Finance (No. 2) Act 2023

2023 CHAPTER 30

PART 3

MULTINATIONAL TOP-UP TAX

CHAPTER 10

DEFINITIONS ETC

Miscellaneous

253 Disqualified and qualified refundable imputation taxes

(1) An amount of tax payable by a member of a multinational group is "disqualified refundable imputation tax" if—

(a) it is—

(i) in respect of a dividend made by the member and is refundable to the beneficial owner of the dividend,

(ii) creditable by the beneficial owner of such a dividend against a tax liability other than a tax liability in respect of that dividend, or

(iii) refundable to an entity upon the distribution of a dividend, and

(b) it is not qualified refundable imputation tax.

(2) An amount of tax payable by a member of a multinational group is "qualified refundable imputation tax" to the extent—

(a) it is refundable or creditable to the beneficial owner of a dividend distributed by—

(i) the member, or

(ii) where the member is a permanent establishment, the main entity, and

(b) the refund is payable, or the credit is provided—

(i) under a foreign tax credit regime by a territory other than the territory that imposed the tax on the member,

(ii) to a beneficial owner of the dividend subject to tax in the territory imposing the tax payable by the member, provided the nominal rate of that tax that is at least 15%,

(iii) to a beneficial owner of the dividend who is an individual who is tax resident in that territory and who is subject to tax on the dividends as ordinary income,

(iv) to a governmental entity or an international organisation,

(v) to a resident non-profit organisation, a resident pension fund or a resident investment entity that is not a member of a multinational group, or

(vi) to a resident life insurance company to the extent the dividends are received in connection with a pension fund business and subject to tax in a similar manner as a dividend received by a pension fund.

(3) For the purposes of sub-paragraphs (v) and (vi) of subsection (2)(b), an entity is a resident entity if it is resident in the territory that imposed the tax, and for those purposes—

(a) a non-profit organisation or pension fund is resident in a territory if it is created and managed in that territory;

(b) an investment entity is resident in a territory if it is created and regulated in that territory;

(c) a life insurance company is resident in a territory if it is located there (see section 239).