



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

Adjustments only applicable to permanent establishments

160 Attribution of losses between permanent establishment and main entity

- (1) **Subsection (2)** applies where, on determining (ignoring this section) the adjusted profits of a member of a multinational group that is a permanent establishment for an accounting period (“the relevant period”), that member has a loss.
- (2) So much of that loss as—
 - (a) is treated as an allowable expense of the main entity for the purposes of the computation of tax in the territory in which the main entity is located, and
 - (b) is not set off against an item of income that is subject to tax under the laws of both the territory of the permanent establishment and the territory of the main entity,is to be treated as an expense of the main entity for the purposes of determining the adjusted profits of the main entity for the relevant period.
- (3) **Subsections (4) and (5)** apply where an amount (“the relevant amount”) is treated as an expense of the main entity for the purposes of determining its adjusted profits for the relevant period as a result of **subsection (2)**.
- (4) The relevant amount is to be excluded from the adjusted profits of the permanent establishment for the relevant period.

Status: This is the original version (as it was originally enacted).

- (5) Where, on determining (ignoring this section) the adjusted profits of the permanent establishment for an accounting period after the relevant period, the permanent establishment has made a profit for that period, those profits are to be treated as income of the main entity for the purpose of determining that entity's adjusted profits for that period.
- (6) But [subsection \(5\)](#) only applies until the total amount treated as income of the main entity as a result of that subsection is equal to the relevant amount.
- (7) Where profits of the permanent establishment for an accounting period are treated as income of the main entity as a result of [subsection \(5\)](#), those profits are to be excluded from the adjusted profits of the permanent establishment for that period.