



# Finance (No. 2) Act 2023

## 2023 CHAPTER 30

### PART 3

#### MULTINATIONAL TOP-UP TAX

### CHAPTER 5

#### COVERED TAX BALANCE

##### *Amount of covered taxes*

#### 173 Covered taxes

- (1) The following are covered taxes in relation to a member of a multinational group—
  - (a) taxes on profits of that member (including, where it has direct or indirect ownership interests in another member of the group, taxes on its share of the income or profits of that other member),
  - (b) taxes imposed on the member under an eligible distribution tax system,
  - (c) taxes imposed on the member as a substitute for a tax on profits that generally applies in the territory of the member, and
  - (d) taxes charged by reference to the capital of a company, or by reference to its capital and profits.
- (2) But none of the following are to be regarded as covered taxes—
  - (a) multinational top-up tax, or any tax equivalent to multinational top-up tax;
  - (b) a qualifying domestic top-up tax (see [section 256](#));
  - (c) a qualifying undertaxed profits tax (see [section 257](#));
  - (d) a disqualified refundable imputation tax (see [section 253](#));
  - (e) where the member carries on a life assurance business, taxes in respect of which amounts were charged to the member's policyholders.

*Status: Point in time view as at 11/07/2023.*

*Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 2023, Cross Heading: Amount of covered taxes. (See end of Document for details)*

## 174 Amount of covered tax balance

- (1) To determine the covered tax balance of a member of a multinational group for an accounting period—

*Step 1*

Determine the amount of the qualifying current tax expense accrued by the member for that period.

*Step 2*

Determine whether any amounts need to be excluded from that expense under [section 175](#) (and adjust it accordingly).

*Step 3*

Determine whether any amounts need to be reflected in that expense under [section 176](#) (and adjust it accordingly).

*Step 4*

If any amount of covered taxes is taken into account more than once in the covered tax balance expense, adjust it so that the amount is only taken into account once.

- (2) For the purposes of [this Part](#), current tax expense is to be expressed—
- (a) as a positive number where it represents an expense, and
  - (b) as a negative number where it represents a credit.
- (3) If the result of [subsection \(1\)](#) is a negative amount that amount (expressed as a positive number) is a “negative covered tax balance”.
- (4) If the result of [subsection \(1\)](#) is a positive amount, or nil, that amount is a “positive covered tax balance”.
- (5) In [this Part](#)—
- references to the “covered tax balance” of a member of a multinational group are to a positive covered tax balance or a negative covered tax balance;
- “qualifying current tax expense” means the amount of the current tax expense as reflected in the member’s underlying profits to the extent the expense relates to covered taxes.

## 175 Amounts excluded from covered tax balance

- (1) The amounts referred to in [subsection \(2\)](#) are to be excluded from a member of a multinational group’s qualifying current tax expense (to the extent they would otherwise be included).
- (2) Those amounts are as follows—
- (a) any amount that relates to income or gains that are not included in the member’s adjusted profits;
  - (b) any amount that relates to an uncertain tax position;
  - (c) any amount of credit or refund in respect of a qualifying refundable tax credit that is recorded as a reduction of qualifying current tax expense;
  - (d) any amount that is not expected to be paid before the end of the period of three years commencing with the first day after the end of the accounting period;
  - (e) any amount allocated to another member of the multinational group in accordance with [this Part](#);

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- (f) any amount excluded under [section 180\(3\)\(b\)](#) (blended CFC regime).

## 176 Amounts to be reflected in covered tax balance

- (1) The amounts referred to in [subsection \(2\)](#) are to be reflected in a member of a multinational group's qualifying current tax expense (to the extent they were not already reflected).
- (2) Those amounts are as follows—
- (a) any amount of covered taxes reflected in the member's underlying profits but which (ignoring [this paragraph](#)) is not reflected in the qualifying current tax expense;
  - (b) the total deferred tax adjustment amount (see [section 182](#));
  - (c) any amount of covered taxes paid, or refunded, in the current accounting period that relates to an uncertain tax position where the amount was excluded under [section 175\(2\)\(b\)](#) for a previous accounting period;
  - (d) any amount of credit or refund in respect of a tax credit (whether refundable or not) that—
    - (i) is not a qualifying refundable tax credit, and
    - (ii) has not been reflected in its qualifying current tax expense in the current accounting period or a previous accounting period (see [section 148](#));
  - (e) any amount of covered taxes refunded or credited to the member, other than a qualifying refundable tax credit;
  - (f) where [section 187\(5\)](#) applies in relation to the member, the amount of special loss deferred tax assets used, in accordance with [section 187\(7\)](#), by the member for the current accounting period;
  - (g) any amount of covered taxes recorded in other comprehensive income of the member relating to amounts included in determining its adjusted profits that are subject to covered taxes under the law of the territory in which the member is located;
  - (h) any amount of covered taxes relating to an amount reflected in the member's adjusted profits as a result of [section 146](#) (adjustment for changes in accounting policies and prior period errors);
  - (i) any amount allocated to the member from another member of the multinational group.
- (3) For the purposes of [this Part](#)—
- (a) an amount of tax paid or tax expense is to be expressed as a positive number, and
  - (b) an amount of tax credit or refund is to be expressed as a negative number.

**Status:**

Point in time view as at 11/07/2023.

**Changes to legislation:**

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