



Finance (No. 2) Act 2023

2023 CHAPTER 30

PART 3

MULTINATIONAL TOP-UP TAX

CHAPTER 5

COVERED TAX BALANCE

[^{F1}Tax equity partnerships

[^{F1}176D Tax credits etc allocated under tax equity partnerships

- (1) Where—
 - (a) a member of a multinational group is an investor in a tax equity partnership arrangement, and
 - (b) an election under section 165 (excluded equity gains and losses included) applies in relation to the member for an accounting period,qualifying flow-through tax benefits provided to the member under that arrangement in that period are to be excluded from the covered tax balance of that member for that period.
- (2) “Flow-through tax benefits” means tax credits, other than qualifying refundable tax credits, and the value of amounts of tax deductible losses made available to be used by an investor in a tax equity partnership arrangement under that arrangement (whether or not those credits or losses are used by the investor).
- (3) Section 176E (proportional amortisation method) applies for the purposes of determining the extent to which flow-through tax benefits are “qualifying” where—
 - (a) in determining the underlying profits of the investor, the proportional amortisation method is used to account for the arrangement, or

Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 2023, Section 176D. (See end of Document for details)

- (b) the filing member of the multinational group of which the investor is a member has elected that section 176D should apply for those purposes in relation to the member.
- (4) Otherwise, section 176F (subtraction method) applies for those purposes.
- (5) For the purposes of this Part, a member of a multinational group is an investor in a tax equity partnership arrangement if—
- (a) the member has made an investment in an entity that is tax transparent in the territory in which the member is located,
 - (b) the investment is treated as an equity interest for tax purposes in the territory in which the member is located,
 - (c) the investment would, under an authorised accounting standard of the territory in which the entity operates, be treated as an equity interest,
 - (d) the entity is not a member of the multinational group, and
 - (e) it is reasonable to expect, at the time of making the investment, that the return on the investment would be negative in the absence of the provision of flow-through tax benefits.
- (6) But a member of a multinational group is not to be regarded as an investor in a tax equity partnership arrangement if—
- (a) the investment in the entity does not represent a genuine economic interest in that entity such that the member is exposed to the possibility of a loss on the investment, or
 - (b) the territory in which the member is located limits the use of tax equity partnership arrangements to arrangements that involve a multinational group subject to multinational top-up tax or its equivalent under the law of a territory outside the United Kingdom.
- (7) Flow-through tax benefits provided to a member of a multinational group in an accounting period that are not qualifying are to be reflected as a credit in the covered tax balance for that period.
- (8) Flow-through tax benefits (whether qualifying or not) provided to a member of a multinational group are not to be reflected in the underlying profits of that member, even if that would be the effect of the election under section 165.
- (9) For the purposes of subsection (3)(a), the “proportional amortisation method” means a method of accounting under which—
- (a) the initial capital investment in the arrangement is amortised over the term of the investment with the amortisation expense for an accounting period based on the proportion of the flow-through tax benefits expected to be provided over the term of the arrangement that are expected to be provided in that period, and
 - (b) the difference between the flow-through tax benefits received in an accounting period and that amortisation expense for that period is reflected as tax expense.
- (10) For the purposes of this section and sections 176E and 176F, the value of an amount of tax deductible losses made available to be used by an investor is given by multiplying the amount multiplied by the tax rate that applies to the investor.
- (11) Paragraph 2 of Schedule 15 (annual elections) applies to an election under subsection (3)(b).]

Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 2023, Section 176D. (See end of Document for details)

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Textual Amendments

- F1** Ss. 176D-176F and cross-heading 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. 16\(1\)](#)

Changes to legislation:

There are currently no known outstanding effects for the Finance (No. 2) Act 2023, Section 176D.