



Finance (No. 2) Act 2023

2023 CHAPTER 30

PART 3

MULTINATIONAL TOP-UP TAX

CHAPTER 5

COVERED TAX BALANCE

Eligible distribution tax systems: deemed taxes

191 Reduction of recapture amount

- (1) Where standard members of a multinational group in a territory have a recapture amount in an accounting period (“the relevant period”) in respect of a previous accounting period that amount is to be reduced in accordance with [subsections \(3\) to \(5\)](#).
- (2) If those members have more than one recapture amount in the relevant period, those reductions are to be applied first to the recapture amount in respect of the earliest accounting period, then the next earliest and so on.
- (3) First, if any of the members have accrued qualifying taxes in the relevant period reduce the recapture amount (but not below nil) by the amount of qualifying taxes accrued by the members in that period that is available.
- (4) Then, if the members have a collective loss for the relevant period (and if the recapture amount has not been reduced to nil) reduce the recapture amount (but not below nil) by the amount of that loss that is available multiplied by 15%.
- (5) Finally, if the members have a qualifying carried forward loss (and if the recapture amount has not been reduced to nil) reduce the recapture amount (but not below nil) by the amount of the qualifying carried forward loss that is available.

Status: This is the original version (as it was originally enacted).

- (6) An amount is “available” to the extent it has not been used to reduce another recapture amount (in the case of a qualifying carried forward loss, whether in that period or a previous period).
- (7) For the purposes of [subsections \(3\) to \(6\)](#)—
- “qualifying taxes” means taxes accrued in the relevant period on actual or deemed distributions of profits;
- members of the group have a “collective loss” for an accounting period if the result of Step 2 in [section 132\(1\)](#) is less than nil, and the amount of that loss is that result expressed as a positive number,
- members of the group have a “qualifying carried forward loss” if —
- (a) they had a collective loss in a period, and
- (b) after making reductions in accordance with [subsections \(2\) to \(5\)](#) an amount of that collective loss remains available,
- and the amount of that qualifying carried forward loss is the amount of the collective loss that remained available.
- (8) Any amount of qualifying taxes accrued by a member of the group that is used to reduce a recapture amount is excluded from that member’s covered tax balance.