



# Finance (No. 2) Act 2023

## 2023 CHAPTER 30

### PART 3

#### MULTINATIONAL TOP-UP TAX

### CHAPTER 4

#### CALCULATION OF ADJUSTED PROFITS OF MEMBERS OF A MULTINATIONAL GROUP

##### *Adjusted profits of a member of a multinational group*

#### **134 Underlying profits as determined for statements of ultimate parent**

- (1) The normal rule is that the underlying profits of a member of a multinational group, other than a member that is a permanent establishment, are the member's profits as they would be determined for that member in preparing consolidated financial statements for the ultimate parent.
- (2) But those profits may instead be determined on the basis of an alternative accounting standard, and information in the separate financial accounts of the member, if all of the conditions in [subsection \(3\)](#) are met.
- (3) Those conditions are that—
  - (a) it is not reasonably practicable to determine those profits on the basis of the accounting standard used in the preparation of the consolidated financial statements of the ultimate parent,
  - (b) the alternative accounting standard is an acceptable accounting standard or an authorised accounting standard,
  - (c) the alternative accounting standard is that used for the financial accounts of the member, and
  - (d) the information in those accounts is reliable.

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**Changes to legislation:** *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance (No. 2) Act 2023. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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- (4) Where an alternative accounting standard is used and an amount relevant to the underlying profits of a member of a multinational group is recorded in a currency other than the currency used for the consolidated financial statements of the ultimate parent, that amount is to be converted to that currency for the purposes of [this Part](#).
- (5) [Subsection \(6\)](#) applies where the application of a particular policy of the alternative accounting standard in the determination of the profits of the member results in a significant accounting standard difference that would not arise if the accounting standard of the ultimate parent had been applied.
- (6) The underlying profits are to be adjusted to eliminate that difference (as if the accounting standard of the ultimate parent had been applied).
- (7) Information in the financial accounts of the member is “reliable” if an auditor applying the generally accepted auditing standards of a relevant territory would reasonably conclude the member has in place such processes relating to their preparation as are likely to make the information in the financial accounts a fair and accurate description of the income, expenses, assets and liabilities of that member.
- (8) For the purposes of [subsection \(7\)](#), the following are relevant territories—
  - (a) the territory in which the member is located;
  - (b) the territory in which the ultimate parent is located;
  - (c) if the member is a flow-through entity (see [section 168\(2\)](#)) that is a stateless entity, the territory in which it was created.
- (9) For the purposes of this section, reference to a “significant accounting standard difference” is to a difference of more than 1 million euros between the treatment of an amount in the financial accounts of a member of a multinational group and the consolidated financial statements of the ultimate parent that is not eliminated over time.

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 131(2)(3) substituted for s. 131(2) by 2024 c. 3 Sch. 12 para. 5(3)
- s. 147A inserted by 2024 c. 3 Sch. 12 para. 8(1)
- s. 148A-148C inserted by 2024 c. 3 Sch. 12 para. 8(3)
- s. 150(6A) inserted by 2024 c. 3 Sch. 12 para. 50(5)(b)
- s. 151(1)(c) and word inserted by 2024 c. 3 Sch. 12 para. 9(2)(d)
- s. 151(1)(aa) inserted by 2024 c. 3 Sch. 12 para. 9(2)(c)
- s. 151(6A) inserted by 2024 c. 3 Sch. 12 para. 9(4)
- s. 151(8) inserted by 2024 c. 3 Sch. 12 para. 9(6)
- s. 159(1)(a)(b) substituted for words by 2024 c. 3 Sch. 12 para. 12(2)
- s. 159(2)(a)(b) substituted for words by 2024 c. 3 Sch. 12 para. 12(3)
- s. 159(3)(a)(b) substituted for words by 2024 c. 3 Sch. 12 para. 12(4)
- s. 159(4) inserted by 2024 c. 3 Sch. 12 para. 12(5)
- s. 165(2)(a)(i)(ii) s. 165(2)(a)(b) become s. 165(2)(a)(i)(ii) by 2024 c. 3 Sch. 12 para. 50(6)(b)
- s. 168(12) inserted by 2024 c. 3 Sch. 12 para. 14(8)
- s. 170(2A) inserted by 2024 c. 3 Sch. 12 para. 14(9)(b)
- s. 176A-176C and cross-heading inserted by 2024 c. 3 Sch. 12 para. 8(6)
- s. 176D-176F and cross-heading inserted by 2024 c. 3 Sch. 12 para. 16(1)
- s. 178(1A)(1B) inserted by 2024 c. 3 Sch. 12 para. 17(4)
- s. 178(5)(6) inserted by 2024 c. 3 Sch. 12 para. 17(6)
- s. 179(1A) inserted by 2024 c. 3 Sch. 12 para. 17(7)(a)
- s. 179(3A)(3B) inserted by 2024 c. 3 Sch. 12 para. 17(7)(b)
- s. 180(8)(b)(ii)(iia) substituted for s. 180(8)(b)(ii) by 2024 c. 3 Sch. 12 para. 19(4)
- s. 183A inserted by 2024 c. 3 Sch. 12 para. 20(5)
- s. 195(7A) inserted by 2024 c. 3 Sch. 12 para. 25(1)
- s. 196(1)(e) and words inserted by 2024 c. 3 Sch. 12 para. 22(1)(b)
- s. 196(1A) inserted by 2024 c. 3 Sch. 12 para. 21(1)(b)
- s. 197(4)(d)(e) inserted by 2024 c. 3 Sch. 12 para. 23(b)
- s. 197(5)(c) and word inserted by 2024 c. 3 Sch. 12 para. 22(2)(e)
- s. 197(6A) inserted by 2024 c. 3 Sch. 12 para. 21(2)
- s. 197(7A) inserted by 2024 c. 3 Sch. 12 para. 24
- s. 197A inserted by 2024 c. 3 Sch. 12 para. 25(2)
- s. 198A inserted by 2024 c. 3 Sch. 12 para. 26
- s. 211(1)-(1C) substituted for s. 211(1) by 2024 c. 3 Sch. 12 para. 27(a)
- s. 213(6A) inserted by 2024 c. 3 Sch. 12 para. 28
- s. 232(3A) inserted by 2024 c. 3 Sch. 12 para. 4(6)
- s. 232A inserted by 2024 c. 3 Sch. 12 para. 2(2)
- s. 236(2A) inserted by 2024 c. 3 Sch. 12 para. 31(3)
- s. 251A inserted by 2024 c. 3 Sch. 12 para. 29(1)
- s. 253(2)(b)(va) inserted by 2024 c. 3 Sch. 12 para. 56(10)(c)(iii)
- s. 255(2A) inserted by 2024 c. 3 Sch. 12 para. 34(1)(a)
- s. 255(4)-(6) inserted by 2024 c. 3 Sch. 12 para. 34(1)(c)
- s. 256A inserted by 2024 c. 3 Sch. 12 para. 35(1)
- s. 262(1A)-(1D) inserted by 2024 c. 3 Sch. 12 para. 36
- s. 267(3A) inserted by 2024 c. 3 Sch. 12 para. 42(1)(a)
- s. 267(3B)-(3D) inserted by 2024 c. 3 Sch. 12 para. 43(1)(b)
- s. 267A inserted by 2024 c. 3 Sch. 12 para. 42(2)
- s. 268A inserted by 2024 c. 3 Sch. 12 para. 2(4)

- s. 272(8)(da) inserted by 2024 c. 3 Sch. 12 para. 44(1)
- s. 272(9)-(11) inserted by 2024 c. 3 Sch. 12 para. 43(3)(b)
- s. 272A inserted by 2024 c. 3 Sch. 12 para. 42(3)
- s. 273(3)(ba) inserted by 2024 c. 3 Sch. 12 para. 44(2)
- s. 273(4)(pa) inserted by 2024 c. 3 Sch. 12 para. 57(3)(c)
- s. 273A273B inserted by 2024 c. 3 Sch. 12 para. 45(1)
- s. 273C inserted by 2024 c. 3 Sch. 12 para. 46
- s. 276(c)(iiia) inserted by 2024 c. 3 Sch. 12 para. 45(2)(b)
- s. 276(aa) inserted by 2024 c. 3 Sch. 12 para. 45(2)(a)
- s. 311A inserted by 2024 c. 3 s. 21(3)
- Sch. 14 para. 37A37B and cross-heading inserted by 2024 c. 3 Sch. 12 para. 2(6)(b)
- Sch. 14 para. 39(1)(aa) inserted by 2024 c. 3 Sch. 12 para. 2(6)(c)(ii)
- Sch. 14 para. 39(2)(aa) inserted by 2024 c. 3 Sch. 12 para. 2(6)(c)(iii)
- Sch. 14 para. 33A inserted by 2024 c. 3 Sch. 12 para. 37(3)
- Sch. 14 para. 6(1A) inserted by 2024 c. 3 Sch. 12 para. 58(1)(a)
- Sch. 14 para. 34(2A) inserted by 2024 c. 3 Sch. 12 para. 58(1)(b)(ii)
- Sch. 14 para. 3(3)-(5) substituted for Sch. 14 para. 3(3) by 2024 c. 3 Sch. 12 para. 2(6)(a)(iii)
- Sch. 15 para. 2(1)(za) inserted by 2024 c. 3 Sch. 12 para. 16(2)
- Sch. 15 para. 2(1)(k) inserted by 2024 c. 3 Sch. 12 para. 40(2)
- Sch. 15 para. 2(1)(l) inserted by 2024 c. 3 Sch. 12 para. 41(4)
- Sch. 15 para. 1(1)(aa) inserted by 2024 c. 3 Sch. 12 para. 58(2)(a)
- Sch. 15 para. 2(1)(ea) inserted by 2024 c. 3 Sch. 12 para. 58(2)(b)(i)
- Sch. 15 para. 2(1)(fa) inserted by 2024 c. 3 Sch. 12 para. 58(2)(b)(ii)
- Sch. 16 para. 10(1) Sch. 16 para. 10 renumbered as Sch. 16 para. 10(1) by 2024 c. 3 Sch. 12 para. 58(3)(a)
- Sch. 16 para. 2(11)(b) inserted by 2024 c. 3 Sch. 12 para. 34(2)(d)(ii)
- Sch. 16 para. 2(3A) inserted by 2024 c. 3 Sch. 12 para. 38(3)
- Sch. 16 para. 2(12)(13) inserted by 2024 c. 3 Sch. 12 para. 38(8)
- Sch. 16 para. 4(3)(d) and word inserted by 2024 c. 3 Sch. 12 para. 39(3)(a)(ii)
- Sch. 16 Pt. 3 inserted by 2024 c. 3 Sch. 12 para. 40(1)
- Sch. 16 para. 10(2)(3) inserted by 2024 c. 3 Sch. 12 para. 58(3)(d)
- Sch. 16 para. 2(1)(b)(ba) substituted for Sch. 16 para. 2(1)(b) by 2024 c. 3 Sch. 12 para. 34(2)(a)
- Sch. 16 para. 3(1)(1A) substituted for Sch. 16 para. 3(1) by 2024 c. 3 Sch. 12 para. 39(2)
- Sch. 16 para. 3(7)-(9) substituted for Sch. 16 para. 3(7)(8) by 2024 c. 3 Sch. 12 para. 29(2)
- Sch. 16 para. 10(1)(a) word substituted by 2024 c. 3 Sch. 12 para. 58(3)(c)
- Sch. 16 para. 10(1) words inserted by 2024 c. 3 Sch. 12 para. 58(3)(b)(ii)
- Sch. 16 para. 10(1) words substituted by 2024 c. 3 Sch. 12 para. 58(3)(b)(i)
- Sch. 16A inserted by 2024 c. 3 Sch. 12 para. 41(1)