



Income Tax Act 2007

2007 CHAPTER 3

PART 11

MANUFACTURED PAYMENTS AND REPOS

CHAPTER 4

DEEMED MANUFACTURED PAYMENTS

Stock lending arrangements

596 Deemed manufactured payments: stock lending arrangements

- (1) This section applies if—
 - (a) there is a stock lending arrangement in respect of securities,
 - (b) a dividend or interest on the securities is paid, as a result of the arrangement, to a person other than the person who is the lender under the arrangement, and
 - (c) no provision is made for securing that the lender receives payments representative of the dividend or interest.
- (2) The rules about manufactured payments apply as if the person who is the borrower under the arrangement—
 - (a) were required, under the arrangement, to pay the lender an amount representative of the dividend or interest, and
 - (b) discharged the requirement when the dividend or interest was paid.
- (3) But the borrower is not entitled (whether as a result of the rules about manufactured payments or otherwise) to an income deduction in respect of the deemed requirement to pay or the deemed payment.
- (4) “Income deduction” means—
 - (a) a deduction in calculating profits or gains for income tax purposes, or

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- (b) a deduction in calculating net income.
- (5) For the purposes of this section, a quasi-stock lending arrangement is treated as if it were a stock lending arrangement.

597 Deemed interest: cash collateral under stock lending arrangements

- (1) This section applies if—
 - (a) the borrower under a stock lending arrangement is treated under section 596(2) as paying under the arrangement an amount representative of a dividend or interest on any securities (“the relevant securities”),
 - (b) an amount of money (“cash collateral”) is payable to or for the benefit of the lender for the purpose of securing the discharge of the requirement to transfer the relevant securities back to the lender,
 - (c) the stock lending arrangement is designed to produce a return to the borrower which equates, in substance, to the return on an investment of money at interest, and
 - (d) the main purpose, or one of the main purposes, of the stock lending arrangement is the obtaining of a tax advantage (within the meaning given by section 840ZA of ICTA).
- (2) If this section applies—
 - (a) the Income Tax Acts apply as if the borrower receives an amount of interest payable in respect of the cash collateral, and
 - (b) the amount of the interest is calculated in accordance with subsections (3) to (7).
- (3) The interest is treated for the purposes of the Income Tax Acts as if it were received on the date (“the return date”) on which the borrower transfers the relevant securities back to the lender.
- (4) The interest is treated for the purposes of the Income Tax Acts as if it were payable in respect of the period (“the interest period”)—
 - (a) beginning with the date on which the lender transfers the relevant securities to the borrower, and
 - (b) ending with the return date.
- (5) The rate of interest payable in respect of the cash collateral is a rate that is reasonably comparable to the rate that the borrower could obtain by placing the cash collateral on deposit for the interest period.
- (6) For the purposes of this section, the amount of the cash collateral on which the interest is payable is taken to be—
 - (a) in any case where the amount of the cash collateral varies at any time on or before the return date, the highest amount of the cash collateral at any time on or before the return date, and
 - (b) in any other case, the amount of the cash collateral as at the return date.
- (7) The amount of the interest which the borrower is treated as receiving in respect of the cash collateral for the interest period is reduced (but not below nil) by any interest which the borrower actually receives in respect of that collateral for that period.
- (8) This section needs to be read with sections 598 and 599.

598 Cash collateral under stock lending arrangements: supplementary

- (1) This section supplements section 597.
- (2) The interest which the borrower is treated as receiving under section 597 is charged to income tax under Chapter 2 of Part 4 of ITTOIA 2005 (interest).
- (3) The fact that the borrower is treated as receiving an amount of interest under section 597 does not imply that the interest is payable by the lender or any other person.
- (4) For the purposes of section 597—
 - (a) any reference in that section to the transfer of securities back has the same meaning as the reference in section 568(1)(d) (see subsections (2) to (6) of section 568), but
 - (b) if it becomes apparent that the borrower will not comply with the requirement to transfer any securities back, the borrower is treated as transferring them back on the date on which it becomes so apparent.
- (5) For the purposes of section 597 it does not matter—
 - (a) whether the cash collateral is payable by the borrower or by any other person,
 - (b) whether the cash collateral is payable under the stock lending arrangement or under any other arrangement, or
 - (c) whether collateral in another form is also provided in connection with the stock lending arrangement.
- (6) See section 599—
 - (a) for provision treating some arrangements as stock lending arrangements for the purposes of section 597 and this section, and
 - (b) for provision treating some amounts as cash collateral for those purposes.

599 Sections 597 and 598: quasi-stock lending arrangements and quasi-cash collateral

- (1) For the purposes of sections 597 and 598, a quasi-stock lending arrangement is treated as if it were a stock lending arrangement.
- (2) For the purposes of sections 597 and 598, in relation to a stock lending arrangement or quasi-stock lending arrangement—
 - (a) quasi-cash collateral is treated as if it were cash collateral, and
 - (b) the amount of that cash collateral is taken to be the amount of the quasi-cash collateral in relation to the stock lending arrangement or quasi-stock lending arrangement.
- (3) If—
 - (a) section 597 applies in relation to a quasi-stock lending arrangement, and
 - (b) the person for whom the tax advantage was designed to be obtained is a person (“the other person”) other than the borrower under the arrangement,that section and section 598 have effect as if the other person were the person who receives the amount of interest mentioned in that section.
- (4) If section 597 applies in relation to a quasi-stock lending arrangement—

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- (a) any reference in that section to cash collateral being payable to or for the benefit of the lender includes its being payable to or for the benefit of a person connected with the lender,
 - (b) the reference in subsection (1)(c) of that section to a return to the borrower includes a return to any other person, and
 - (c) any reference in that section and section 598 to the transfer back of the relevant securities by the borrower to the lender includes the transfer back of any or all of the securities, or any other property, by any person to the lender or any other person.
- (5) In subsection (4)(c) “property” means property in any form.

600 Meaning of “quasi-stock lending arrangements” and “quasi-cash collateral”

- (1) This section applies for the purposes of sections 596 to 599.
- (2) “Quasi-stock lending arrangement” means so much of any arrangements between two or more persons as are not stock lending arrangements, but are arrangements under which—
- (a) a person (“the lender”) transfers securities to another person (“the borrower”) otherwise than by way of sale, and
 - (b) a requirement is imposed on a person to transfer any or all of the securities, or any other property, back to the lender or any other person otherwise than by way of sale.
- (3) For the purposes of subsection (2) it does not matter whether the person on whom the requirement is imposed is the borrower or any other person.
- (4) “Quasi-cash collateral”, in relation to a stock lending arrangement or quasi-stock lending arrangement, means—
- (a) any money which is payable for a relevant purpose, and
 - (b) any other property which is transferable for a relevant purpose.
- (5) Money or other property is payable or transferable for a relevant purpose if it is payable or transferable to or for the benefit of—
- (a) the lender under the stock lending arrangement or quasi-stock lending arrangement, or
 - (b) a person connected with the lender,
- for the purpose of securing the discharge of the requirement mentioned in subsection (2)(b).
- (6) If any property other than money is transferable for a relevant purpose, the amount of the quasi-cash collateral so far as relating to that property is determined by reference to its market value.
- (7) In this section “property” means property in any form.

Repos

601 Repo cases in which deeming rules apply

- (1) Section 602 applies if—

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- (a) there is a repo in respect of securities,
- (b) a distribution becomes payable in respect of the securities, and
- (c) each of the conditions in the first or second set of relevant conditions is met.

(2) This is the first set of relevant conditions—

Condition 1.1

As a result of the repo, the distribution is receivable otherwise than by the person who is the original owner under the repo.

Condition 1.2

There is no requirement under the sale agreement or the related agreement (if any) for a person to pay to the original owner, on or before the date when the repurchase price of the securities becomes due, an amount representative of the distribution.

Condition 1.3

It is reasonable to assume that, in deciding the repurchase price of the securities, account was taken of the fact that the distribution is receivable otherwise than by the original owner.

(3) This is the second set of relevant conditions—

Condition 2.1

The distribution is receivable otherwise than by the person who is the original owner under the repo.

Condition 2.2

There is no requirement under the sale agreement or the related agreement (if any) for a person to pay to the original owner, on or before the date when the repurchase price of the securities becomes due, an amount representative of the distribution.

Condition 2.3

The original owner or a person connected with the original owner is required under the sale agreement or the related agreement (if any) to pay an amount representative of the distribution.

Condition 2.4

It is reasonable to assume that, in deciding the repurchase price of the securities, account was taken of the circumstances mentioned in Conditions 2.1 to 2.3.

602 Deemed manufactured payments: repos

(1) If this section applies, the rules about manufactured payments apply as if the person from whom the securities are to be repurchased (“A”)—

- (a) were required, under the repo, to pay the repurchaser an amount representative of the distribution, and
- (b) discharged the requirement when the repurchase price of the securities became due.

(2) The amount mentioned in subsection (1)(a) is—

- (a) in the case of a dividend on UK shares (other than one within paragraph (b)), the amount of the dividend,
- (b) in the case of a dividend on UK shares so far as—

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- (i) paid by a company to which Part 4 of FA 2006 applies in respect of profits of C (tax-exempt), or
 - (ii) paid by a group to which that Part applies in respect of profits of G (property rental business),
- the gross amount of the dividend,
- (c) in the case of a periodical payment of interest on UK securities, the gross amount of the periodical payment of interest, and
 - (d) in the case of an overseas dividend on overseas securities, the gross amount of the overseas dividend.
- (3) But if A is not the person to whom the original owner agreed to sell the securities, A is not entitled (whether as a result of the rules about manufactured payments or otherwise) to an income deduction as a result of subsection (1).
- (4) “Income deduction” means—
- (a) a deduction in calculating profits or gains for income tax purposes, or
 - (b) a deduction in calculating net income.

603 Deemed deductions of tax

- (1) This section applies if—
- (a) an amount is treated as paid under section 602(1)(b) (deemed manufactured payments), and
 - (b) as a result, one of these sections applies—
 - (i) section 918 (deduction of income tax at source: manufactured dividends on UK shares: Real Estate Investment Trusts),
 - (ii) section 919 (deduction of income tax at source: manufactured interest on UK securities),
 - (iii) section 922 (deduction of income tax at source: manufactured overseas dividends).
- (2) So far as the deemed payment is representative of a dividend on UK shares—
- (a) paid by a company to which Part 4 of FA 2006 applies in respect of profits of C (tax-exempt), or
 - (b) paid by a group to which that Part applies in respect of profits of G (property rental business),
- any deduction which (as a result of section 918) is required to be made out of the gross amount of the payment is treated as made.
- (3) If the deemed payment is representative of a periodical payment of interest on UK securities, any deduction which (as a result of section 919) is required to be made out of the gross amount of the payment is treated as made.
- (4) If the deemed payment is representative of an overseas dividend on overseas securities, any deduction which (as a result of section 922) is required to be made out of the gross amount of the payment is treated as made.

604 Deemed increase in repurchase price: price differences under repos

- (1) This section applies if—

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- (a) an amount is treated as paid under section 602(1)(b) (deemed manufactured payments), and
 - (b) as a result, one of these sections applies—
 - (i) section 573 (manufactured dividends on UK shares),
 - (ii) section 576 (manufactured dividends on UK shares: Real Estate Investment Trusts),
 - (iii) section 578 (manufactured interest on UK securities),
 - (iv) section 581 (manufactured overseas dividends).
- (2) If the deemed payment is representative of a dividend on UK shares (other than one falling within subsection (3)), the repurchase price of the UK shares is treated for the purposes of section 607 (treatment of price differences under repos) as increased by an amount equal to the amount of the dividend.
- (3) So far as the deemed payment is representative of a dividend on UK shares—
 - (a) paid by a company to which Part 4 of FA 2006 applies in respect of profits of C (tax-exempt), or
 - (b) paid by a group to which that Part applies in respect of profits of G (property rental business),the repurchase price of the UK shares is treated for the purposes of section 607 as increased by the gross amount of the dividend.
- (4) If the deemed payment is representative of a periodical payment of interest on UK securities, the repurchase price of the UK securities is treated for the purposes of section 607 as increased by the gross amount of the periodical payment of interest.
- (5) If the deemed payment is representative of an overseas dividend on overseas securities, the repurchase price of the overseas securities is treated for the purposes of section 607 as increased by the gross amount of the overseas dividend.

605 Deemed increase in repurchase price: other income tax purposes

- (1) The deemed increase in the repurchase price which is made by section 604(2), (4) or (5) for the purposes of section 607 also has effect for all other income tax purposes (except sections 601, 602, 604 and this section), if condition A or B is met.
- (2) Condition A is that, as a result of the increase, there is no difference for the purposes of section 607 between the sale price and the repurchase price.
- (3) Condition B is that, as a result of either of the exceptions in section 608, section 607 does not apply.
- (4) For the effect of the deemed increase of the repurchase price for capital gains tax purposes see section 261F of TCGA 1992.

Interpretation

606 Interpretation of Chapter

- (1) This section applies for the purposes of this Chapter.
- (2) “C (tax-exempt)” has the meaning given by section 105(3) of FA 2006.

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- (3) “Distribution” means—
 - (a) in the case of UK shares, a dividend,
 - (b) in the case of UK securities, a periodical payment of interest, and
 - (c) in the case of overseas securities, an overseas dividend.
- (4) “G (property rental business)” has the meaning given by paragraph 2 of Schedule 17 to FA 2006.
- (5) “Group” has the meaning given by section 134 of FA 2006.
- (6) “Manufactured dividend” has the same meaning as in Chapter 2 (see section 573(1)(a)).
- (7) “The repurchase price of the securities” means the amount which, under the sale agreement or the related agreement (if any), the original owner or connected person is to pay for the securities bought back.
- (8) “The rules about manufactured payments” means—
 - (a) Chapter 2 of this Part and regulations made under it,
 - (b) Chapter 3 of this Part,
 - (c) Chapter 9 of Part 15 and regulations made under it, and
 - (d) regulations made under section 973, so far as they apply to a person who pays a manufactured dividend.
- (9) Section 589 (meaning of “gross amount” of interest, manufactured overseas dividends and overseas dividends for purposes of Chapter 2) also applies for the purposes of this Chapter.
- (10) Section 918(7) (meaning of “gross amount” of manufactured dividend in Real Estate Investment Trust case) also applies for the purposes of this Chapter.