



# Finance (No. 2) Act 2023

## 2023 CHAPTER 30

### PART 3

#### MULTINATIONAL TOP-UP TAX

### CHAPTER 8

#### FURTHER ADJUSTMENTS

#### *Restructuring of groups*

#### **211 Transfer of assets or liabilities to a member of a multinational group**

[<sup>F1</sup>(1) Subsection (1A) applies where there has been a transfer of assets or liabilities to a member of a multinational group and—

- (a) the transfer forms part of a qualifying reorganisation (see section 212), or
- (b) the transferor is a member of the group and—
  - (i) the transferee is located in the same territory as the transferor,
  - (ii) the transferee and transferor are included in the same tax consolidation group in that territory (within the meaning of section 164(5)), and
  - (iii) an election under section 164 (election to exclude intra-group transactions) has effect in relation to those members at the time of the transfer.

(1A) The value of the assets or liabilities is, for the purpose of determining the adjusted profits of the member, the carrying value of the assets or liabilities in the hands of the transferor immediately before the transfer.

(1B) Subsection (1C) applies where there has been a transfer of assets or liabilities to a member of a multinational group and subsection (1A) does not apply.

*Status: Point in time view as at 22/02/2024.*

*Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 2023, Section 211. (See end of Document for details)*

- (1C) The value of the assets or liabilities is, for the purpose of determining the adjusted profits of the member, the carrying value of the assets or liabilities immediately after the transfer as determined under the accounting standard used in determining the underlying profits of the member for the purposes of this Part and subject to the adjustments to those profits made in accordance with Chapter 4.]
- (2) But [subsection \(3\)](#) applies where—
- (a) [<sup>F2</sup>subsection (1C) applies in relation] to the transfer,
  - (b) the transfer is from another member of the group, and
  - (c) neither a gain nor a loss is recorded in the underlying profits accounts of the transferor in respect of that transfer.
- (3) Where [this subsection](#) applies the adjusted profits of both the transferor and the transferee are to be adjusted to secure that the transfer is reflected on an arm's length basis (see [section 149\(7\)](#)).
- (4) Where a member of a multinational group transfers assets or liabilities to another entity in the course of a qualifying reorganisation, and recognises a non-qualifying gain or loss as a result of that transfer—
- (a) that gain or loss, to the extent it is non-qualifying, is to be included in the adjusted profits of the member, and
  - (b) where the other entity is a member of a multinational group, the value of the assets or liabilities is, for the purposes of determining the adjusted profits of that member, to be adjusted to exclude the non-qualifying gain or loss in a manner consistent with the tax treatment of the assets or liabilities.

#### Textual Amendments

- F1** S. 211(1)-(1C) substituted for s. 211(1) (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. 27\(a\)](#)
- F2** Words in s. 211(2)(a) substituted (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. 27\(b\)](#)

**Status:**

Point in time view as at 22/02/2024.

**Changes to legislation:**

There are currently no known outstanding effects for the Finance (No. 2) Act 2023, Section 211.