



Finance (No. 2) Act 2023

2023 CHAPTER 30

PART 3

MULTINATIONAL TOP-UP TAX

CHAPTER 6

CALCULATION OF TOP-UP AMOUNTS

196 Eligible payroll costs

- (1) The eligible payroll costs of a member for a period are all costs incurred by the member in the period in connection with the employment of an employee of that member, provided that—
 - (a) the employee is an individual,
 - (b) the costs are payable primarily in respect of work done in the course of the ordinary operating activities of the member or the group,
 - (c) those activities are substantially performed in the territory in which the member is located, and
 - (d) the costs are not excluded costs.
- (2) The costs may include in particular—
 - (a) salaries, wages and other expenditures that provide a direct and personal benefit to the employee,
 - (b) payroll and other employment taxes payable by the member, and
 - (c) social security contributions payable by the member.
- (3) “Employee” means—
 - (a) a person regarded as an employee under the law of the territory in which the member is located, and
 - (b) any other person while they are acting exclusively under the direction or control of the member or the group (including on a part-time basis),

Status: Point in time view as at 01/08/2023. This version of this provision has been superseded.

Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 2023, Section 196. (See end of Document for details)

and “employment” is to be construed accordingly.

- (4) “Excluded costs” are the following—
- (a) costs taken into account in determining the underlying profits of a permanent establishment of the member;
 - (b) costs taken into account in a carrying value used to calculate the eligible tangible asset amount (see section 197);
 - (c) costs that are core international shipping costs (see section 157);
 - (d) costs that are ancillary international shipping costs (see section 158), subject to subsections (5) and (6).
- (5) Where the member has an ancillary international shipping profit cap adjustment of more than nil for the period, only the eligible proportion of costs that are ancillary international shipping costs are excluded costs.
- (6) The eligible proportion is the proportion given by dividing—
- (a) the member’s ancillary international shipping profits for the period, by
 - (b) the amount given by subtracting the member’s ancillary international shipping costs from the member’s ancillary international shipping revenue for the period.

Status:

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Changes to legislation:

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