



# Finance (No. 2) Act 2023

## 2023 CHAPTER 30

### PART 3

#### MULTINATIONAL TOP-UP TAX

### CHAPTER 2

#### QUALIFYING MULTINATIONAL GROUPS AND THEIR MEMBERS

##### *Multinational groups*

#### 126 Meaning of “multinational group” and “ultimate parent”

- (1) References in [this Part](#) to a multinational group are to a consolidated group where at least one of the members of that group is not located in the same territory as the others.
- (2) A “consolidated group” means the following entities (which are its members)—
  - (a) an entity (the “ultimate parent”)—
    - (i) in which no other entity has a controlling interest, and
    - (ii) which has a controlling interest in other entities, and
  - (b) the entities whose assets, liabilities, income, expenses and cash flows—
    - (i) are included in the consolidated financial statements of the ultimate parent, or
    - (ii) are not included in those statements only because of an exclusion on size or materiality grounds or on the grounds that the entity in question is held for sale.

#### 127 Excluded entities

- (1) For the purposes of [this Part](#), excluded entities are to be treated as not being members of a multinational group.

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- (2) But [subsection \(1\)](#) does not apply for the purposes of the following provisions—
- (a) [section 126](#) (and accordingly an excluded entity that is the ultimate parent of multinational group remains the ultimate parent of that group),
  - (b) [this section](#), and
  - (c) [section 129](#) (determining whether a multinational group is qualifying).
- (3) The following are excluded entities—
- (a) a governmental entity;
  - (b) an international organisation;
  - (c) a pension fund;
  - (d) a non-profit organisation;
  - (e) a qualifying non-profit subsidiary;
  - (f) a qualifying service entity;
  - (g) a qualifying exempt income entity.
- (4) The following are also excluded entities if they are the ultimate parent of a multinational group, or would be but for the fact they do not produce consolidated financial statements that include assets, liabilities, income expenses and cash flows of entities in which they have ownership interests—
- (a) an investment fund,
  - (b) a UK REIT, or
  - (c) an overseas REIT equivalent.
- (5) An entity is a qualifying non-profit subsidiary in an accounting period if—
- (a) it is 100% owned by one or more entities that are non-profit organisations,
  - (b) the revenue (see [section 129\(5\)](#)) of the multinational group of which the entity is a member would not exceed the threshold set out in [section 129\(4\)](#) for that period if the revenue of every member that is a non-profit organisation, a qualifying service entity or a qualifying exempt income entity were ignored,
  - (c) the revenue of the group for that period that is ignored for the purposes of [paragraph \(b\)](#) is less than 25% of the total revenue of the group, and
  - (d) no election under [subsection \(8\)](#) is in force in relation to the entity.
- (6) An entity is a qualifying service entity if—
- (a) it is 95% owned by one or more qualifying excluded entities,
  - (b) either—
    - (i) the entity only carries out activities that are ancillary to the activities of those owners, or
    - (ii) all, or almost all, of its activities, ignoring activities falling within [sub-paragraph \(i\)](#), consist of the holding of assets or the investment of funds for the benefit of those owners, and
  - (c) no election under [subsection \(8\)](#) is in force in relation to the entity.
- (7) An entity is a qualifying exempt income entity if—
- (a) it is 85% owned by one or more qualifying excluded entities,
  - (b) almost all of the entity's income is excluded dividends or excluded equity gains (or a mixture of both), and
  - (c) no election under [subsection \(8\)](#) is in force in relation to the entity.

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- (8) The filing member of a multinational group (see [paragraph 2 of Schedule 14](#)) may make an election that a member of that group that would otherwise be an excluded entity as a result of [subsection \(5\)](#), [\(6\)](#) or [\(7\)](#) is not to be an excluded entity.
- (9) [Schedule 15](#) makes provision about elections under [this Part](#).
- (10) Paragraph 1 of that Schedule (long term elections) applies to an election under [subsection \(8\)](#).
- (11) For the purposes of [subsection \(5\)](#), the reference to an entity being 100% owned by one or more entities that are non-profit organisations is to those entities together having that percentage of ownership interest in that entity.
- (12) For the purposes of [subsections \(6\) and \(7\)](#)—
  - (a) despite [section 232\(3\)](#) (permanent establishments treated as distinct from main entity), the conditions in [subsection \(6\)\(b\)](#) and [\(7\)\(b\)](#) are only met in relation to a permanent establishment or a main entity if the conditions are met by the main entity and all of its permanent establishments taken together as if they were a single entity;
  - (b) an excluded entity is “qualifying” if it is not a pensions service entity, and
  - (c) references to an entity being 95% or 85% owned by qualifying excluded entities are to those entities together having at least that percentage of the ownership interests in that entity (see [section 245](#) for how to calculate ownership interests in excluded entities).

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