



Subsidy Control Act 2022

2022 CHAPTER 23

PART 1

OVERVIEW AND KEY INTERPRETATION

“Subsidy”

4 Financial assistance which is specific

- (1) This section makes provision about determining whether financial assistance is specific for the purposes of section 2(1)(c).
- (2) Financial assistance is not to be regarded as being specific if the distinction in the treatment of enterprises is justified by principles inherent to the design of the arrangements of which that financial assistance is part.
- (3) For the purposes of subsection (2) as it applies to financial assistance given in the form of a tax measure, the following are examples of the principles that may be relevant in a particular case—
 - (a) the need to fight fraud or tax evasion;
 - (b) administrative manageability;
 - (c) the avoidance of double taxation;
 - (d) the principle of tax neutrality;
 - (e) the progressive nature of income tax and its redistributive purpose;
 - (f) the need to respect taxpayers’ ability to pay.
- (4) Financial assistance given by a public authority in the form of a tax measure is not to be regarded as being specific unless—
 - (a) one or more enterprises obtain a reduction in the tax liability that it or they would otherwise have borne under the normal taxation regime, and
 - (b) that enterprise or those enterprises are treated more advantageously than one or more other enterprises in a comparable position under the normal taxation regime.

Status: This is the original version (as it was originally enacted).

- (5) For the purposes of subsection (4), the normal taxation regime is to be identified from—
- (a) the internal objective of the regime,
 - (b) the features of the regime (such as the tax base, the taxable person, the taxable event or the tax rate), and
 - (c) the fact that the public authority whose regime it is—
 - (i) is autonomous institutionally, procedurally, economically and financially as regards the regime, and
 - (ii) has the competence to design the features of the regime.
- (6) A special purpose levy is not to be regarded as being specific if—
- (a) its design is determined by non-economic public policy objectives (such as the need to limit the negative impacts of certain activities or products on the environment or human health), and
 - (b) the public policy objectives are not discriminatory.
- (7) The forgoing of an amount of special purpose levy which is otherwise due is not to be regarded as being specific if the provision enabling the forgoing of that amount satisfies the conditions in subsection (6)(a) and (b).