



Finance (No. 2) Act 2023

2023 CHAPTER 30

PART 4

DOMESTIC TOP-UP TAX

CHAPTER 1

INTRODUCTION

265 Introduction to domestic top-up tax

- (1) The purpose of [this Part](#) is to make provision for a qualified domestic minimum top-up tax within the meaning of the Pillar Two rules.
- (2) For that purpose, [this Part](#) makes provision for a tax payable in respect of qualifying entities (that will be located in the United Kingdom) whose rate of tax (as determined in accordance with [this Part](#)) is less than 15%.
- (3) The tax is to be known as “domestic top-up tax”.
- (4) [This Part](#) applies (with modifications) many of the provisions of [Part 3](#) (multinational top-up tax) for the purposes of—
 - (a) determining liability to domestic top-up tax, and
 - (b) administering domestic top-up tax.
- (5) Except where the contrary appears, expressions used in [this Part](#) and in [Part 3](#) (multinational top-up tax) have the same meaning in [this Part](#) as they have in [Part 3](#).

266 Qualifying entities

- (1) An entity is qualifying for an accounting period if it is not a DTT excluded entity or an investment entity, it meets condition A for that period and—
 - (a) if it is not a member of a group, it meets condition B for that period, or
 - (b) if it is a member of a group, it meets condition C for that period.

Status: This is the original version (as it was originally enacted).

- (2) Condition A is met by an entity for an accounting period if it is located in the United Kingdom in that period (see [section 239](#) in [Part 3](#)).
- (3) Condition B is met by an entity for an accounting period if the entity has revenue that exceeds the threshold set out in [subsection \(6\)](#) in at least 2 previous accounting periods of the previous 4 accounting periods.
- (4) For the purposes of condition B, the revenue of an entity that is not a member of a group is to be determined by reference to its qualifying financial statements.
- (5) Condition C is met by a member of a group for an accounting period if the members of the group have revenue that exceeds the threshold set out in [subsection \(6\)](#) in at least 2 previous accounting periods of the previous 4 accounting periods.
- (6) The threshold for an accounting period is the amount given by multiplying 750 million euros by the amount given by dividing the number of days in the accounting period by 365.
- (7) For the purposes of condition C, the revenue of the members of a group for a period is to be determined by reference to the consolidated financial statements of the ultimate parent for that period (see [sections 126\(2\)](#) and [249](#) in [Part 3](#)).
- (8) [Sections 130](#) and [131](#) in [Part 3](#) (change in composition of multinational groups) apply for the purpose of Condition C as if—
 - (a) references to “multinational group” were to “group”,
 - (b) in [section 130](#)—
 - (i) in [subsection \(1\)](#), for “condition A in [section 129\(2\)](#)” there were substituted “condition C in [section 266\(5\)](#)”,
 - (ii) in [subsection \(4\)](#), for “[section 129\(4\)](#)” there were substituted “[section 266\(6\)](#)”,
 - (c) in [section 131\(1\)](#)—
 - (i) for “[section 129](#)” there were substituted “[section 266](#)”,
 - (ii) for “[subsection \(2\)](#)” there were substituted “[subsection \(5\)](#)”,
 - (iii) for “condition A” there were substituted “condition C”, and
 - (iv) for “[section 129\(4\)](#)” there were substituted “[section 266\(6\)](#), and
 - (d) in [section 131\(2\)](#), for “condition A in [section 129\(2\)](#)” there were substituted “condition C in [section 266\(5\)](#)”
- (9) References in [this Part](#) to a “group” (other than in the expression “multinational group”) means a consolidated group (see [section 126\(2\)](#) in [Part 3](#)).
- (10) For the purposes of [this Part](#) “qualifying financial statements” in relation to an entity means—
 - (a) financial statements of the entity prepared in accordance with acceptable accounting standards, or
 - (b) where no such accounts were prepared, the statements that would have been prepared (whether or not the entity was required to prepare such statements) in accordance with an authorised accounting standard that is either—
 - (i) an acceptable accounting standard, or
 - (ii) a financial accounting standard whose application is adjusted to prevent material competitive distortions (see [section 249\(4\)](#)).

267 DTT excluded entities

- (1) An entity is a DTT excluded entity if—
 - (a) it falls within [subsection \(3\)](#) of [section 127](#) in [Part 3](#) (excluded entities),
 - (b) it is a member of a multinational group and falls within [subsection \(4\)](#) of that section, or
 - (c) it is a member of a group that is not a multinational group, but would fall within that subsection if that group were a multinational group.
- (2) A DTT excluded entity falling within subsection (1) (as well as not being a qualifying entity) is, for the purposes of the provisions of [this Part](#) other than [section 266](#) and [this section](#), to be treated as not being a member of any group.
- (3) A qualifying transformer vehicle that is not a member of a multinational group is also a DTT excluded entity.
- (4) In this section “qualifying transformer vehicle” means—
 - (a) a qualifying transformer vehicle within the meaning of the Risk Transformation (Tax) Regulations 2017 ([S.I. 2017/1271](#)), or
 - (b) a part of a protected cell company that is a qualifying transformer vehicle within the meaning of those Regulations.

268 Permanent establishments

Section [232\(3\)](#) (permanent establishment treated as distinct from entity it is a permanent establishment of) applies for the purposes of [this Part](#) as it applies for the purposes of [Part 3](#).