



Income and Corporation Taxes Act 1988

1988 CHAPTER 1

PART XVII

TAX AVOIDANCE

CHAPTER II

TRANSFERS OF SECURITIES

Transfers with or without accrued interest: charge to tax and reliefs

713 Deemed sums and reliefs

- (1) Subject to sections 714 to 728, this section applies whether the securities in question are transferred before, on or after 6th April 1988; and in this section references to a period are references to the interest period in which the settlement day falls.
- (2) If securities are transferred with accrued interest—
 - (a) the transferor shall be treated as entitled to a sum on them in the period of an amount equal to the accrued amount; and
 - (b) the transferee shall be treated as entitled to relief on them in the period of the same amount.
- (3) If securities are transferred without accrued interest—
 - (a) the transferor shall be treated as entitled to relief on them in the period of an amount equal to the rebate amount; and
 - (b) the transferee shall be treated as entitled to a sum on them in the period of the same amount.
- (4) In subsection (2) above “the accrued amount” means—
 - (a) if the securities are transferred under an arrangement by virtue of which the transferee accounts to the transferor separately for the consideration for the

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securities and for gross interest accruing to the settlement day, an amount equal to the amount (if any) of gross interest so accounted for; and

- (b) in any other case, an amount equal to the accrued proportion of the interest applicable to the securities for the period.

(5) In subsection (3) above “the rebate amount” means—

- (a) if the securities are transferred under an arrangement by virtue of which the transferor accounts to the transferee for gross interest accruing from the settlement day to the next interest payment day, an amount equal to the amount (if any) of gross interest so accounted for; and
- (b) in any other case, an amount equal to the rebate proportion of the interest applicable to the securities for the period.

(6) In this section—

- (a) the accrued proportion is—

$$\frac{\mathbf{A}}{\mathbf{B}}$$

- (b) the rebate proportion is—

$$\frac{\mathbf{B} - \mathbf{A}}{\mathbf{B}}$$

where—

A is the number of days in the period up to (and including) the settlement day, and

B is the number of days in the period.

(7) For the purposes of subsection (2) above, in a case where the interest on the securities is payable in a currency other than sterling the accrued amount is to be determined as follows—

- (a) if subsection (4)(a) above applies and the sterling equivalent of the amount of gross interest there mentioned is shown in an agreement for transfer, the accrued amount is the sterling equivalent so shown;
- (b) if subsection (4)(a) applies but paragraph (a) above does not, or if subsection (4)(b) above applies, the accrued amount is the sterling equivalent on the settlement day of the amount found by virtue of subsection (4)(a) or (b) (as the case may be).

(8) For the purposes of subsection (3) above, in a case where the interest on the securities is payable in a currency other than sterling the rebate amount is to be determined as follows—

- (a) if subsection (5)(a) above applies and the sterling equivalent of the amount of gross interest there mentioned is shown in an agreement for transfer, the rebate amount is the sterling equivalent so shown;
- (b) if subsection (5)(a) applies but paragraph (a) above does not, or if subsection (5)(b) above applies, the rebate amount is the sterling equivalent on the settlement day of the amount found by virtue of subsection (5)(a) or (b) (as the case may be).

- (9) For the purposes of subsections (7) and (8) above the sterling equivalent of an amount on a particular day is the sterling equivalent calculated by reference to the London closing rate of exchange for that day.

714 Treatment of deemed sums and reliefs

- (1) Subsection (2) below applies if a person is treated as entitled under section 713 to a sum on securities of a particular kind in an interest period, and either—
- (a) he is not treated as entitled under that section to relief on securities of that kind in the period; or
 - (b) the sum (or total sum) to which he is treated as entitled exceeds the amount (or total amount) of relief to which he is treated as entitled under that section on securities of that kind in the period.
- (2) The person shall be treated as receiving on the day the period ends annual profits or gains whose amount is (depending on whether subsection (1)(a) or (1)(b) above applies) equal to the sum (or total sum) to which he is treated as entitled or equal to the amount of the excess; and the profits or gains shall be chargeable to tax under Case VI of Schedule D for the chargeable period in which they are treated as received.
- (3) Subsection (4) below applies if a person is treated as entitled under section 713 to relief on securities of a particular kind in an interest period, and either—
- (a) he is not treated as entitled under that section to a sum on securities of that kind in the period; or
 - (b) the amount (or total amount) of relief to which he is treated as entitled exceeds the sum (or total sum) to which he is treated as entitled under that section on securities of that kind in the period.
- (4) The person shall be entitled to an allowance whose amount is (depending on whether subsection (3)(a) or (3)(b) above applies) equal to the amount (or total amount) of relief to which he is treated as entitled or equal to the amount of the excess; and subsection (5) below shall apply.
- (5) Any amount to which the person is entitled by way of interest which—
- (a) falls due on the securities at the end of the interest period, and
 - (b) is taken into account in computing tax charged for the chargeable period in which the interest period ends,
- shall for the purposes of the Tax Acts be treated as reduced by the amount of the allowance; but if the period is one which does not end with an interest payment day, he shall be treated as becoming, in the next interest period, entitled under section 713 to relief on the securities of an amount equal to the amount of the allowance.
- (6) Where, but for this subsection, a company would by virtue of subsection (2) above be treated as receiving profits or gains on a day which does not fall within an accounting period of the company, the profits or gains shall instead be treated as received by the company on the latest day of the interest period which does so fall.

715 Exceptions from sections 713 and 714

- (1) Section 713(2)(a) or (3)(a) (as the case may be) does not apply—
- (a) if the transferor carries on a trade and the transfer falls to be taken into account for the purposes of the Tax Acts in computing the profits or losses of that trade;

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- (b) if the transferor is an individual and on no day in the year of assessment in which the interest period ends or the previous year of assessment the nominal value of securities held by him exceeded £5,000;
 - (c) if the securities transferred form part of the estate of a deceased person, the transferor is that person's personal representative and on no day in the year of assessment in which the interest period ends or the previous year of assessment the nominal value of securities held by him as the deceased's personal representative exceeded £5,000;
 - (d) where—
 - (i) if the transferor became entitled to any interest on the securities transferred and applied it for charitable purposes only, exemption could be granted under section 505(1)(c) in respect of the interest;
 - (ii) if the transferor became entitled to any interest on the securities transferred and applied it for the purposes mentioned in paragraph (d) of section 505(1), exemption could be granted under that paragraph in respect of the interest;
 - (e) if the securities transferred are held on a disabled person's trusts, the transferor is trustee of the settlement and on no day in the year of assessment in which the interest period ends or the previous year of assessment the nominal value of securities held by him as trustee of the settlement exceeded £5,000;
 - (f) if the transferor does not fulfil the residence requirement for the chargeable period in which the transfer is made and is not a non-resident United Kingdom trader in that period;
 - (g) if the transferor is not ordinarily resident in the United Kingdom during the chargeable period in which the transfer occurs and, if he became entitled in the period to any interest on the securities transferred, it would not be liable to income tax by virtue of section 47;
 - (h) if the securities transferred are FOTRA securities, the transferor is not domiciled in the United Kingdom at any time in the chargeable period in which the transfer occurs, and he is either not ordinarily resident in the United Kingdom during that period or a non-resident United Kingdom trader in that period;
 - (j) if the transferor is an individual who, if he became entitled in the year of assessment in which the transfer occurs to any interest on the securities transferred, would be liable, in respect of the interest, to tax chargeable under Case IV or V of Schedule D and computed on the amount of sums received in the United Kingdom; or
 - (k) where, if the transferor became entitled to any interest on the securities transferred, exemption could be allowed under section 592(2) in respect of the interest.
- (2) Section 713(2)(b) or (3)(b) (as the case may be) does not apply if—
- (a) the transferee carries on a trade, and if at the time he acquired the securities he were to transfer them that transfer would fall to be taken into account for the purposes of the Tax Acts in computing the profits or losses of that trade; or
 - (b) any provision of subsection (1) above except paragraph (a) would apply if "transferor" read "transferee".
- (3) If securities held on charitable trusts cease to be subject to charitable trusts the trustees shall be treated for the purposes of sections 710 to 728 as transferring the securities

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(in their capacity as charitable trustees) to themselves (in another capacity) at the time when the securities cease to be so subject.

- (4) For the purposes of this section a person fulfils the residence requirement for a chargeable period if he is resident in the United Kingdom during any part of the period or is ordinarily resident in the United Kingdom during the period.
- (5) For the purposes of this section a person is a non-resident United Kingdom trader in a chargeable period if during any part of it he is (though neither resident during any part of it nor ordinarily resident during it) carrying on a trade in the United Kingdom through a branch or agency and the securities transferred—
- (a) were situated in the United Kingdom and used or held for the purposes of the branch or agency at or before the time of the transfer (where the person concerned is a transferor); or
 - (b) were so situated at the time of the transfer and were acquired for use by or for the purposes of the branch or agency (where the person concerned is a transferee);

but the provisions of this subsection relating to the situation of the securities in the United Kingdom do not apply where the person concerned is a company.

- (6) In any case where securities are transferred without accrued interest to a person (“the seller”) and a contract is made for the sale by the seller of securities of that kind (“the seller’s contract”) and the seller’s contract or any contract under which the securities are transferred to the seller is one in the case of which section 737 has effect and in relation to which the seller is the dividend manufacturer, then—
- (a) where the nominal value of the securities subject to the seller’s contract is greater than or equal to that of the securities transferred, the seller shall not be treated as entitled to any sum to which, but for this subsection, he would be treated as entitled under section 713(3)(b) on the securities transferred;
 - (b) where the nominal value of the securities subject to the seller’s contract is less than that of the securities transferred, any sum (or the aggregate of any sums) to which he is treated as entitled under section 713(3)(b) on the securities transferred shall be reduced by the amount of any part of the sum (or aggregate) attributable to securities (“relevant securities”) of a nominal value equal to that of the securities subject to the seller’s contract;

and for the purposes of sections 710 to 728 the securities which the seller contracts to sell shall not be treated as transferred by him (though treated as transferred to the person to whom he contracts to sell).

- (7) In determining for the purposes of subsection (6)(b) above which of the securities transferred are relevant securities, those transferred to the seller earlier must be chosen before those transferred to him later.

- (8) For the purposes of this section—

“disabled person’s trusts” means trusts falling within paragraph 5(1) of Schedule 1 to the 1979 Act;

“branch or agency” has the meaning given by section 12(3) of the 1979 Act;

“FOTRA securities” means securities issued with the condition mentioned in section 22(1) of the Finance (No.2) Act 1931 (securities free of tax for residents abroad) as modified by virtue of section 60(1) of the Finance Act 1940;

and the place where securities are situated shall be determined in accordance with section 18(4) of the 1979 Act.

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716 Transfer of unrealised interest

- (1) This section applies where securities are transferred (whether before or after 6th April 1988) with the right to receive interest (“unrealised interest”) payable on them on an interest payment day falling before the settlement day.
- (2) Where the settlement day falls within an interest period, section 714 shall (subject to subsection (5) below) apply as if the transferor were entitled under section 713 to a sum on them in the period of an amount equal to the unrealised interest (in addition to any other sum to which he may be treated as so entitled).
- (3) Where the settlement day falls after the end of the last interest period in relation to the securities, the transferor shall be treated as receiving on the settlement day annual profits or gains of an amount equal to the unrealised interest; and the profits or gains shall be chargeable to tax under Case VI of Schedule D for the chargeable period in which they are treated as received.
- (4) Where the transferee receives the unrealised interest, and but for this subsection it would be taken into account in computing tax charged for the chargeable period in which the interest is received, it shall for the purposes of the Tax Acts be left out of account.
- (5) Section 715 shall apply for the purposes of this section as if—
 - (a) in subsection (1)—
 - (i) the reference to section 713(2)(a) or (3)(a) were a reference to subsection (2) or (3) above; and
 - (ii) references to the year of assessment in which the interest period ends were references to the year in which the settlement day falls; and
 - (b) in subsection (2) the reference to section 713(2)(b) or (3)(b) were a reference to subsection (4) above.

Paragraph (b) above does not apply where the securities in question were transferred before 19th March 1986.
- (6) Where the unrealised interest is payable in a currency other than sterling its amount is for the purposes of this section the sterling equivalent on the settlement day of the amount it would be apart from this subsection; and for this purpose the sterling equivalent is to be calculated by reference to the London closing rate of exchange for the day.

717 Variable interest rate

- (1) This section applies to securities other than securities falling within subsection (2) or (4) below.
- (2) Securities fall within this subsection if their terms of issue provide that throughout the period from issue to redemption (whenever redemption might occur) they are to carry interest at a rate which falls into one, and one only, of the following categories—
 - (a) a fixed rate which is the same throughout the period;
 - (b) a rate which bears to a standard published base rate the same fixed relationship throughout the period;
 - (c) a rate which bears to a published index of prices the same fixed relationship throughout the period.

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- (3) In subsection (2)(c) above “published index of prices” means the retail prices index or any similar general index of prices which is published by, or by an agent of, the government of any territory outside the United Kingdom.
- (4) Securities fall within this subsection if they are deep discount securities and the rate of interest for each (or their only) interest period is equal to or less than the yield to maturity.
- (5) In subsection (4) above “deep discount securities” and “yield to maturity” have the same meanings as in Schedule 4; and for the purposes of that subsection the rate of interest for an interest period is, in relation to securities, the rate of return (expressed as a percentage) attributable to the interest applicable to them for the interest period.
- (6) Subsections (7) to (11) below apply if securities to which this section applies are transferred at any time between the time they are issued and the time they are redeemed.
- (7) If the securities are transferred without accrued interest they shall be treated for the purposes of sections 710 to 728 as transferred with accrued interest.
- (8) The person entitled to the securities immediately before they are redeemed shall be treated for the purposes of those sections as transferring them with accrued interest on the day they are redeemed.
- (9) Where there is a transfer as mentioned in subsection (6) above or by virtue of subsection (8) above, section 713 shall have effect with the omission of subsection (2) (b) and with the substitution for subsections (3) to (6) of the following subsection—
 - “(3) In subsection (2) above “the accrued amount” means such amount (if any) as an inspector decides is just and reasonable; and the jurisdiction of the General Commissioners or the Special Commissioners on any appeal shall include jurisdiction to review such a decision of the inspector.”.
- (10) Subsection (11) below applies where there is a transfer by virtue of subsection (8) above and the settlement day in relation to the transfer falls after the end of a period which would (by virtue of section 711(3) and (4) and apart from this subsection) be the only or last interest period in relation to the securities.
- (11) For the purposes of sections 710 to 728 the period beginning with the day following that interest period and ending with the settlement day shall be treated as an interest period in relation to the securities; and section 711(4) shall not apply to it.

718 Interest in default

- (1) This section applies where, because of any failure to fulfil the obligation to pay interest on securities, the value (on a day mentioned in section 711(7) or (8)(a), as the case may be) of the right to receive the interest payable on them on that day is less than the interest so payable.
- (2) Section 711(7) or (8)(a), as the case may be, shall be construed as if the reference to that interest were to an amount equal to that value.

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719 Unrealised interest in default

- (1) Where securities are transferred as mentioned in section 716(1) and, because of any failure to fulfil the obligation to pay interest on them, the value (on the day of the transfer) of the right to receive the unrealised interest is less than the amount of the unrealised interest, section 716 shall have effect as modified by subsections (2) to (4) below.
- (2) In subsections (2) and (3) for “the unrealised interest” there shall be substituted “amount A”.
- (3) For subsection (4) there shall be substituted—
 - “(4) Where the transferee receives an amount by way of the unrealised interest (amount B) and that amount falls to be taken into account in computing tax charged for the chargeable period in which it is received, it shall for the purposes of the Tax Acts be treated as reduced by an amount (amount C) equal to—
 - (a) nil, if the amounts have been previously received by the transferee by way of the unrealised interest and their aggregate is equal to or greater than the value (on the day of the transfer to the transferee) of the right to receive the unrealised interest;
 - (b) amount B, if that value is equal to or greater than amount B (aggregated with other amounts previously so received, if any);
 - (c) that value, if no amount has been previously so received and that value is less than amount B; or
 - (d) so much of that value as exceeds the aggregate of amounts previously so received, in any other case.”.
- (4) The following shall be substituted for subsection (6)—
 - “(6) In this section “amount A” means, in a case where the transferor acquired the securities on or after 28th February 1986 with the right to received unrealised interest—
 - (a) an amount equal to amount D less amount E; or
 - (b) if amount D is equal to or less than amount E, nil.
 - (7) In this section “amount A” means, in a case not falling within subsection (6) above, an amount equal to amount D.
 - (8) In this section “amount D” means an amount equal to the value (on the day of the transfer by the transferor) of the right to receive the unrealised interest.
 - (9) In this section “amount E” means, in a case where the transferor (as transferee) has received in respect of the securities an amount or amounts falling within subsection (4) above—
 - (a) an amount equal to amount F less the total received; or
 - (b) if amount F is equal to or less than the total received, nil.
- (10) In this section “amount E” means, in any other case, an amount equal to amount F.
- (11) In this section “amount F” means an amount equal to the value (on the day of the transfer to the transferor) of the right to receive the unrealised interest.

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- (12) In determining for the purposes of this section which securities of a particular kind a person has transferred, he is to be taken to have transferred securities of that kind which he acquired later before securities of that kind which he acquired earlier.
- (13) Where the unrealised interest is payable in a currency other than sterling—
- (a) any amount received by way of the interest is for the purposes of this section the sterling equivalent on the day it is received of the amount it would be apart from this subsection; and
 - (b) the value (on the day of a transfer) of the right to receive the interest is for the purposes of this section the sterling equivalent (on that day) of the value it would be apart from this subsection;
- and for this purpose the sterling equivalent is to be calculated by reference to the London closing rate of exchange for the day concerned.”