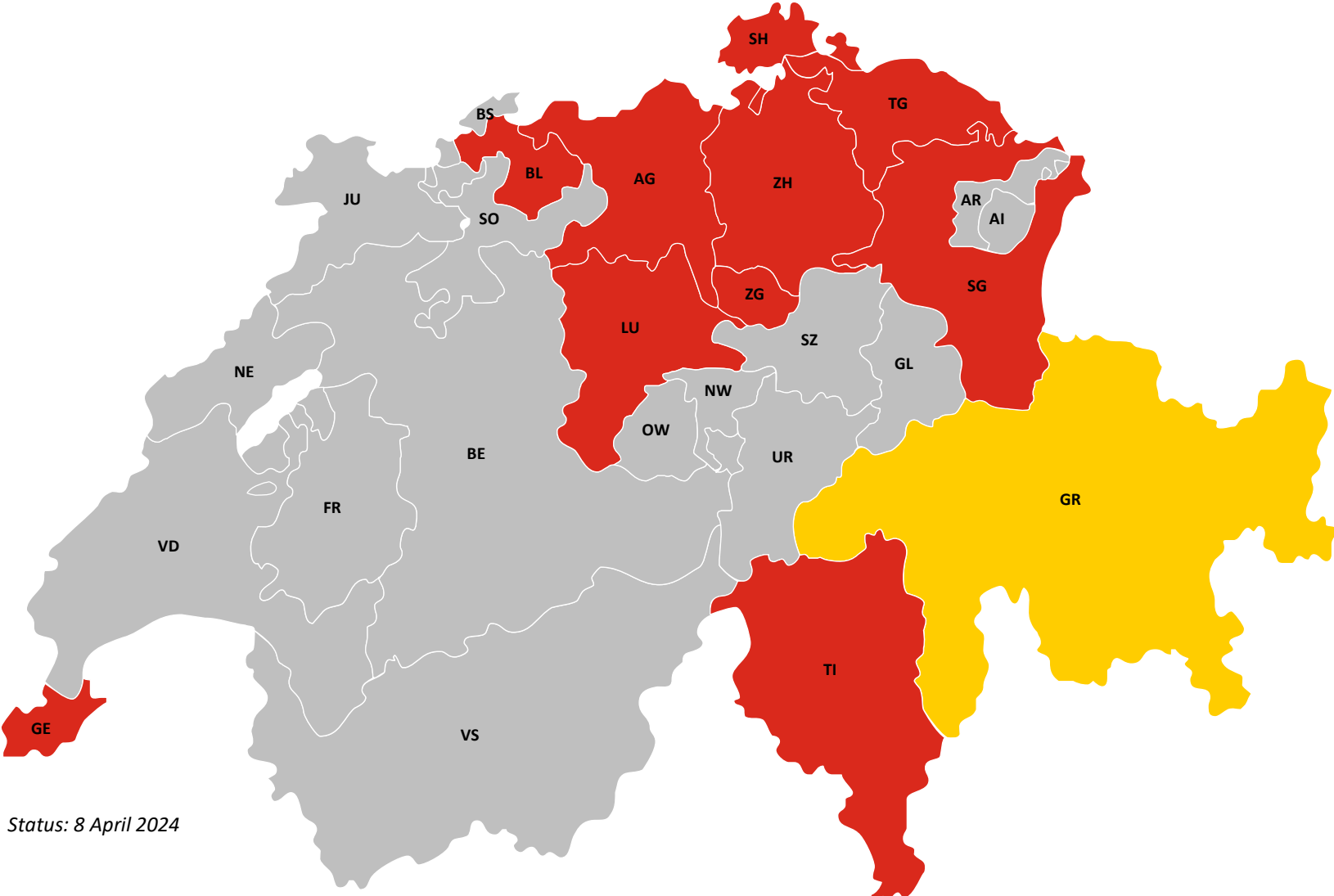


- **Law No. 14,789/2023**
  - Tax credits (and other tax incentives) will no longer be excluded from the taxable basis of corporate income taxes (IRPJ/CSLL) and federal gross revenue taxes (PIS/COFINS) as from 1 January 2024;
  - However, a new investment subsidy tax credit is available that is calculated by applying the IRPJ rate (currently 25%) on the amount of investment subsidies that are directly related to the implementation or expansion of economic businesses and must not exceed the corresponding expenses related to such implementation or expansion (e.g., depreciation/amortization of capital goods deployed in the business)

# QRTC Swiss Tour (1)

## Overview

- FINAL - Law Enacted
- DRAFT – Proposed Law, Not Yet Enacted
- DISCUSSION – Political Discussion, No Draft Law
- N/A – No Plans








Status: 8 April 2024

# QRTC Swiss Tour (2)

## Overview






### Cantonal Developments

AG 	<ul style="list-style-type: none"><li>• <u>QRTC</u>: details currently unknown</li></ul>	<ul style="list-style-type: none"><li>• Canton indicated in the first report on cantonal measures that they will potentially consider the introduction of a QRTC. No further information publicly available.</li></ul>
BL 	<ul style="list-style-type: none"><li>• <u>QRTC</u>: details currently unknown</li></ul>	<ul style="list-style-type: none"><li>• Cantonal Parliament (“Landrat”) requested the introduction of a QRTC on 11 January 2024. Government Council (“Regierungsrat”) supported this request (“Postulat”, 2023/541). No further information publicly available</li></ul>
GE 	<ul style="list-style-type: none"><li>• <u>QRTC</u>: details currently unknown</li></ul>	<ul style="list-style-type: none"><li>• Potentially QRTC model aligned with the QRTC model of Singapore</li></ul>
GR 	<ul style="list-style-type: none"><li>• <u>QRTC</u>: value creation/ R&amp;D/innovation/sustainability</li></ul>	<ul style="list-style-type: none"><li>• On 16 January 2024, the Government Council (“Regierungsrat”) opened the consultation process for an amendment to the Cantonal Economic Promotion Act (consultation until 14 April 2024): one-off or recurring QRTC for measures that make a material contribution to value creation in the canton, strengthening R&amp;D and innovation, or sustainability. <b>→ see separate slide 16</b></li></ul>
LU 	<ul style="list-style-type: none"><li>• <u>QRTC</u>: details currently unknown</li></ul>	<ul style="list-style-type: none"><li>• Cantonal Parliament (“Kantonsrat”) requested the Government Council (“Regierungsrat”) to provide details about the undisclosed plans to introduce a QRTC on 30 January 2024 (“Anfrage”, A 135). No further information publicly available</li></ul>

# QRTC Swiss Tour (3)

## Overview

### Cantonal Developments

SG 	<ul style="list-style-type: none"><li>• <u>QRTC</u>: details currently unknown</li></ul>	<ul style="list-style-type: none"><li>• Canton indicated in the first report on cantonal measures that the Government Council (<i>“Regierungsrat”</i>) requested the administration to check the potential introduction of a QRTC. No further information publicly available.</li></ul>
SH 	<ul style="list-style-type: none"><li>• <u>QRTC</u>: potentially IP rights profits</li></ul>	<ul style="list-style-type: none"><li>• Economic Development Agency indicated on 1 December 2023 that discussions are ongoing to introduce a QRTC, potentially in connect with IP rights profits. No further information publicly available.</li></ul>
TG 	<ul style="list-style-type: none"><li>• <u>QRTC</u>: R&amp;D expenses</li><li>• <u>Subsidies</u>: innovation</li></ul>	<ul style="list-style-type: none"><li>• Cantonal Tax Administration indicated during a meeting on 8 January 2024 that the canton plans to introduce a QRTC, comparable with the existing R&amp;D super deduction (with an entry threshold and a maximum amount) as well as subsidies for innovation. No further information publicly available.</li></ul>
TI 	<ul style="list-style-type: none"><li>• <u>QRTC</u>: details currently unknown</li></ul>	<ul style="list-style-type: none"><li>• Canton indicated in the first report on cantonal measures that they will potentially consider the introduction of a QRTC. No further information publicly available.</li></ul>
ZG 	<ul style="list-style-type: none"><li>• <u>QRTC</u>: potentially R&amp;D-related payroll costs, revenues related to patents and other IP-exploitation</li></ul>	<ul style="list-style-type: none"><li>• Canton indicated in the first report on cantonal measures that they will potentially consider the introduction of a QRTC. According to slides shared by the Cantonal Tax Administration, QRTC will potentially be capped at x% of average taxable profit of the last 3 years and potentially total amount of expenditure of the canton will also be capped. Draft law expected in spring 2024.</li></ul>



# QRTC Swiss Tour (4)

## Overview

### Cantonal Developments

ZH



- QRTC: details currently unknown

- Cantonal Parliament (“*Kantonsrat*”) requested (“*Postulat*”) the consideration of a QRTC on 10 July 2023; Government Council (“*Regierungsrat*”) rejected this request on 1 November 2023; Cantonal Council denied rejection on 5 February 2024 ([272/2023](#)).

Steinmaur, Thalwil und Dietlikon, 10. Juli 2023

KR-Nr. 272/2023

**POSTULAT** von Christian Müller (FDP, Steinmaur), Marcel Suter (SVP, Thalwil) und Cristina Cortellini (GLP, Dietlikon)

betreffend Anerkannte auszahlbare Steuergutschrift

Der Regierungsrat wird eingeladen eine Vorlage zu prüfen, welche für Unternehmen, die künftig der Mindestbesteuerungsverordnung unterstehen, eine «Anerkannte auszahlbare Steuergutschrift», wie es die «Global Anti-Base Erosion Model Rules (Pillar Two)» der OECD vorsehen, gutschreibt.

# QRTC Swiss Tour (5)

## Canton Grisons

### Overview Draft Law

#### Art. 4a (neu) Qualifizierende Steuergutschriften (QRTC)

<sup>1</sup> Der Kanton kann Unternehmen einmalige oder wiederkehrende QRTC gewähren für Massnahmen, die einen bedeutenden Beitrag leisten:

- a) zur Erhöhung der Wertschöpfung im Kanton;
- b) zur Stärkung von Forschung, Entwicklung und Innovation; oder
- c) zur Verbesserung der ökologischen Nachhaltigkeit.

<sup>2</sup> Die an ein Unternehmen gewährten QRTC **werden mit dessen Steuerschulden verrechnet.**

<sup>3</sup> Die steuerlich berechtigten Gemeinden sind vorgängig anzuhören. Sie beteiligen sich an den QRTC entsprechend den Steuererleichterungen gemäss Artikel 5 des Steuergesetzes für den Kanton Graubünden im Umfang der verrechneten Steuerschulden der betreffenden Unternehmen auf ihrem Gebiet. Allfällige Auszahlungen von QRTC trägt ausschliesslich der Kanton.

*Gesetz über die Förderung der wirtschaftlichen Entwicklung in Graubünden (GWE)*

#### Art. 4a (new) Qualifying tax credits (QRTC)

<sup>1</sup> The canton may grant companies one-off or recurring QRTC for measures that make a significant contribution:

- a) to increasing value creation in the canton;
- b) to strengthening research, development and innovation; or
- c) to improving environmental sustainability.

<sup>2</sup> The QRTC granted to a company **are offset against its tax liabilities.**

<sup>3</sup> The authorised municipalities must be consulted in advance. They shall participate in the QRTC in accordance with the tax relief pursuant to article 5 of the Tax Act for the Canton of Grisons to the extent of the offset tax debts of the companies concerned in their territory. Any QRTC payments shall be borne exclusively by the canton.

*Law on the promotion of economic development in Grisons – unofficial English translation*

Refund in cash or cash equivalent after 4 years?

# QRTC Swiss Tour (6)

## Consequences for Swiss VAT?

### Current VAT Law

#### Art. 33 Kürzung des Vorsteuerabzugs

<sup>1</sup> Mittelflüsse, die nicht als Entgelte gelten (Art. 18 Abs. 2), führen unter Vorbehalt von Absatz 2 zu keiner Kürzung des Vorsteuerabzugs.

<sup>2</sup> Die steuerpflichtige Person hat ihren Vorsteuerabzug verhältnismässig zu kürzen, wenn sie Gelder nach Artikel 18 Absatz 2 Buchstaben a–c erhält.

*Bundesgesetz über die Mehrwertsteuer (MWSTG)*

#### Art. 33 Réduction de la déduction de l'impôt préalable

<sup>1</sup> Sous réserve de l'al. 2, les montants qui, en vertu de l'art. 18, al. 2, ne sont pas considérés comme faisant partie de la contre-prestation, ne donnent pas lieu à une réduction de la déduction de l'impôt préalable.

<sup>2</sup> L'assujetti doit réduire le montant de la déduction de l'impôt préalable en proportion des fonds relevant de l'art. 18, al. 2, let. a à c, qu'il reçoit.

*Loi fédérale régissant la taxe sur la valeur ajoutée (LTVA)*

#### Art. 33 Reduction of the input tax deduction

<sup>1</sup> Subject to paragraph 2, flows of funds that do not qualify as consideration (art. 18 para. 2) do not result in a reduction of the input tax deduction.

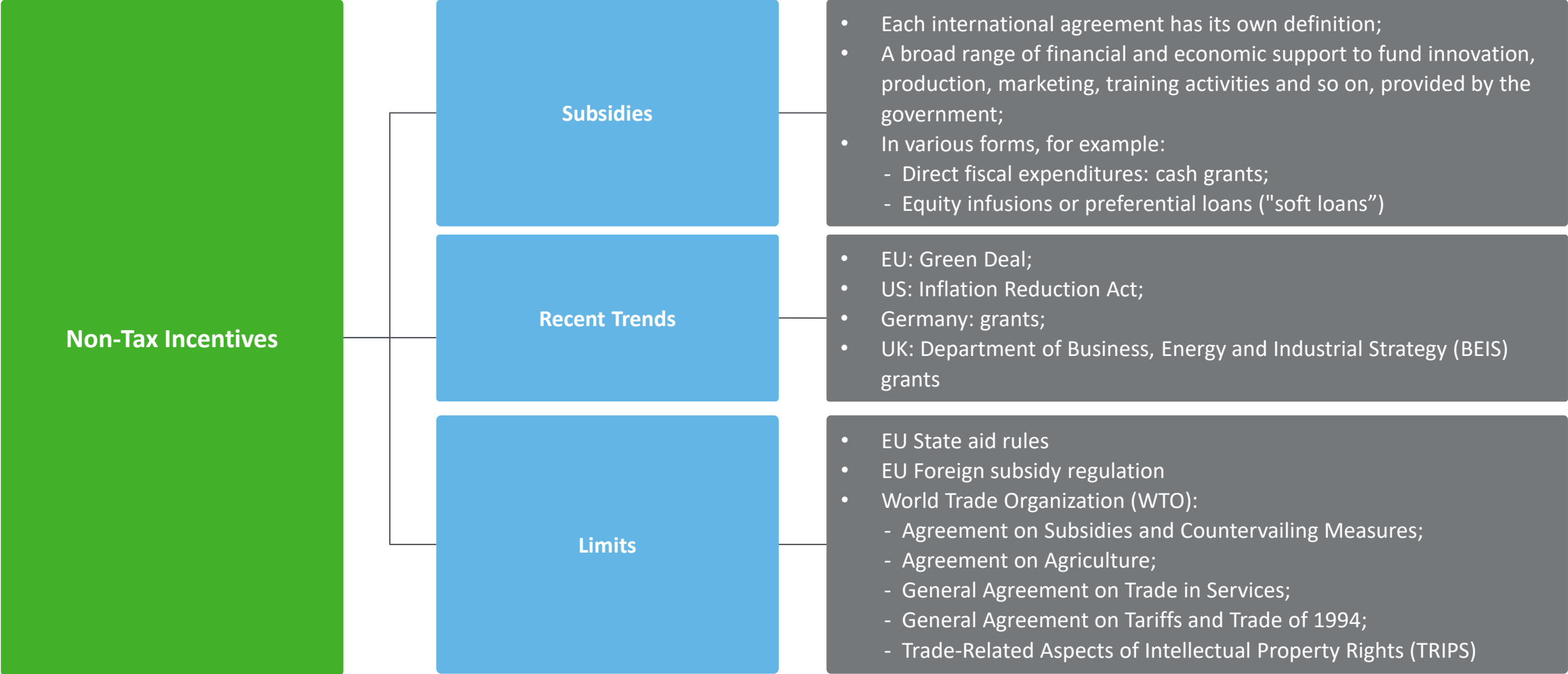
<sup>2</sup> The taxable person must reduce his input tax deduction proportionately if he receives funds in accordance with article 18 paragraph 2 letters a-c.

*Federal Act on Value Added Tax– unofficial English translation*

QRTC as subsidy with negative impact on input tax deduction?

# Non-Tax Incentives

## Overview



# Take-Aways / Q&A / Discussion

## Key Messages

*“Pillar II is not the end of tax incentives, but the beginning of new instruments.”*

*“For Pillar II in-scope MNEs, there will be ‘good’ and ‘bad’ tax incentives.”*

*“Tax professional need to get familiar with non-tax incentives like subsidies (and build-up relationships with the administration in charge).”*