



# Finance (No. 2) Act 2023

## 2023 CHAPTER 30

### PART 3

#### MULTINATIONAL TOP-UP TAX

### CHAPTER 4

#### CALCULATION OF ADJUSTED PROFITS OF MEMBERS OF A MULTINATIONAL GROUP

##### *Adjusted profits of a member of a multinational group*

#### **135 Underlying profits of permanent establishments**

- (1) The underlying profits of a member of a multinational group that is a permanent establishment are the member's profits—
  - (a) if the member has separate financial accounts, as reflected in those accounts, and
  - (b) if not, as reflected in the underlying profits accounts of the main entity, attributed between the permanent establishment and the main entity in accordance with [section 159](#).
- (2) If the member is a permanent establishment falling within [paragraph \(d\)](#) of [section 232\(2\)](#) (income of permanent establishment exempt from tax in territory of main entity) the member's underlying profits are determined only by reference to its relevant income and relevant expenses.
- (3) For the purposes of [subsection \(2\)](#)—
  - (a) the relevant income of the member is the income of the member that is exempted from tax in the territory where the main entity is located that is attributable to operations carried out outside the territory the main entity is located in, and

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*Status: This is the original version (as it was originally enacted).*

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- (b) the relevant expenses of the member are such of its expenses as are attributable to those operations and are not deducted for tax purposes in the territory of the main entity.
- (4) Profits (as determined in accordance with this Part) of a permanent establishment are not to be taken into account in determining the adjusted profits of the main entity, and vice versa.
- (5) But [subsection \(4\)](#)—
  - (a) does not apply to profits of a permanent establishment that are excluded from its profits as a result of an adjustment under [section 159](#), and
  - (b) is subject to [section 160](#) (attribution of losses between permanent establishment and main entity).