



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

Elections to treat certain amounts differently

165 Election to have excluded equity gains and losses included

- (1) The filing member of a multinational group may elect that qualifying excluded equity gains or losses of the standard members of the group in a territory are to be treated as not being excluded equity gains or losses for the purposes of [section 142](#).
- (2) Excluded equity gains or losses are “qualifying” if
 - [^{F1}(a) either—
 - [^{F2}(i)] those gains or losses are subject to covered taxes (as taxable gains or allowable losses) in that territory, or
 - [^{F2}(ii)] in the case of gains or losses falling within [section 142\(2\)\(a\)](#) that are not subject to covered taxes in that territory, gains or losses on the disposal of the qualifying interest in question are subject to covered taxes in that territory [^{F3}, and
 - (b) in the case of gains or losses falling within [section 142\(2\)\(b\)](#), the gains or losses are not in respect of an interest to which [section 142\(3\)](#) applies.]
- (3) Paragraph 1 of [Schedule 15](#) (long term elections) applies to an election under [subsection \(1\)](#).
- (4) But a revocation of the election under that paragraph does not have effect in relation to equity gains or losses in respect of an ownership interest if—

Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 2023, Section 165. (See end of Document for details)

- (a) any member's adjusted profits have included a loss in respect of that ownership interest as a result of [subsection \(1\)](#), and
- (b) that loss would otherwise have been excluded from those profits as a result of [section 142\(1\)](#).

Accordingly, [subsection \(1\)](#) will apply to equity gains and losses in respect of that ownership interest even after the election is revoked.

Textual Amendments

- F1** Words in [s. 165\(2\)](#) inserted (22.2.2024 with effect for accounting periods beginning on or after 31.12.2023 in accordance with Sch. 12 para. 1(2) of the amending Act) by [Finance Act 2024 \(c. 3\)](#), [Sch. 12 para. 50\(6\)\(a\)](#)
- F2** [S. 165\(2\)\(a\)\(b\)](#) become [s. 165\(2\)\(a\)\(i\)\(ii\)](#) (22.2.2024 with effect for accounting periods beginning on or after 31.12.2023 in accordance with Sch. 12 para. 1(2) of the amending Act) by [Finance Act 2024 \(c. 3\)](#), [Sch. 12 para. 50\(6\)\(b\)](#)
- F3** [S. 165\(2\)\(b\)](#) and word inserted (22.2.2024 with effect for accounting periods beginning on or after 31.12.2023 in accordance with Sch. 12 para. 1(2) of the amending Act) by [Finance Act 2024 \(c. 3\)](#), [Sch. 12 para. 50\(6\)\(c\)](#)

Changes to legislation:

There are currently no known outstanding effects for the Finance (No. 2) Act 2023, Section 165.