



# Finance (No. 2) Act 2023

## 2023 CHAPTER 30

### PART 3

#### MULTINATIONAL TOP-UP TAX

### CHAPTER 8

#### FURTHER ADJUSTMENTS

#### *Covered taxes less than nil*

#### **202 Covered taxes balance less than nil when members in a territory have a profit**

- (1) **This section** applies to the standard members of a multinational group in a territory (“the relevant territory”) in an accounting period (“the current period”) if—
  - (a) those members do not have a collective loss for the current period, and
  - (b) the combined covered tax balance for those members for the current period is less than nil (including as a result of **this section** or **section 205** having applied in a previous accounting period).
- (2) Where **this section** applies—
  - (a) the amount of the combined covered tax balance for the current period is to be added to the combined covered tax balance for the standard members in the relevant territory in the next accounting period in which those members do not have a collective loss (which as the balance for the current period is negative will reduce the combined covered tax balance for that next period), and
  - (b) the combined covered tax balance for those members for the current period is to be treated as nil (and as a result of Step 5 in **section 132(1)** their effective tax rate for the current period will be 0%).
- (3) For the purposes of **this section** and **sections 203 to 205**, the standard members of a multinational group in a territory have a collective loss for a period if the result of Step 2 in **section 132(1)** is nil or less for those members for that period.

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## 203 Additional top-up amounts where covered taxes less than expected

- (1) **This section** applies in an accounting period in relation to standard members of a multinational group in a territory where—
  - (a) those members have a collective loss for that period, and
  - (b) the combined covered tax balance for those members for the current period is less than nil, and
  - (c) the collective negative covered tax balance expressed as a positive number is greater than the amount given by multiplying the collective loss expressed as a positive number by 15% (“the expected covered tax amount”).
- (2) Where **this section** applies, those members in that territory collectively have an additional top-up amount (a “collective additional amount”) equal to the difference between the expected covered tax amount and the combined covered tax balance.
- (3) Where those members have a QDT credit for the accounting period, the collective additional amount under **this section** is to be reduced in accordance with **subsections (4) to (7)**.
- (4) Where—
  - (a) the standard members do not have a collective additional amount under **section 206** for the period, and
  - (b) the collective additional amount under **this section** (before reduction by relevant QDT credit) is equal to or greater than the sum of amounts of qualifying domestic top-up tax accrued by those members in that period,
 the collective additional amount under **this section** is to be reduced by the sum of those accrued amounts.
- (5) Where—
  - (a) the standard members do not have a collective additional amount under **section 206** for the period, and
  - (b) the collective additional amount under **this section** (before reduction by relevant QDT credit) is less than the sum of amounts of qualifying domestic top-up tax accrued by those members in that period,
 the collective additional amount under **this section** is to be reduced to nil.
- (6) Where—
  - (a) the standard members have a collective additional amount under **section 206** for the period, and
  - (b) the sum of the collective additional amount under **this section** (before reduction by relevant QDT credit) and the collective additional amount under **section 206** is less than the sum of amounts of qualifying domestic top-up tax accrued by those members in that period,
 the collective additional amount under **this section** is to be reduced to nil.
- (7) Where—
  - (a) the standard members have a collective additional amount under **section 206** for the period, and
  - (b) the sum of the collective additional amount under **this section** (before reduction by relevant QDT credit) and the collective additional amount under **section 206** is equal to or greater than the sum of amounts of qualifying domestic top-up tax accrued by those members in that period,

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the collective additional amount under [this section](#) is to be reduced by the amount given by multiplying the sum of those amounts of qualifying domestic top-up tax by the amount given by dividing the collective additional amount under this section by the sum of that collective additional amount and the collective additional amount under [section 206](#).

## **204 Allocation of collective additional amount under [section 203](#) to members**

- (1) Where the standard members of a multinational group in a territory have a collective additional amount under [section 203](#), an amount of that amount is to be allocated to each member that has a negative covered tax balance, expressed as a negative number, which is less than the adjusted profits of that member (which may be positive or negative) multiplied by 15%.

- (2) To determine the amount of the collective additional amount to be allocated to each such member, take the following steps—

*Step 1*

For each such member determine the amount given by subtracting the member's negative covered tax balance, expressed as a negative number, from its adjusted profits multiplied by 15%.

*Step 2*

Add together the amounts determined under Step 1.

*Step 3*

For each such member, divide the amount determined for that member under Step 1 by the result of Step 2.

*Step 4*

Allocate to each member the amount given by multiplying the result of Step 3 for that member by the collective additional amount.

- (3) For the purposes of [this Part](#), an amount of a collective additional amount allocated to a member of a multinational group under [this section](#) is an additional top-up amount.
- (4) [Chapter 7](#) (allocation of top-up amounts to responsible members) applies to an additional top-up amount allocated to a member of a multinational group under [this section](#) as it applies to a top-up amount of that member as if the adjusted profits of that member were the amount given by dividing the additional top-up amount by 15%.

## **205 Election to carry forward and reduce collective additional amount**

- (1) [This section](#) applies where the standard members of a multinational group in a territory (“the relevant territory”) have a collective additional amount for an accounting period (“the current period”) and the filing member of the group has elected for this section to apply for that period.
- (2) Where [this section](#) applies—
- the qualifying amount of the collective additional amount for the current period is to be subtracted from the combined covered tax balance for the standard members of the group in the relevant territory in the next accounting period in which those members do not have a collective loss, and
  - the collective additional amount for the current period is to be reduced by the qualifying amount of that collective additional amount (including to nil where the whole amount is qualifying).

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- (3) The amount of the collective additional amount that is “qualifying” is the amount given by subtracting the amount of any deferred tax asset deemed to arise under [section 217\(7\)](#) for the period.
- (4) [Paragraph 2 of Schedule 15](#) (annual elections) applies to an election under [this section](#).

*Additional top-up amounts on recalculations*

**206 Additional top-up amounts where recalculations required**

- (1) [This section](#) applies to the standard members of a multinational group in an accounting period (“the current period”) in a territory where—
- (a) a recalculation is required in the current period in relation to one or more previous accounting periods (each a “prior period”) as a result of any of the following sections—
- (i) [section 163\(4\)](#);
  - (ii) [section 184\(2\)](#);
  - (iii) [section 217\(5\)](#);
  - (iv) [section 219\(1\)](#), or
- (b) the members have a special additional top-up tax amount under [section 192](#) for the current period.
- (2) Where—
- (a) the sum of the top-up amounts that those members would have for a prior period, determined in accordance with a recalculation required under one of the sections mentioned in [subsection \(1\)\(a\)](#), is greater than the sum of the top-up amounts those members had for that prior period, or
- (b) [this section](#) applies as a result of [subsection \(1\)\(b\)](#) (whether or not it also applies as a result of [subsection \(1\)\(a\)](#)),
- the members collectively have an additional top-up amount (a “collective additional amount”) under [this section](#) for the current period.
- (3) Take the following steps to determine the collective additional amount under [this section](#)—

*Step 1*

Where one or more recalculations are required in accordance with any of the sections mentioned in [subsection \(1\)\(a\)](#), for each prior period carry out the recalculation or recalculations required in respect of that period to establish the top-up amounts those members would have had for the prior period (taking account of all recalculations required for that period).

*Step 2*

For each prior period, subtract the sum of the top-up amounts those members had for that prior period from the sum of top-up amounts that those members would have for that period.

*Step 3*

Add together all of the results of Step 2 that are greater than nil.

*Step 4*

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Where the members have a special additional top-up tax amount under [section 192](#) for the current period, add that amount to the result of Step 2 (which may be nil).

(4) Where those members have a QDT credit for the accounting period, the collective additional amount under [this section](#) is to be reduced in accordance with [subsections \(5\) to \(8\)](#).

(5) Where—

- (a) the standard members do not have a collective additional amount under [section 203](#) for the period,
- (b) the total top-up amount for the current period for the members for the members' territory is nil, and
- (c) the collective additional amount under [this section](#) (before reduction by relevant QDT credit) is equal to or greater than the sum of amounts of qualifying domestic top-up tax accrued by those members in that period,

the collective additional amount under [this section](#) is to be reduced by the sum of those accrued amounts.

(6) Where—

- (a) the standard members do not have a collective additional amount under [section 203](#) for the period,
- (b) the total top-up amount for the current period for the standard members in the territory is nil, and
- (c) the collective additional amount under [this section](#) (before reduction by relevant QDT credit) is less than the sum of amounts of qualifying domestic top-up tax accrued by those members in that period,

the collective additional amount under [this section](#) is to be reduced to nil.

(7) Where—

- (a) the standard members have a collective additional amount under [section 203](#) for the period or the total top-up amount for the current period for members for the members' territory is greater than nil, and
- (b) the sum of the collective additional amount under [this section](#) (before reduction by relevant QDT credit), any collective additional amount under [section 203](#) and the total top-up amount for the current period for the members for the member's territory is less than the sum of amounts of qualifying domestic top-up tax accrued by those members in that period,

the collective additional amount under [this section](#) is to be reduced to nil.

(8) Where—

- (a) the standard members have a collective additional amount under [section 203](#) for the period or the total top-up amount for the current period for members for the members' territory is greater than nil, and
- (b) the sum of the collective additional amount under [this section](#) (before reduction by relevant QDT credit), any collective additional amount under [section 203](#) and the total top-up amount for the current period for the members for the member's territory is equal to or greater than the sum of amounts of qualifying domestic top-up tax accrued by those members in that period,

the collective additional amount under [this section](#) is to be reduced by the amount given by multiplying the sum of those amounts of qualifying domestic top-up tax

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by the amount given by dividing the collective additional amount under [this section](#) by the sum of that collective additional amount, any collective additional amount under [section 203](#) and the total-up amount for the current period.

## 207 Allocation of collective additional amounts under [section 206](#) to members

- (1) Where the standard members of a multinational group in a territory have a collective additional amount under [section 206](#) for an accounting period (“the current period”), that amount is to be allocated to those members as follows—

*Step 1*

Determine the sum of the top-up amounts that those members would have (in prior accounting periods) in accordance with the recalculation, or recalculations, that relate to that collective additional amount.

*Step 2*

Determine the sum of the top-up amounts that each of those members would have in accordance with the recalculation, or recalculations, that relate to the collective additional amount.

*Step 3*

For each member where the result of Step 2 is greater than nil, divide that result by the result of step 1.

*Step 4*

Each such member has an additional top-up amount under [this section](#) equal to the amount given by multiplying the collective additional amount by the result of Step 3 for that member.

- (2) [Chapter 7](#) (allocation of top-up amounts to responsible members)—
- (a) applies to an additional top-up amount allocated to a member of a multinational group under [this section](#) as it applies to a top-up amount of that member, and
  - (b) if the result of Step 2 in [section 132\(1\)](#) in relation to the standard members of the group for the current period is nil or less (those members between them have made a loss), has effect as if the adjusted profits of that member were the amount given by dividing the additional top-up amount by 15%.

### *Restructuring of groups*

## 208 Member joining or leaving multinational group

- (1) [Subsection \(2\)](#) applies to an entity where, in an accounting period (“the transfer period”) of a multinational group, the entity—
- (a) becomes a member of that multinational group (including, where it was previously a member of a different group, as a result of it becoming the ultimate parent of a new group), or
  - (b) ceases to be a member of that multinational group.
- (2) The entity is to be treated as a member of that group for the whole of the transfer period (whether or not that results in it being treated as a member of two or more groups) if any portion of its assets, liabilities, income, expenses or cash flows are included on a line-by-line basis in the consolidated financial statements of the ultimate parent for that period.

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- (3) But in applying [this Part](#) in relation to the entity as a member of the multinational group it has become or ceased to be a member of, only its profits, covered taxes and (where applicable) eligible payroll costs that are taken into account in the consolidated financial statements of the ultimate parent are to be taken account of.
- (4) Any purchase accounting consolidation adjustments arising from the transfer of the ownership interests resulting in an entity becoming a member of a multinational group are to be ignored in determining the adjusted profits and covered tax balance of that entity as a member of that group in the transfer period and in subsequent accounting periods.
- (5) When (where applicable) determining the eligible tangible asset amount of an entity that becomes a member of a multinational group as a member of that group in the transfer period, adjust that amount by multiplying it by the amount given by dividing the number of days in the post-transfer period by the number of days in the transfer period.
- (6) For the purposes of [subsection \(5\)](#) the “post-transfer period” means the period beginning with the day on which the member became or (as the case may be) ceased to be a member of a multinational group and ending with the last day of the transfer period.
- (7) When (where applicable) determining the eligible tangible asset amount of an entity that ceased to be a member of a multinational group as a member of that group in the transfer period, adjust that amount by multiplying it by the amount given by dividing the number of days in the pre-transfer period by the number of days in the transfer period.
- (8) For the purposes of [subsection \(7\)](#) the “pre-transfer period” means the period beginning with the commencement of the transfer period and ending with the day before the day on which the ownership interests were transferred.
- (9) [Subsections \(10\) and \(11\)](#) apply where an entity that becomes a member of a multinational group (“group A”) as a result of a transfer of direct or indirect ownership interests in it was a member of another multinational group immediately before the transfer (“group B”).
- (10) The amount of deferred tax assets and tax liabilities (which for these purposes does not include a special loss deferred tax asset) of the entity that existed immediately before the transfer to be taken into account in relation to that entity as a member of group A is the amount that would have been taken into account had group A had a controlling interest in the entity at the time the assets and liabilities arose.
- (11) Where a deferred tax liability of the entity was included in the total deferred tax adjustment amount for that member in group B—
  - (a) that deferred tax liability is to be deemed to have reversed without the need to reflect the reversal in any calculation made for the purposes of [this Part](#) in relation to group B, and
  - (b) the deferred tax liability is to be treated as arising in the transfer period for the purpose of determining the total deferred tax adjustment amount for the member in group A,
  - (c) any resulting reduction in the covered tax balance of the entity as a member of group A (see [sections 182 and 184](#)) is only to have effect in the accounting period in which the deferred tax liability is recaptured.

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## 209 When transfer of controlling interest treated as acquisition of assets and liabilities

- (1) [This section](#) applies to the acquisition or disposal of a controlling interest in a member of a multinational group where—
  - (a) the acquisition or disposal of that controlling interest is treated in the same, or a similar manner, as a transfer of assets and liabilities of the member (rather than ownership interests in it) by—
    - (i) in the case of the acquisition or disposal of a controlling interest in an entity which is tax transparent under the law of the territory in which it was created, the territory in which the assets are located, or
    - (ii) in any other case, the territory in which the member is located, and
  - (b) that territory imposes a covered tax on the seller based on the difference between the tax basis and either the consideration paid in exchange for the controlling interest or the fair value of the assets and liabilities.
- (2) Where [this section](#) applies to an acquisition or disposal of a controlling interest in a member of a multinational group, that acquisition or disposal is to be treated as an acquisition or disposal of the assets and liabilities of the member (and accordingly, [section 208](#) will not apply in relation to that transfer).
- (3) Any covered tax arising in relation to the disposal of a controlling interest in a member of a multinational group described in subsection (1)(b) is to be included in the covered tax balance of that member.

## 210 Transfer of assets or liabilities from a member of a multinational group

- (1) Where a member of a multinational group transfers assets or liabilities to another entity in the course of a qualifying reorganisation (see [section 212](#)), any gain or loss on the transfer is to be excluded from the adjusted profits of the member, except to the extent it is a non-qualifying gain or loss.
- (2) In [this section](#), and in [sections 211](#) and [212](#), “non-qualifying gain or loss” means a gain or loss of the transferee on the transfer of assets or liabilities, and is the lesser of—
  - (a) the amount of that gain or loss that is subject to tax in the territory the transferee is located in, and
  - (b) the amount of that gain or loss reflected in the underlying profits accounts of the transferee.

## 211 Transfer of assets or liabilities to a member of a multinational group

- (1) Where there has been a transfer of assets or liabilities to a member of a multinational group—
  - (a) if the transfer forms part of a qualifying reorganisation (see [section 212](#)), the value of the assets or liabilities is, for the purpose of determining the adjusted profits of the member, the carrying value of the assets or liabilities in the hands of the transferor immediately before the transfer, or
  - (b) otherwise, the value of the assets or liabilities, for that purpose, is the carrying value of the assets or liabilities immediately after the transfer as determined under the accounting standard used in determining the underlying profits of the member for the purposes of [this Part](#) and subject to the adjustments to those profits made in accordance with [Chapter 4](#).



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- (2) But [subsection \(3\)](#) applies where—
  - (a) [subsection \(1\)\(b\)](#) applies to the transfer,
  - (b) the transfer is from another member of the group, and
  - (c) neither a gain nor a loss is recorded in the underlying profits accounts of the transferor in respect of that transfer.
- (3) Where [this subsection](#) applies the adjusted profits of both the transferor and the transferee are to be adjusted to secure that the transfer is reflected on an arm's length basis (see [section 149\(7\)](#)).
- (4) Where a member of a multinational group transfers assets or liabilities to another entity in the course of a qualifying reorganisation, and recognises a non-qualifying gain or loss as a result of that transfer—
  - (a) that gain or loss, to the extent it is non-qualifying, is to be included in the adjusted profits of the member, and
  - (b) where the other entity is a member of a multinational group, the value of the assets or liabilities is, for the purposes of determining the adjusted profits of that member, to be adjusted to exclude the non-qualifying gain or loss in a manner consistent with the tax treatment of the assets or liabilities.

## 212 Meaning of “qualifying reorganisation”

- (1) For the purposes of [sections 210](#) and [211](#), a transfer of assets or liabilities is made in the course of a qualifying reorganisation if the transfer takes place as a result of a merger, de-merger, liquidation or a change in form of an entity, or a similar event, and conditions A, B and C are met.
- (2) Condition A is that—
  - (a) any consideration for the transfer is, or the transfer involves, wholly or mostly equity interests issued by the transferee, or by a person connected with the transferee,
  - (b) in the case of a liquidation, any consideration for the transfer is, or the transfer involves, wholly or mostly, the cancellation of equity interests in the entity subject to the liquidation, or
  - (c) the reorganisation does not result in a change in the ownership of an entity.
- (3) Condition B is that any gain or loss of the transferor that arises from the transfer is not, in whole or in part, subject to tax.
- (4) Condition C is that, under the law of the territory the transferee is located in, the value of the assets or liabilities for the purpose of determining the transferee's taxable income is the tax basis value of the assets or liabilities in the hands of the transferor, adjusted for any non-qualifying gain or loss.
- (5) Sections 719 to 724A of CTA 2010 (change in company ownership) have effect for the purposes of determining whether there has been a change in ownership of an entity as if—
  - (a) references in those sections to “company” were to “entity”;
  - (b) references in those sections to ordinary share capital or shares (however expressed), in relation to a company, were to ownership interests in an entity;
  - (c) in section 721—
    - (i) in subsection (1), “for the purposes of Chapters 2 to 5A” were omitted,

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- (ii) in subsection (3), for the words from “major change” to the end there were substituted “a change in the ownership of the company”,
- (iii) in subsection (4), the words from “for” to “5A” were omitted,
- (iv) in that subsection, paragraph (a) were omitted, and
- (v) in that paragraph (a) of that subsection, for “share capital” there were substituted “ownership interests”;
- (d) section 722, and references to it in those sections, were omitted;
- (e) in section 724—
  - (i) in subsection (2) for “conditions A, B and C are met” there were substituted “the parent entity has at least 75% of the ownership interests in the subsidiary entity”, and
  - (ii) subsections (3) to (6) were omitted;
- (f) in section 724A—
  - (i) in subsection (1), in the words before paragraph (a), “for the purposes of Chapters 2 to 6” were omitted, and
  - (ii) in that subsection, paragraphs (b) and (c) were omitted, and
  - (iii) subsection (8) were omitted.

*Elections in relation to investment entities*

### **213 Investment entity tax transparency election**

- (1) The filing member of a multinational group may make an investment entity tax transparency election in relation to a member of the group that is an investment entity (“M”) and a member of the group with ownership interests in that entity (“O”).
- (2) For the purposes of determining whether O has ownership interests in M, only interests that give rise to a share of profits are to be taken into account.
- (3) An investment entity tax transparency election is an election that, for the purposes of sections 168 (underlying profits of transparent entities) and 178 (covered taxes of transparent entities)—
  - (a) M is to be treated as a flow-through entity,
  - (b) M is to be treated as regarded as tax transparent in the territory of O, and
  - (c) O is to be treated as having direct ownership interests in M.
- (4) To determine the percentage of direct ownership interest O is to be treated as having in M, section 246(1) applies as if paragraph (b) were omitted, and for those purposes only interests that give rise in a share of profits are relevant.
- (5) The filing member may only make such an election if—
  - (a) an election under section 214 is not in effect in relation to M and O, and
  - (b) either—
    - (i) O is subject to tax (in the territory in which O is located) on increases in the fair value of its ownership interests in M, and the rate of tax applicable to such increases is equal to or exceeds 15%, or
    - (ii) O is a regulated mutual insurance entity.
- (6) An entity is a “regulated mutual insurance entity” if—
  - (a) it is regulated or authorised to carry on insurance business, and

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- (b) it is wholly owned by persons with which it has entered into insurance contracts.
- (7) Paragraph 1 of [Schedule 15](#) (long term elections) applies to an election under this section.
- (8) Subsection (9) applies where—
  - (a) an election under this section has been revoked, and
  - (b) the adjusted profits of M fall to be determined for the first accounting period in respect of which the election no longer applies (the “revocation period”).
- (9) In determining those profits, the value of any gain or loss from the disposition of an asset or liability by M is to be determined by reference to the fair value of the asset or liability as at the first day of the revocation period.
- (10) Subsection (11) applies where—
  - (a) an election under this section has been revoked, and
  - (b) the adjusted profits of M fall to be determined for an accounting period—
    - (i) after the revocation period, but
    - (ii) before an accounting period for which a further election under this section has been made.
- (11) In determining those profits, the value of any gain or loss from the disposition of an asset or liability by M is to be determined by reference to—
  - (a) if M’s assets and liabilities are accounted for on a realisation basis, the fair value of the asset or liability as at the first day of the revocation period;
  - (b) if M’s assets and liabilities are accounted for on a fair value basis, the fair value of the asset or liability as accounted for at the end of the previous accounting period.

## **214 Taxable distribution method election**

- (1) The filing member of a multinational group may elect that a member of the group (an “owner”) with direct ownership interests in an investment entity that is a member of the group is to have those interests treated in accordance with this section.
- (2) The filing member may only make such an election if—
  - (a) an election under section 213 is not in effect in relation to the owner,
  - (b) the owner is not itself an investment entity, and
  - (c) the owner can reasonably be expected to be subject to tax (in the territory in which it is located) on distributions from the entity at a rate equal to or exceeding 15%.
- (3) If an election is made under this section, in calculating amounts under this Part—
  - (a) distributions and deemed distributions from the investment entity to the owner in an accounting period are to be included in the adjusted profits of the owner in that period;
  - (b) credit the owner receives to reduce the tax payable by the owner in an accounting period to reflect tax payable or to be paid by the entity in that period is to be included in the adjusted profits of the owner in that period;

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- (c) if the owner receives such credit, such tax payable or to be paid by the entity in an accounting period is to be taken into account in determining the covered tax balance of the owner in that period.
- (4) If an election is made under this section—
  - (a) an undistributed income amount for the entity for an accounting period is to be determined under section 215, and
  - (b) any positive undistributed income amount is to be added to the top-up amount of that entity as determined under section 220(1) (see section 220(2)).
- (5) Paragraph 1 of Schedule 15 (long term elections) applies to an election under this section.
- (6) Subsection (7) applies where—
  - (a) an election under this section has been revoked, and
  - (b) the adjusted profits of the investment entity fall to be determined under section 220 for the first accounting period in respect of which the election no longer applies.
- (7) Those profits are to include any positive undistributed income amount for the entity for the previous accounting period.

## 215 Undistributed income amount

- (1) The undistributed income amount for an investment entity for an accounting period is the entity’s adjusted profits for the income period less the amounts referred to in subsection (2).
- (2) The amounts are—
  - (a) the covered taxes payable by the entity (determined in accordance with Chapter 5) in the income period;
  - (b) distributions and deemed distributions paid by the entity and received by shareholders other than other investment entities in the review period;
  - (c) if, on determining the adjusted profits for the accounting periods in the review period, the entity has made a loss for one or more of those periods the made a loss, the sum of those losses;
  - (d) the investment loss carry-forward amount for the review period.
- (3) But an amount referred to in subsection (2) is not to be deducted from the undistributed income amount for an accounting period if it has already been deducted from the undistributed income amount for a previous accounting period.
- (4) In this section—
  - (a) the “income period” is the third accounting period before the accounting period for which the undistributed income amount falls to be determined;
  - (b) the “review period” is the period beginning with the first day of the income period and ending with the last day of the accounting period for which the undistributed income amount falls to be determined;
  - (c) a “deemed distribution” is an amount arising from the transfer of an ownership interest held by the owner to a person that is not a member of the group;
  - (d) the amount of a deemed distribution is to be calculated as the undistributed income amount for the accounting period in which the transfer occurs (disregarding the deemed distribution) multiplied by the transfer factor;

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- (e) the transfer factor is the value of the ownership interest transferred divided by the sum of that value and the value of the remaining ownership interest held by the owner;
- (f) the “investment loss carry-forward amount” for a review period is the amount of any losses not deducted from the undistributed income amount for any accounting period preceding the review period.

#### *Other adjustments*

### **216 Election where assets and liabilities adjusted to fair value for tax purposes**

- (1) [This section](#) applies to a member of a multinational group if the filing member has made an election under [this section](#) in respect of a relevant tax adjustment made in an accounting period (“the adjustment period”) in relation to that member.
- (2) A “relevant tax adjustment” is an adjustment to the value of assets or liabilities of a member of a multinational group for tax purposes so that they reflect fair value that is required or permitted, under the law of the territory the member is located in, as a result of the occurrence of an event.
- (3) But adjustments made in connection with transfer pricing, or in connection with the sale of assets in the course of carrying on a trade, are not relevant tax adjustments.
- (4) Where [this section](#) applies to the member—
  - (a) the member has an adjustment amount in respect of each asset or liability that is subject to the relevant adjustment, and
  - (b) the value of an asset or liability subject to the relevant adjustment is to be treated, for the purpose of determining the member’s adjusted profits in the adjustment period and subsequent accounting periods, as its fair value immediately after occurrence of the event that caused, or enabled, the adjustment to be made.
- (5) An adjustment amount is to be—
  - (a) included in the adjusted profits of the member for the adjustment period, or
  - (b) split into 5 equal amounts to be included in the adjusted profits of the member in that period and the subsequent 4 accounting periods.
- (6) But where the adjustment amount is split between those accounting periods and the member leaves the multinational group before the end of the 4th subsequent accounting period, any amount of the adjustment amount that has not been included in the adjusted profits of the member for a previous accounting period is to be included in the adjusted profits of the member for the final accounting period in which it was a member of the group.
- (7) The adjustment amount of a member of a multinational group in respect of an asset or liability subject to a relevant adjustment is the amount given by—
  - (a) subtracting the carrying value of the asset or liability immediately before the event that caused, or enabled, the adjustment to be made from the fair value of the asset immediately after occurrence of that event, and
  - (b) if that event resulted in a non-qualifying gain or loss (within the meaning given by [section 210\(2\)](#)) for the member—
    - (i) in the case of a non-qualifying gain, reducing the result of paragraph (a) by the amount of that gain, or

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(ii) in the case of a non-qualifying loss, increasing the result of paragraph (a) by the amount of that loss.

(8) Paragraph 2 of Schedule 15 (annual elections) applies to an election under this section.

## 217 Post filing adjustments of covered taxes

- (1) This section applies where, in an accounting period (“the current period”), the liability of a member of a multinational group to covered taxes for a prior accounting period (“the prior period”) as reflected in an information return, overseas information return or self-assessment return (see Schedule 14) has increased or decreased.
- (2) Subsection (4) applies where—
  - (a) that liability has increased, or
  - (b) that liability has decreased and the decrease is to be treated as insignificant.
- (3) Subsection (5) applies where that liability has decreased, unless the decrease is to be treated as insignificant.
- (4) Where this subsection applies, the covered tax balance of the member for the current period is to be adjusted so as to reflect the amount of that increase or decrease if not already reflected in that balance.
- (5) Where this subsection applies—
  - (a) the following are to be recalculated for the prior period to take account of the decrease—
    - (i) the effective tax rate for the member and the other members of that group located in the same territory,
    - (ii) the top-up amounts that those members would have, and
    - (iii) if the liability to covered taxes has decreased because of a reduction of the member’s profits, its adjusted profits but only to the extent necessary to prevent the effective tax rate from decreasing,
  - (b) the adjusted profits of those members in subsequent accounting periods are to be adjusted in consequence of the decrease, and the matters referred to in paragraph (a) recalculated accordingly, and
  - (c) if the amount of the decrease is reflected in the covered tax balance of the member for the current period, that balance is to be adjusted to exclude it.
- (6) Section 206 applies to a recalculation under subsection (5).
- (7) Where subsection (5) applies in relation to a decrease in liability to covered taxes that arises as a result of the member offsetting a loss in a later accounting period against profits in the prior period, the member is treated for the purposes of this Part—
  - (a) as having a deferred tax asset that arises in the later period that is equal to the amount offset multiplied by the lesser of—
    - (i) 15%, and
    - (ii) the tax rate that applied to the profits the amount was offset against, and
  - (b) as having used that asset in the prior accounting period.
- (8) For the purposes of this section, a decrease of liability is to be treated as insignificant if—

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- (a) the aggregate decrease in liability for covered taxes for the prior period is less than 1 million euros, and
- (b) the filing member has made an election for decreases in the prior period to be treated as insignificant.

Paragraph 2 of Schedule 15 (annual elections) applies to an election under [this subsection](#).

## **218 Effect of rate changes to deferred tax expense**

### (1) Where—

- (a) the rate of tax for a member of a multinational group changes in an accounting period,
- (b) the change in rate is to some extent relevant, and
- (c) the effect of the rate change would reduce the member's covered tax balance in a previous accounting period if the deferred tax expense in that period were recalculated to take account of the change in the rate,

[section 217](#) applies to so much of that reduction as reflects the extent of the change in rate that is relevant as it applies to a decrease in liability to covered taxes.

### (2) Where—

- (a) the rate of tax for a member of a multinational group changed in a previous accounting period,
- (b) the change in rate is to some extent relevant,
- (c) the member's deferred tax expense for the current accounting period reflects the reversal of deferred tax assets or liabilities that were recognised in an accounting period prior to the rate change at a different rate, and
- (d) the effect of the rate change would increase the member's covered tax balance in a previous accounting period if the deferred tax expense in that period were recalculated to take account of the change in the rate,

[section 217](#) applies to so much of that increase as reflects the extent of the change in rate that is relevant as it applies to an increase in liability to covered taxes.

### (3) For the purposes of [subsections \(1\)](#) and [\(2\)](#), a change of a rate of tax is relevant to the extent that—

- (a) in the case of a rate that is increasing, it reflects an increase from below 15% to the lesser of—
  - (i) the rate it is changed to, and
  - (ii) 15%, and
- (b) in the case of a rate that is decreasing, it reflects a decrease from the lesser of—
  - (i) the previous rate, and
  - (ii) 15%.

## **219 Adjustment where covered taxes not paid**

- (1) Where an amount of current tax expense included in the covered tax balance of a member of a multinational group for an accounting period is not paid before the end of the period of 3 years commencing with the last day of that accounting period, the following are to be recalculated excluding that amount—

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- (a) the effective tax rate for the member and the other members of that group located in the same territory, and
  - (b) the top-up amounts that those members would have.
- (2) But [subsection \(1\)](#) does not apply unless the total of amounts included in the covered tax balance for that accounting period which are not paid before the end of that 3 year period exceeds 1 million euros.
- (3) [Section 206](#) applies to a recalculation under [subsection \(1\)](#).



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