



Income and Corporation Taxes Act 1988

1988 CHAPTER 1

PART XVII

TAX AVOIDANCE

CHAPTER IV

CONTROLLED FOREIGN COMPANIES

747 Imputation of chargeable profits and creditable tax of controlled foreign companies

- (1) If the Board have reason to believe that in any accounting period a company—
 - (a) is resident outside the United Kingdom, and
 - (b) is controlled by persons resident in the United Kingdom, and
 - (c) is subject to a lower level of taxation in the territory in which it is resident,and the Board so direct, the provisions of this Chapter shall apply in relation to that accounting period.
- (2) A company which falls within paragraphs (a) to (c) of subsection (1) above is in this Chapter referred to as a “controlled foreign company”.
- (3) Where, by virtue of a direction under subsection (1) above, the provisions of this Chapter apply in relation to an accounting period of a controlled foreign company, the chargeable profits of that company for that period and its creditable tax (if any) for that period shall each be apportioned in accordance with section 752 among the persons (whether resident in the United Kingdom or not) who had an interest in that company at any time during that accounting period.
- (4) Where, on such an apportionment of a controlled foreign company’s chargeable profits for an accounting period as is referred to in subsection (3) above, an amount of those profits is apportioned to a company resident in the United Kingdom then, subject to subsection (5) below—

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- (a) a sum equal to corporation tax at the appropriate rate on that apportioned amount of profits, less the portion of the controlled foreign company's creditable tax for that period (if any) which is apportioned to the resident company, shall be assessed on and recoverable from the resident company as if it were an amount of corporation tax chargeable on that company; and
- (b) if, apart from this paragraph, section 739 would deem any sum forming part of the company's chargeable profits for that accounting period to be the income of an individual for the purposes of the Income Tax Acts, that section shall not apply to such portion of that sum as corresponds to the portion of those chargeable profits which is apportioned to companies which are resident in the United Kingdom and which, by virtue of paragraph (a) above, have a liability to tax in respect thereof;

and for the purposes of paragraph (a) above "the appropriate rate" means the rate of corporation tax applicable to profits of that accounting period of the resident company in which ends the accounting period of the controlled foreign company to which the direction under subsection (1) above relates or, if there is more than one such rate, the average rate over the whole of that accounting period of the resident company.

- (5) Tax shall not, by virtue of subsection (4) above, be assessed and recoverable from a company resident in the United Kingdom unless, on the apportionment in question, the aggregate of—
 - (a) the amount of the controlled foreign company's chargeable profits for the accounting period in question which is apportioned to the resident company, and
 - (b) any amounts of those chargeable profits which are apportioned to persons who are connected or associated with the resident company,
 is at least 10 per cent. of the total of those chargeable profits.
- (6) In relation to a company resident outside the United Kingdom—
 - (a) any reference in this Chapter to its chargeable profits for an accounting period is a reference to the amount which, on the assumptions in Schedule 24, would be the amount of the total profits of the company for that period on which, after allowing for any deductions available against those profits, corporation tax would be chargeable; and
 - (b) any reference in this Chapter to profits does not include a reference to chargeable gains but otherwise (except as provided by paragraph (a) above) has the same meaning as it has for the purposes of corporation tax.

748 Limitations on direction-making power

- (1) No direction may be given under section 747(1) with respect to an accounting period of a controlled foreign company if—
 - (a) in respect of that period the company pursues, within the meaning of Part I of Schedule 25, an acceptable distribution policy; or
 - (b) throughout that period the company is, within the meaning of Part II of that Schedule, engaged in exempt activities; or
 - (c) the public quotation condition set out in Part III of that Schedule is fulfilled with respect to that period; or
 - (d) the chargeable profits of the accounting period do not exceed £20,000 or, if the accounting period is less than 12 months, a proportionately reduced amount.

- (2) Without prejudice to any right of appeal, nothing in subsection (1) above prevents the Board from giving a direction with respect to an accounting period after the end of that period but before it is known whether the company has paid such a dividend as establishes that it is pursuing an acceptable distribution policy in respect of the profits arising in that period.
- (3) Notwithstanding that none of paragraphs (a) to (d) of subsection (1) above applies to an accounting period of a controlled foreign company, no direction may be given under section 747(1) with respect to that accounting period if it appears to the Board that—
 - (a) in so far as any of the transactions the results of which are reflected in the profits arising in that accounting period, or any two or more of those transactions taken together, achieved a reduction in United Kingdom tax, either the reduction so achieved was minimal or it was not the main purpose or one of the main purposes of that transaction or, as the case may be, of those transactions taken together to achieve that reduction, and
 - (b) it was not the main reason or, as the case may be, one of the main reasons for the company's existence in that accounting period to achieve a reduction in United Kingdom tax by a diversion of profits from the United Kingdom,and Part IV of Schedule 25 shall have effect with respect to the preceding provisions of this subsection.

749 Residence and interest

- (1) Subject to subsections (2) and (4) below, in any accounting period in which a company is resident outside the United Kingdom, it shall be regarded for the purposes of this Chapter as resident in that territory in which, throughout that period, it is liable to tax by reason of domicile, residence or place of management.
- (2) If, in the case of any company, there are in any accounting period two or more territories falling within subsection (1) above, the company shall in that accounting period be regarded for the purposes of this Chapter as resident in only one of them, namely—
 - (a) if, throughout the accounting period, the company's place of effective management is situated in one of those territories only, in that territory; and
 - (b) if, throughout the accounting period, the company's place of effective management is situated in two or more of those territories, in that one of them in which, at the end of the accounting period, the greater amount of the company's assets is situated; and
 - (c) if neither paragraph (a) nor paragraph (b) above applies, in that one of the territories falling within subsection (1) above in which, at the end of the accounting period, the greater amount of the company's assets is situated; and
 - (d) if paragraph (a) above does not apply and neither paragraph (b) nor paragraph (c) above produces one, and only one, of those territories, in that one of them which may be specified in a direction under section 747(1) relating to that accounting period.
- (3) If, in the case of any company, there is in any accounting period no territory falling within subsection (1) above, then, for the purposes of this Chapter, it shall be conclusively presumed that the company is in that accounting period resident in a territory in which it is subject to a lower level of taxation.

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- (4) In any case where it becomes necessary for the purposes of subsection (2) above to determine in which of two or more territories the greater amount of a company's assets is situated at the end of an accounting period, account shall be taken only of those assets which, immediately before the end of that period, are situated in those territories and the amount of them shall be determined by reference to their market value at that time.
- (5) For the purposes of this Chapter, the following persons have an interest in a controlled foreign company—
- (a) any person who possesses, or is entitled to acquire, share capital or voting rights in the company,
 - (b) any person who possesses, or is entitled to acquire, a right to receive or participate in distributions of the company or any amounts payable by the company (in cash or in kind) to loan creditors by way of premium on redemption,
 - (c) any person who is entitled to secure that income or assets (whether present or future) of the company will be applied directly or indirectly for his benefit, and
 - (d) any other person who, either alone or together with other persons, has control of the company,
- and for the purposes of paragraph (b) above the definition of “distribution” in Part VI shall be construed without any limitation to companies resident in the United Kingdom.
- (6) References in subsection (5) above to being entitled to do anything apply where a person is presently entitled to do it at a future date, or will at a future date be entitled to do it; but a person whose entitlement to secure that any income or assets of the company will be applied as mentioned in paragraph (c) of that subsection is contingent upon a default of the company or any other person under any agreement shall not be treated as falling within that paragraph unless the default has occurred.
- (7) Without prejudice to subsection (5) above, the Board may, if they think it appropriate, treat a loan creditor of a controlled foreign company as having an interest in the company for the purposes of this Chapter.

750 Territories with a lower level of taxation

- (1) Without prejudice to subsection (3) of section 749, a company which, by virtue of subsection (1) or subsection (2) of that section, is to be regarded as resident in a particular territory outside the United Kingdom shall be considered to be subject to a lower level of taxation in that territory if the amount of tax (“the local tax”) which is paid under the law of that territory in respect of the profits of the company which arise in any accounting period is less than one-half of the corresponding United Kingdom tax on those profits.
- (2) For the purposes of this Chapter, the amount of the corresponding United Kingdom tax on the profits arising in an accounting period of a company resident outside the United Kingdom is the amount of corporation tax which, on the assumptions set out in Schedule 24 and subject to subsection (3) below, would be chargeable in respect of the chargeable profits of the company for that accounting period.
- (3) In determining the amount of corporation tax which, in accordance with subsection (2) above, would be chargeable in respect of the chargeable profits of an accounting period of a company resident outside the United Kingdom—

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- (a) it shall be assumed for the purposes of Schedule 24—
 - (i) that a direction has been given under section 747(1) in respect of that period; and
 - (ii) that the Board have made any declaration which they could have made under sub-paragraph (3) of paragraph 11 of that Schedule and of which they gave notice as mentioned in that sub-paragraph; and
 - (b) there shall be disregarded so much of any relief from corporation tax in respect of income as would be attributable to the local tax and would fall to be given by virtue of any provision of Part XVIII other than section 810; and
 - (c) there shall be deducted from what would otherwise be the amount of that corporation tax—
 - (i) any amount which (on the assumptions set out in Schedule 24) would fall to be set off against corporation tax by virtue of section 7(2); and
 - (ii) any amount of income tax or corporation tax actually charged in respect of any of those chargeable profits.
- (4) The references in subsection (3)(c) above to an amount falling to be set off or an amount actually charged do not include so much of any such amount as has been or falls to be repaid to the company whether on the making of a claim or otherwise.

751 Accounting periods and creditable tax

- (1) For the purposes of this Chapter, an accounting period of a company resident outside the United Kingdom shall begin—
- (a) whenever the company comes under the control of the persons resident in the United Kingdom;
 - (b) whenever the company, not being the subject of an earlier direction under section 747(1), commences to carry on business; and
 - (c) whenever an accounting period of the company ends without the company then ceasing either to carry on business or to have any source of income whatsoever.
- (2) For the purposes of this Chapter, an accounting period of a company resident outside the United Kingdom shall end if and at the time when—
- (a) the company ceases to be under the control of persons resident in the United Kingdom; or
 - (b) the company becomes, or ceases to be, liable to tax in a territory; or
 - (c) the company ceases to have any source of income whatsoever;
- and for the purposes of paragraph (b) above “liable to tax” means liable to tax by reason of domicile, residence or place of management.
- (3) Without prejudice to subsections (1) and (2) above, subsections (3), (5) and (7) of section 12 shall apply for the purposes of this Chapter as they apply for the purposes of corporation tax, but with the omission of so much of those provisions as relates to a company coming or ceasing to be within the charge to corporation tax.
- (4) Where it appears to the Board that the beginning or end of any accounting period of a company resident outside the United Kingdom is uncertain, a direction under section 747(1) may specify as an accounting period of the company such period, not exceeding 12 months, as appears to the Board to be appropriate, and that period shall be treated for the purposes of this Chapter as an accounting period of the company unless the direction is subsequently amended under subsection (5) below.

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- (5) If, on further facts coming to the knowledge of the Board after the making of a direction (including facts emerging on an appeal against notice of the making of the direction), it appears to the Board that any accounting period specified in the direction is not the true accounting period, the Board shall amend the direction so as to specify the true period.
- (6) In this Chapter, in relation to an accounting period of a controlled foreign company in respect of which a direction is given under section 747(1), the creditable tax means the aggregate of—
- (a) the amount of any relief from corporation tax in respect of income which (on the assumptions set out in Schedule 24 and assuming the company to be liable for corporation tax on the chargeable profits of that accounting period) would fall to be given to the company by virtue of any provision of Part XVIII in respect of foreign tax attributable to any income which is brought into account in determining those chargeable profits; and
 - (b) any amount which (on those assumptions) would fall to be set off against corporation tax on those chargeable profits by virtue of section 7(2); and
 - (c) the amount of any income tax or corporation tax actually charged in respect of the chargeable profits of that accounting period, less any of that tax which has been or falls to be repaid to the company, whether on the making of a claim or otherwise.

752 Apportionment of chargeable profits and creditable tax

- (1) Where a direction has been given under section 747(1) in respect of an accounting period of a controlled foreign company, then, subject to subsections (2) and (3) below, the apportionment of the company's chargeable profits and creditable tax (if any) for that period shall be made among, and according to the respective interests of, the persons who at any time during that period had interests in the company.
- (2) In determining for the purposes of this Chapter the respective interests of persons who (in accordance with section 749) have interests in a controlled foreign company, the Board may, if it seems to them just and reasonable to do so, attribute to each of those persons an interest corresponding to his interest in the assets of the company available for distribution among those persons in the event of a winding up or in any other circumstances.
- (3) Where the controlled foreign company is not a trading company, the Board may, if it seems to them just and reasonable to do so, treat a loan creditor as having for the purposes of this section an interest in the company to the extent to which the income of the company has been, or is available to be, expended in redemption, repayment or discharge of the loan capital or debt (including any premium thereon) in respect of which he is a loan creditor.
- (4) Subject to subsections (5) and (7) below, as between persons each of whom has an unvarying holding of shares of the same class throughout a particular accounting period of a controlled foreign company, the amount of the company's chargeable profits and creditable tax which is apportioned to each of them by virtue of his holding of those shares shall be in direct proportion to the numbers of shares comprised in their holdings; and similar principles shall apply in relation to an apportionment among other persons each of whom holds an interest of the same description in the controlled foreign company.

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- (5) Where the same interest in a controlled foreign company is held directly by one person and indirectly by another or others (as in a case where one company has a shareholding in the controlled foreign company and the first company is controlled by a third company or by two or more persons together) then, subject to subsection (6) below, the Board, in apportioning the company's chargeable profits and creditable tax—
- (a) may treat that interest as held solely by a person who holds that interest indirectly or, as the case may be, by two or more persons (the (“holders”) who, taken together, hold that interest indirectly, and
 - (b) in particular, if that person or one or more of those holders is resident in the United Kingdom, may treat the interest as held solely by that one or, as the case may be, those holders.
- (6) In any case where the same interest is held directly by one person and indirectly by another and the circumstances are as set out in any of paragraphs (a) to (c) below, the Board shall treat the interest as held solely by the company which is described in the paragraph concerned as “the assessable company”—
- (a) where the interest is held directly by a company resident in the United Kingdom, that company is the assessable company; and
 - (b) where the interest is held directly by a person resident outside the United Kingdom and indirectly by only one company resident in the United Kingdom, that company is the assessable company; and
 - (c) where the interest is held directly by a person resident outside the United Kingdom and indirectly by two or more companies resident in the United Kingdom, the assessable company is that one of the companies which so holds the interest by virtue of holding directly an interest in a foreign holding company;
- and for the purposes of paragraph (c) above a foreign holding company is a company resident outside the United Kingdom which holds directly or indirectly the interest in the controlled foreign company.
- (7) Without prejudice to subsection (5) above, in any case where an interest in a controlled foreign company is held in a fiduciary or representative capacity in such circumstances that there is or are an identifiable beneficiary or beneficiaries, the Board may treat the interest as held by that beneficiary or, as the case may be, as apportioned among those beneficiaries; and any such apportionment shall be made on such basis as seems to the Board to be just and reasonable.
- (8) Subject to the preceding provisions of this section, the apportionment of the chargeable profits and creditable tax of a controlled foreign company for any accounting period shall be made on such basis as seems to the Board to be just and reasonable.

753 Notices and appeals

- (1) Where the Board have given a direction under section 747(1) with respect to an accounting period of a controlled foreign company, notice of the making of the direction shall be given to every company resident in the United Kingdom which appears to the Board to have had an interest in the controlled foreign company at any time during that period.
- (2) A notice under subsection (1) above shall—
- (a) specify the date on which the direction was made and the controlled foreign company to which it relates;

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- (b) specify the accounting period to which the direction relates and the amount of the chargeable profits and creditable tax computed for that period;
- (c) specify the reliefs (if any) which it has been assumed that the company has claimed by virtue of paragraph 4(1) of Schedule 24;
- (d) specify, in a case where paragraph (d) of subsection (2) of section 749 applies, the territory which, by virtue of that paragraph, was specified in the direction and, in any other case, specify the territory (if any) in which, by virtue of that section, the Board consider that the company is to be regarded as resident for the purposes of this Chapter;
- (e) inform the recipient of the notice of the right of appeal conferred on him by subsection (4) below and of the right to give notice under paragraph 4(2) of Schedule 24; and
- (f) specify any declaration with respect to the accounting period concerned which was made prior to or at the same time as the notice by virtue of paragraph 11(3) of Schedule 24 or paragraph 3(2) of Schedule 25;

and, in the case of a notice given after the direction concerned has been amended by virtue of section 751(5), the notice shall specify the date of the amendment and (so far as paragraphs (b) and (c) above are concerned) shall relate to the position resulting from the amendment.

- (3) Where, by virtue of section 751(5), the Board have amended a direction so as to specify a revised accounting period, notice of the making of the amendment shall be given to every company which was previously given notice of the making of the direction; and a notice under this subsection—
 - (a) shall identify the direction which is amended and state the effect of the amendment, including the extent to which the matters specified in the notice of the making of the direction are superseded; and
 - (b) shall contain the provisions required, by virtue of paragraphs (b) to (f) of subsection (2) above, to be included in a notice under subsection (1) above.
- (4) Any company to which notice is given under subsection (1) or subsection (3) above may, by giving notice of appeal to the Board within 60 days of the date of the notice given to the company, appeal to the Special Commissioners against that notice on all or any of the following grounds—
 - (a) that the direction should not have been given or, where the direction has been amended, that the amendment should not have been made;
 - (b) that the amount of chargeable profits or creditable tax specified in the notice is incorrect;
 - (c) that the company did not have an interest in the controlled foreign company concerned at any time during the accounting period in question;
 - (d) that, if the notice specifies a declaration made by virtue of sub-paragraph (3) of paragraph 11 of Schedule 24, the condition for the making of that declaration in sub-paragraph (5) of that paragraph was not fulfilled; and
 - (e) that, if the notice specifies a declaration made by virtue of paragraph 3(2) of Schedule 25, the condition for the making of that declaration was not fulfilled;

and the notice of appeal shall specify the grounds of appeal, but on the hearing of the appeal the Special Commissioners may allow the appellant to put forward any ground not specified in the notice and take it into consideration if satisfied that the omission was not wilful or unreasonable.

- (5) If, after the time at which notice is given under subsection (1) above with respect to an accounting period of a controlled foreign company, the Board make a declaration by virtue of—
- (a) paragraph 11(3) of Schedule 24; or
 - (b) paragraph 3(2) of Schedule 25,
- then, unless the effect of the declaration is such that a notice (which, among other matters, will specify the declaration) will be required to be given under subsection (3) above, the Board shall give notice specifying the declaration to every company which was previously given notice of the making of the direction; and subsection (4) above shall apply in relation to a notice under this subsection as it applies in relation to a notice under subsection (3) above but with the omission of paragraphs (a) to (c).
- (6) If it appears to the inspector that the amount of the chargeable profits or creditable tax specified in a notice under subsection (1) or subsection (3) above is incorrect, he shall give notice of the revised amount to every company to which notice was given under subsection (1) or subsection (3) above and, except where the revised amount results from—
- (a) an appeal under this section, or
 - (b) a notice given to the Board under paragraph 4(2) of Schedule 24 or by virtue of paragraph 12 of that Schedule,
- any company to which notice is given under this subsection may, by giving notice of appeal to the Board within 60 days of the date of the notice given to the company, appeal to the Special Commissioners against the revised amount specified in the notice.
- (7) The jurisdiction of the Special Commissioners on an appeal under this section shall include jurisdiction to review any decision of the Board or the inspector which is relevant to a ground of the appeal.
- (8) The Board may make regulations—
- (a) as respects the conduct of appeals under this section;
 - (b) entitling any person who has received, or is connected or associated with a person who has received, a notice under subsection (1) above with respect to a particular accounting period of a controlled foreign company to appear on an appeal brought by another person who has received such a notice; and
 - (c) with respect to the joinder of appeals brought by different persons with respect to the same direction or the same amount of chargeable profits or creditable tax.

754 Assessment, recovery and postponement of tax

- (1) Subject to the following provisions of this section, the provisions of section 747(4)(a) relating to assessment and recovery of a sum as if it were an amount of corporation tax shall be taken as applying, subject to the provisions of the Taxes Acts, and to any necessary modifications, all enactments applying generally to corporation tax, including those relating to the assessing, collecting and receiving of corporation tax, those conferring or regulating a right of appeal and those concerning administration, penalties, interest on unpaid tax and priority of tax in cases of insolvency under the law of any part of the United Kingdom.
- (2) For the purposes of the Taxes Acts, any sum assessable and recoverable under section 747(4)(a) shall be regarded as corporation tax which falls to be assessed for

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the accounting period in which ends that one of the controlled foreign company's accounting periods the chargeable profits of which give rise to that sum; and a notice of assessment relating to such a sum shall (in addition to any other matter required to be contained in such a notice) specify separately—

- (a) the total amount of those chargeable profits and of any creditable tax which has been apportioned to persons falling within each of paragraphs (a) to (d) of subsection (5), or within subsection (7), of section 749, and
 - (b) where there is more than one class of shares in the controlled foreign company, the total amount apportioned to persons holding shares of each class,
- but such a notice shall not identify any particular person (other than the person assessed) as having an interest of any description in the controlled foreign company.
- (3) On an appeal against an assessment to tax under section 747(4)(a), the jurisdiction of the Special Commissioners shall include jurisdiction to review any relevant decision taken by the Board under section 752 in connection with the apportionment of chargeable profits or creditable tax.
 - (4) No appeal may be brought against an assessment to tax under section 747(4)(a) on a ground on which an appeal has or could have been brought under section 753(4) or (6).
 - (5) Schedule 26 shall have effect with respect to the reliefs which may be claimed by a company resident in the United Kingdom which has a liability for tax in respect of an amount of chargeable profits; and no reliefs other than those provided for by that Schedule shall be allowed against any such liability.
 - (6) In any case where—
 - (a) the whole or any part of the tax assessed on a company (“the assessable company”) by virtue of section 752(6) is not paid before the date on which it is due and payable in accordance with this Act or, as the case may be, the Management Act; and
 - (b) the Board serve a notice of liability to tax under this subsection on another company (“the responsible company”) which is resident in the United Kingdom and holds or has held (whether directly or indirectly) the same interest in the controlled foreign company as is or was held by the assessable company,

the tax assessed on the assessable company or, as the case may be, so much of it as remains unpaid shall be payable by the responsible company upon service of the notice.
 - (7) Where a notice of liability is served under subsection (6) above—
 - (a) any interest due on the tax assessed on the assessable company and not paid; and
 - (b) any interest accruing due on that tax after the date of service,

shall be payable by the responsible company.
 - (8) In any case where—
 - (a) a notice of liability is served on the responsible company under subsection (6) above, and
 - (b) the relevant tax and any interest payable by the responsible company under subsection (7) above is not paid by that company before the expiry of the period of three months beginning on the date of service of the notice,

that tax and interest may, without prejudice to the right of recovery from the responsible company, be recovered from the assessable company.

- (9) In this section “the Taxes Acts” has the same meaning as in the Management Act.

755 Information relating to controlled foreign companies

- (1) Where it appears to the Board that a company resident outside the United Kingdom (in this section referred to as a (“foreign subsidiary”) may be a controlled foreign company, the Board may, by notice given to any company which appears to them to be a controlling company of the foreign subsidiary, require that company to give to the Board, within such time (not being less than 30 days) as may be specified in the notice, such particulars (which may include details of documents) as may be so specified with respect to any matter concerning the foreign subsidiary, being particulars required by the Board for the purposes of this Chapter as being relevant to the affairs of the controlling company, the foreign subsidiary or any connected or associated company.
- (2) In this section “controlling company”, in relation to a foreign subsidiary or any other company, means a company which is resident in the United Kingdom and has, alone or together with other persons so resident, control of the foreign subsidiary or, as the case may be, that other company.
- (3) The Board may by notice given to a company which appears to them to be a controlling company in relation to a foreign subsidiary require that company to make available for inspection any relevant books, accounts, or other documents or records whatsoever of the company itself or, subject to subsection (6) below, of any other company, including the foreign subsidiary, in relation to which it appears to the Board to be a controlling company.
- (4) In subsection (3) above “relevant” means relevant to—
- (a) the computation of any profits of the foreign subsidiary; or
 - (b) the question whether a direction should be given under section 747(1) with respect to the foreign subsidiary or a connected or associated company or whether any such direction should be amended; or
 - (c) any question as to the amount of the chargeable profits or creditable tax for any accounting period of the foreign subsidiary or a connected or associated company; or
 - (d) any question as to the sum which, in accordance with section 747(4)(a), should be assessed on and recoverable from any person.
- (5) In subsections (1) and (4) above “connected or associated company” means a controlled foreign company with which the foreign subsidiary or the controlling company is connected or associated.
- (6) In any case where—
- (a) under subsection (3) above a company is by notice required to make available for inspection any books, accounts, documents or records of a company other than itself, and
 - (b) it appears to the Board, on the application of the company, that the circumstances are such that the requirement ought not to have effect,
- the Board shall direct that the company need not comply with the requirement.

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- (7) If, on an application under subsection (6) above, the Board refuse to give a direction under that subsection, the company concerned may, by notice given to the Board within 30 days after the refusal, appeal to the Special Commissioners who, if satisfied that the requirement in question ought in the circumstances not to have effect, may determine accordingly.

756 Interpretation and construction of Chapter IV

- (1) In this Chapter “trading company” means a company whose business consists wholly or mainly of the carrying on of a trade or trades.
- (2) For the purposes of this Chapter—
- (a) section 839 applies; and
 - (b) subsection (10) of section 783 applies as it applies for the purposes of that section.
- (3) The following provisions of Part XI apply for the purposes of this Chapter as they apply for the purposes of that Part—
- (a) section 416; and
 - (b) section 417(7) to (9);
- but, in the application of subsection (6) of section 416 for the purposes of this Chapter, for the words “five or fewer participators” there shall be substituted the words “persons resident in the United Kingdom”.