



Finance (No. 2) Act 2023

2023 CHAPTER 30

PART 3

MULTINATIONAL TOP-UP TAX

CHAPTER 8

FURTHER ADJUSTMENTS

Elections in relation to investment entities

213 Investment entity tax transparency election

- (1) The filing member of a multinational group may make an investment entity tax transparency election in relation to a member of the group that is an investment entity (“M”) and a member of the group with ownership interests in that entity (“O”).
- (2) For the purposes of determining whether O has ownership interests in M, only interests that give rise to a share of profits are to be taken into account.
- (3) An investment entity tax transparency election is an election that, for the purposes of sections 168 (underlying profits of transparent entities) and 178 (covered taxes of transparent entities)—
 - (a) M is to be treated as a flow-through entity,
 - (b) M is to be treated as regarded as tax transparent in the territory of O, and
 - (c) O is to be treated as having direct ownership interests in M.
- (4) To determine the percentage of direct ownership interest O is to be treated as having in M, section 246(1) applies as if paragraph (b) were omitted, and for those purposes only interests that give rise in a share of profits are relevant.
- (5) The filing member may only make such an election if—
 - (a) an election under section 214 is not in effect in relation to M and O, and

Status: This is the original version (as it was originally enacted).

- (b) either—
 - (i) O is subject to tax (in the territory in which O is located) on increases in the fair value of its ownership interests in M, and the rate of tax applicable to such increases is equal to or exceeds 15%, or
 - (ii) O is a regulated mutual insurance entity.
- (6) An entity is a “regulated mutual insurance entity” if—
 - (a) it is regulated or authorised to carry on insurance business, and
 - (b) it is wholly owned by persons with which it has entered into insurance contracts.
- (7) Paragraph 1 of [Schedule 15](#) (long term elections) applies to an election under this section.
- (8) Subsection (9) applies where—
 - (a) an election under this section has been revoked, and
 - (b) the adjusted profits of M fall to be determined for the first accounting period in respect of which the election no longer applies (the “revocation period”).
- (9) In determining those profits, the value of any gain or loss from the disposition of an asset or liability by M is to be determined by reference to the fair value of the asset or liability as at the first day of the revocation period.
- (10) Subsection (11) applies where—
 - (a) an election under this section has been revoked, and
 - (b) the adjusted profits of M fall to be determined for an accounting period—
 - (i) after the revocation period, but
 - (ii) before an accounting period for which a further election under this section has been made.
- (11) In determining those profits, the value of any gain or loss from the disposition of an asset or liability by M is to be determined by reference to—
 - (a) if M’s assets and liabilities are accounted for on a realisation basis, the fair value of the asset or liability as at the first day of the revocation period;
 - (b) if M’s assets and liabilities are accounted for on a fair value basis, the fair value of the asset or liability as accounted for at the end of the previous accounting period.