



# Income Tax Act 2007

## 2007 CHAPTER 3

### PART 15

#### DEDUCTION OF INCOME TAX AT SOURCE

### CHAPTER 1

#### INTRODUCTION

#### **847 Overview of Part**

- (1) This Part deals with deduction of income tax at source.
- (2) The following Chapters contain duties to deduct sums representing income tax from certain payments—
  - (a) Chapter 2 (deposit-takers and building societies),
  - (b) Chapter 3 (certain payments of yearly interest),
  - (c) Chapter 4 (payments in respect of building society securities),
  - (d) Chapter 5 (payments of UK public revenue dividends),
  - (e) Chapter 6 (annual payments and patent royalties),
  - (f) Chapter 7 (other payments connected with intellectual property),
  - (g) Chapter 9 (manufactured payments), and
  - (h) Chapter 10 (non-commercial payments by companies).
- (3) Chapters 6 and 7 are subject to Chapter 8 which makes special provision in relation to the deduction of sums representing income tax from royalty payments.
- (4) Chapter 11 contains provision disapplying some of the duties to deduct where payments are made between companies etc.
- (5) The following Chapters contain further provision in connection with the deduction (or deemed deduction) of sums representing income tax from certain payments (or deemed payments)—

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- (a) Chapter 12 (funding bonds),
  - (b) Chapter 13 (unauthorised unit trusts), and
  - (c) Chapter 14 (tax avoidance: directions for deductions from payments to non-UK residents).
- (6) Chapters 15 to 17 contain provision about the collection of income tax in respect of payments from which sums are required to be deducted (or from which sums are treated as deducted) under the preceding Chapters.
- (7) Chapter 18 deals with regimes involving the deduction of income tax at source which apply in the case of—
- (a) visiting performers,
  - (b) non-resident landlords, and
  - (c) Real Estate Investment Trusts.
- (8) Chapter 19 makes general provision for this Part including—
- (a) provision about the giving of statements about deduction of income tax,
  - (b) provision about payments where the recipient is a company or where the payer is a public department, and
  - (c) exceptions from duties to deduct for payments made by designated international organisations, some payments under derivative contracts and for some payments of interest on foreign currency securities.
- (9) The following provisions also deal with deduction of income tax at source—
- (a) Part 11 of ITEPA 2003 (Pay As You Earn), and
  - (b) Chapter 3 of Part 3 of FA 2004 (construction industry scheme).

#### **848 Income tax deducted at source treated as income tax paid by recipient**

- (1) A sum representing income tax which is deducted (or treated as deducted) under this Part from a payment is treated as income tax paid by the recipient.
- (2) The sum is accordingly taken into account under sections 59B and 59D of TMA 1970 (see also paragraph 8 of Schedule 18 to FA 1998) in determining the income tax or corporation tax payable by, or repayable to, the recipient.
- (3) But this section does not apply to income tax deducted at source under section 966 (visiting performers) or 971 (non-resident landlords).

#### **849 Interaction with other Income Tax Acts provisions**

- (1) Regulations made under section 791 of ICTA (double taxation relief: power to make regulations for carrying out section 788) make provision disapplying or otherwise affecting duties to deduct under this Part in circumstances where relief is available under double taxation arrangements.
- (2) Sections 821 and 822 of ICTA make provision in relation to under-deductions and over-deductions from some payments which are made before the passing of the relevant annual Act imposing income tax and corporation tax.
- (3) In accordance with section 783 of ITTOIA 2005 (general disregard of exempt income for income tax purposes), any payment (or part of a payment) which is exempt from

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income tax as a result of Part 6 of ITTOIA 2005 is ignored for the purposes of the duties under this Part.

This is subject to any express or implied provision to the contrary.

- (4) Paragraphs 11 to 13 of Schedule 2 to FA 2005 (alternative finance arrangements: further provisions) make provision for Chapters 2 to 5, 12 and 19 to have effect in relation to alternative finance arrangements.
- (5) For exceptions from the duties to deduct under Chapters 3, 6, 7, 10 and 14 in connection with the London Olympic Games and Paralympic Games see—
  - (a) Chapter 6 of Part 3 of FA 2006, and
  - (b) regulations made under that Chapter.

## CHAPTER 2

### DEDUCTION BY DEPOSIT-TAKERS AND BUILDING SOCIETIES

#### *Introduction*

#### **850 Overview of Chapter**

- (1) This Chapter deals with the deduction of sums representing income tax by deposit-takers and building societies from payments of interest on relevant investments.
- (2) Section 851 contains a general duty to deduct sums representing income tax from such payments and section 852 confers power on the Commissioners for Her Majesty's Revenue and Customs to disapply section 851 by regulations.
- (3) Sections 853 to 856 set out some basic concepts, so that—
  - (a) section 853 defines “deposit-taker” (and section 854 allows the Treasury by order to prescribe persons as deposit-takers),
  - (b) section 855 defines “investment” and “deposit”, and
  - (c) section 856 explains which investments are relevant investments.
- (4) Section 856 is subject to—
  - (a) section 857 (which sets out when investments must be treated as relevant and when they may be treated as not relevant), and
  - (b) sections 858 to 870 (which describe various kinds of investment which are not relevant investments).
- (5) Sections 871 to 873 contain supplementary provisions.
- (6) For the purposes of this Chapter—
  - (a) any reference to interest paid by a building society on a relevant investment includes a reference to a dividend paid by the society in respect of the investment,
  - (b) “dividend” includes any distribution (whether or not described as a dividend), and
  - (c) crediting interest counts as paying it.

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### *Duty to deduct sums representing income tax*

#### **851 Duty to deduct sums representing income tax**

- (1) This section applies if—
  - (a) a deposit-taker or building society makes a payment of interest on an investment (see section 855(1)), and
  - (b) when the payment is made, the investment is a relevant investment (see section 856).
- (2) The deposit-taker or building society must, on making the payment, deduct from it a sum representing income tax on it at the savings rate in force for the tax year in which it is made.
- (3) For provision about the collection of income tax in respect of a payment from which a sum must be deducted under this section, see Chapter 15.

#### **852 Power to make regulations disapplying section 851**

- (1) The Commissioners for Her Majesty's Revenue and Customs may make regulations which provide that section 851 does not apply in relation to a payment of interest if prescribed conditions are met.
- (2) The regulations may, in particular, include—
  - (a) provision for a certificate to be supplied to the effect that the person beneficially entitled to a payment is unlikely to be liable to pay any income tax for the tax year in which it is made,
  - (b) provision for the certificate to be supplied by that person or another prescribed person,
  - (c) provision about the time when, and the manner in which, a certificate is to be supplied, and
  - (d) provision about the form and contents of a certificate.
- (3) Any provision included in the regulations under subsection (2)(d) may allow the Commissioners to make requirements about the form and contents of a certificate.
- (4) In this section “prescribed” means prescribed in the regulations.

### *Deposit-takers and relevant investments*

#### **853 Meaning of “deposit-taker”**

- (1) In this Chapter “deposit-taker” means—
  - (a) the Bank of England, or
  - (b) a person to whom one of the following subsections or section 854 applies.
- (2) This subsection applies to a person—
  - (a) who has permission under Part 4 of FISMA 2000 to accept deposits which are relevant investments, and
  - (b) who is not—
    - (i) a building society,

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- (ii) a society registered within the meaning of the Friendly Societies Act 1974 (c. 46) or incorporated under the Friendly Societies Act 1992 (c. 40),
  - (iii) a society registered as a credit union under the Industrial and Provident Societies Act 1965 (c. 12) or the Credit Unions (Northern Ireland) Order 1985 (S.I. 1985/1205 (N.I. 12)), or
  - (iv) an insurance company within the meaning of section 275 of FA 2004.
- (3) This subsection applies to a company within the meaning of the Companies Act 1985 (c. 6)—
  - (a) in respect of which a resolution has been passed by a local authority under—
    - (i) section 48(3) of the Banking Act 1979 (c. 37), or
    - (ii) section 103(3) of the Banking Act 1987 (c. 22), and
  - (b) which is exempt from the prohibition in section 19 of FISMA 2000 on accepting deposits which are relevant investments.
- (4) This subsection applies to a local authority.
- (5) This subsection applies to an EEA firm which—
  - (a) is of the kind mentioned in paragraph 5(b) of Schedule 3 to FISMA 2000 (EEA passport rights), and
  - (b) has permission under paragraph 15 of that Schedule to accept deposits (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule).
- (6) This subsection applies to a person—
  - (a) who is authorised for the purposes of FISMA 2000, and
  - (b) whose business consists wholly or mainly of dealing in financial instruments as principal.

For the meaning of “financial instrument”, see section 984.

#### **854 Power to prescribe persons as deposit-takers**

- (1) This section applies to a person who receives deposits in the course of carrying on business or activities and—
  - (a) is for the time being prescribed by order by the Treasury for the purposes of this section, or
  - (b) is a member of a class of persons which is for the time being so prescribed.
- (2) An order under this section may prescribe a person or class of person—
  - (a) in relation to all deposits which are relevant investments, or
  - (b) in relation to deposits which are relevant investments of a kind specified in the order.
- (3) If a person is prescribed only in relation to deposits which are relevant investments of a kind specified in the order, the reference in section 851(1)(b) to “relevant investment” is to be read as a reference only to relevant investments of the kind so specified.

#### **855 Meaning of “investment” and “deposit”**

- (1) In this Chapter “investment” means—
  - (a) a deposit with a deposit-taker,

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- (b) a deposit with a building society,
  - (c) shares in a building society, or
  - (d) a loan to a building society.
- (2) In this Chapter “deposit” means a sum of money paid on terms which mean that it will be repaid (with or without interest)—
- (a) on demand, or
  - (b) at a time or in circumstances agreed by or on behalf of the person who pays it and the person who receives it.

### **856 Investments which are relevant investments**

- (1) An investment is a relevant investment for the purposes of this Chapter if it meets—
- (a) the individual interest condition (see subsection (3)),
  - (b) the Scottish partnership condition (see subsection (4)),
  - (c) the personal representative condition (see subsection (5)), or
  - (d) the settlement condition (see subsection (6)).
- (2) But an investment is not a relevant investment if any of sections 858 to 870 prevent it from being a relevant investment.
- (3) An investment meets the individual interest condition if the only persons beneficially entitled to interest on the investment are individuals.
- (4) An investment meets the Scottish partnership condition if—
- (a) a Scottish partnership is beneficially entitled to all interest on the investment, and
  - (b) that partnership consists only of individuals.
- (5) An investment meets the personal representative condition if personal representatives are entitled to any interest on the investment and they receive it in that capacity.
- (6) An investment meets the settlement condition if all interest on the investment is income arising to the trustees of a discretionary or accumulation settlement and they receive it in that capacity.

For the meaning of “discretionary or accumulation settlement”, see section 873(1).

### **857 Investments to be treated as being or as not being relevant investments**

- (1) A deposit-taker or building society must treat every investment with it as a relevant investment unless satisfied that the investment is not a relevant investment.
- (2) If a deposit-taker or building society is satisfied that an investment is not a relevant investment, it may continue to treat the investment as not being a relevant investment until subsection (3) applies.
- (3) This subsection applies when the deposit-taker or building society has information which can reasonably be taken to indicate that the investment is or may be a relevant investment.

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*Investments which are not relevant investments: non-UK resident beneficiaries*

### **858 Declarations of non-UK residence: individuals**

- (1) This section applies to an investment with a deposit-taker or building society which meets the individual interest condition in section 856(3).
- (2) The investment is not a relevant investment if—
  - (a) an appropriate person has made the declaration set out in subsection (3) to the deposit-taker or building society,
  - (b) the declaration contains the undertaking set out in subsection (4),
  - (c) the declaration contains the name and principal residential address of the individual or (as the case may be) each of the individuals entitled to the interest,
  - (d) the declaration contains such other information as the Commissioners for Her Majesty's Revenue and Customs may reasonably require, and
  - (e) the declaration is in such form as the Commissioners may prescribe or authorise.
- (3) The declaration is that, at the time when the declaration is made—
  - (a) the person who is beneficially entitled to the interest is not ordinarily UK resident, or
  - (b) (as the case may be) all the persons who are so entitled are not ordinarily UK resident.
- (4) The undertaking is an undertaking by the person making it to notify the person to whom it is made if any individual in respect of whom it is made becomes ordinarily UK resident.
- (5) In this section “appropriate person” means—
  - (a) a person who is beneficially entitled to interest on the investment, or
  - (b) a person to whom any such interest is payable.

### **859 Declarations of non-UK residence: Scottish partnerships**

- (1) This section applies to an investment with a deposit-taker or building society which meets the Scottish partnership condition in section 856(4).
- (2) The investment is not a relevant investment if—
  - (a) an appropriate person has made the declaration set out in subsection (3) to the deposit-taker or building society,
  - (b) the declaration contains the undertaking set out in subsection (4),
  - (c) the declaration contains the name and principal residential address of each of the partners,
  - (d) the declaration contains such other information as the Commissioners for Her Majesty's Revenue and Customs may reasonably require, and
  - (e) the declaration is in such form as the Commissioners may prescribe or authorise.
- (3) The declaration is that, at the time when the declaration is made, all of the partners of the partnership are not ordinarily UK resident.

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- (4) The undertaking is an undertaking by the person making it to notify the person to whom it is made if any partner in respect of whom it is made becomes ordinarily UK resident.
- (5) In this section “appropriate person” means—
  - (a) the partnership that is beneficially entitled to the interest on the investment, or
  - (b) a person to whom any such interest is payable.

#### **860 Declarations of non-UK residence: personal representatives**

- (1) This section applies to an investment with a deposit-taker or building society which meets the personal representative condition in section 856(5).
- (2) The investment is not a relevant investment if—
  - (a) an appropriate person has made the declaration set out in subsection (3) to the deposit-taker or building society,
  - (b) the declaration contains such information as the Commissioners for Her Majesty's Revenue and Customs may reasonably require, and
  - (c) the declaration is in such form as the Commissioners may prescribe or authorise.
- (3) The declaration is that the deceased was not ordinarily UK resident immediately before the deceased's death.
- (4) In this section “appropriate person” means—
  - (a) any of the personal representatives who are entitled to receive interest on the investment, or
  - (b) a person to whom any such interest is payable.

#### **861 Declarations of non-UK residence: settlements**

- (1) This section applies to an investment with a deposit-taker or building society which meets the settlement condition in section 856(6).
- (2) The investment is not a relevant investment if—
  - (a) an appropriate person has made the declaration set out in subsection (3) to the deposit-taker or building society,
  - (b) the declaration contains the undertaking set out in subsection (4),
  - (c) the declaration contains such information as the Commissioners for Her Majesty's Revenue and Customs may reasonably require, and
  - (d) the declaration is in such form as the Commissioners may prescribe or authorise.
- (3) The declaration is that, at the time when the declaration is made—
  - (a) the trustees who are entitled to the interest are non-UK resident (see section 475), and
  - (b) no person who is a trustee has reasonable grounds for believing that any beneficiary under the settlement is—
    - (i) an individual who is ordinarily UK resident,
    - (ii) a company which is UK resident, or



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- (iii) a Scottish partnership any of the partners of which is an individual who is ordinarily UK resident or a company which is UK resident.
- (4) The undertaking is an undertaking by the person making it to notify the person to whom it is made if—
- (a) the trustees become UK resident,
  - (b) an individual in respect of whom it is made becomes ordinarily UK resident,
  - (c) a company in respect of which it is made becomes UK resident,
  - (d) an individual partner in any Scottish partnership in respect of which it is made becomes ordinarily UK resident,
  - (e) a company partner in any Scottish partnership in respect of which it is made becomes UK resident,
  - (f) a partner who is an ordinarily UK resident individual or a UK resident company joins any Scottish partnership in respect of which it is made, or
  - (g) a person within any of sub-paragraphs (i) to (iii) of subsection (3)(b) becomes or is found to be a beneficiary under the settlement to which the declaration relates.
- (5) In this section “appropriate person” means—
- (a) any person who is a trustee entitled to receive interest on the investment, or
  - (b) a person to whom any such interest is payable.
- (6) References in this section to a beneficiary under the settlement are to be construed in accordance with section 873(3) (meaning of “beneficiary under a discretionary or accumulation settlement”).

## **862 Inspection of declarations**

- (1) This section applies if an officer of Revenue and Customs by notice requires a deposit-taker or building society to make available for inspection the declarations made to it under sections 858 to 861 which are referred to in the notice.
- (2) The deposit-taker or building society must make the declarations available for inspection—
- (a) by an officer of Revenue and Customs who is named in the notice, and
  - (b) within such time as the notice may specify.
- (3) An officer of Revenue and Customs to whom the declarations must be made available may take copies or extracts from them.

*Other investments which are not relevant investments*

## **863 General client account deposits**

- (1) An investment is not a relevant investment if it is a general client account deposit.
- (2) An investment is a general client account deposit for the purposes of this section if—
- (a) it is a deposit held by a deposit-taker or building society in a client account, and
  - (b) provision made under any enactment requires the person whose account it is to make payments representing interest to some or all of the clients for whom, or on whose account, that person received the sums deposited in the account.

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- (3) But an investment is not a general client account deposit if the account in which it is held is identified by the deposit-taker or building society as one in which sums are held only for one or more particular clients of the person whose account it is.

#### **864 Qualifying uncertificated eligible debt security units**

An investment is not a relevant investment if it is a deposit in respect of which a deposit-taker or building society has issued a qualifying uncertificated eligible debt security unit (see section 986).

#### **865 Qualifying certificates of deposit**

An investment is not a relevant investment if it is a deposit in respect of which a deposit-taker or building society has issued a qualifying certificate of deposit (see section 985).

#### **866 Qualifying time deposits**

- (1) An investment is not a relevant investment if it is a qualifying time deposit.
- (2) An investment is a qualifying time deposit for the purposes of this section if—
- (a) it is a deposit consisting of a loan of at least £50,000,
  - (b) the terms of the deposit require its repayment at a specified time within 5 years beginning with the date on which it is made,
  - (c) those terms do not make provision for the transfer of the right to repayment, and
  - (d) those terms prevent partial withdrawals of, or additions to, the deposit.
- (3) If a deposit is denominated in a foreign currency, subsection (2)(a) has effect as if it referred to an amount which is at least the equivalent in that currency of £50,000 at the time the deposit is made.

#### **867 Lloyd's premium trust funds**

- (1) An investment is not a relevant investment if it forms part of a premium trust fund of an underwriting or former underwriting member of Lloyd's.
- (2) In this section “premium trust fund” has the meaning given in section 184 of FA 1993.

#### **868 Investments held outside the United Kingdom**

- (1) An investment with a deposit-taker is not a relevant investment if—
- (a) the deposit-taker is UK resident for income tax purposes or corporation tax purposes, and
  - (b) the investment is held at a branch of the deposit-taker situated outside the United Kingdom.
- (2) An investment with a deposit-taker is not a relevant investment if—
- (a) the deposit-taker is non-UK resident for income tax purposes or corporation tax purposes, and

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- (b) the investment is not held at a branch of the deposit-taker situated in the United Kingdom.
- (3) An investment with a building society is not a relevant investment if it is held at a branch of the building society situated outside the United Kingdom.
- (4) For the purposes of this section an investment is held at a branch of a deposit-taker or building society if the investment is recorded in its books as a liability of that branch.

### **869 Sale and repurchase of securities**

- (1) An investment is not a relevant investment if it is a loan which is treated as made to a building society by virtue of section 607 (treatment of price differences under repos).
- (2) An investment is not a relevant investment if it is an amount of cash which is—
  - (a) received by a building society in connection with a repo in circumstances where section 607 applies, and
  - (b) required as a result of a variation in the value of the securities in respect of which the repo is made as security for performance by the parties to the repo of their obligations under it.
- (3) In this section “repo” has the same meaning as in Part 11 (see section 569).

### **870 Other investments**

- (1) An investment with a deposit-taker is not a relevant investment if—
  - (a) it is a loan made by a deposit-taker in the ordinary course of its business or activities,
  - (b) it is a debt on a security which is listed on a recognised stock exchange, or
  - (c) it is a debt on a debenture issued by the deposit-taker (see section 1022).
- (2) An investment with a building society is not a relevant investment if—
  - (a) it is a loan made by a bank (as defined in section 991), or
  - (b) it is a security (including a share) issued by a building society which is listed, or capable of being listed, on a recognised stock exchange.

### *Supplementary*

### **871 Power to make regulations to give effect to Chapter**

- (1) The Commissioners for Her Majesty's Revenue and Customs may by regulations make provision—
  - (a) about the giving of information by deposit-takers, building societies and appropriate persons,
  - (b) about the inspection of deposit-takers' and building societies' books, documents and other records by officers of Revenue and Customs, and
  - (c) generally for giving effect to this Chapter.
- (2) Regulations under this section may contain incidental, supplemental, consequential and transitional provision and savings.

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- (3) In this section “appropriate person” means a person who, in relation to an investment, falls within any of the following—
- (a) section 858(5),
  - (b) section 859(5),
  - (c) section 860(4), or
  - (d) section 861(5).

## **872 Power to make orders amending Chapter**

- (1) The Treasury may by order amend this Chapter for the purposes of providing that investments of a kind specified in the order are, or are not, relevant investments.
- (2) An order under this section which amends this Chapter in its application to deposit-takers may do so—
  - (a) in relation to all deposit-takers, or
  - (b) in relation to such deposit-takers or classes of deposit-taker as the order may specify.
- (3) An order under this section may contain incidental, supplemental, consequential and transitional provision and savings.
- (4) An order under this section may not amend section 852 (power to make regulations disapplying section 851).
- (5) An order under this section may not amend section 870(2)(b) for the purpose of providing that securities of the kind mentioned in that provision are relevant investments.

## **873 Discretionary or accumulation settlements**

- (1) A settlement is a discretionary or accumulation settlement for the purposes of this Chapter if any income arising to the trustees would (unless treated as income of the settlor) be to any extent income within subsection (2) for the tax year in which it arises.
- (2) Income is within this subsection so far as it is—
  - (a) accumulated or discretionary income as defined in section 480 (other than income arising under a trust established for charitable purposes only or an unauthorised unit trust in relation to which section 504 applies), or
  - (b) an amount of a type set out in section 482 (unless the trust is a unit trust scheme or the amount is income arising under a trust established for charitable purposes only or is excluded by section 481(5)).
- (3) A person is a beneficiary under a discretionary or accumulation settlement for the purposes of this Chapter if—
  - (a) the person is an actual or potential beneficiary under the settlement, and
  - (b) condition A or B is met in relation to the person.
- (4) Condition A is that the person is, or will or may become, entitled under the settlement to receive some or all of any income under the settlement.
- (5) Condition B is that some or all of any income under the settlement may be paid to or used for the benefit of the person in the exercise of a discretion conferred under the settlement.

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- (6) The references in subsections (4) and (5) to any income under the settlement include a reference to any capital under the settlement so far as it represents amounts originally received by the trustees as income.

### CHAPTER 3

#### DEDUCTION FROM CERTAIN PAYMENTS OF YEARLY INTEREST

##### *Duty to deduct sums representing income tax*

#### **874 Duty to deduct from certain payments of yearly interest**

- (1) This section applies if a payment of yearly interest arising in the United Kingdom is made—
- (a) by a company,
  - (b) by a local authority,
  - (c) by or on behalf of a partnership of which a company is a member, or
  - (d) by any person to another person whose usual place of abode is outside the United Kingdom.
- (2) The person by or through whom the payment is made must, on making the payment, deduct from it a sum representing income tax on it at the savings rate in force for the tax year in which it is made.
- (3) But see—
- (a) sections 875 to 888 as to circumstances in which the duty to deduct a sum under this section is disapplied, and
  - (b) Chapter 11 (payments between companies etc) for a further exception from the duty to deduct under this section.
- (4) See also regulations made under section 17(3) of F(No.2)A 2005 (authorised investment funds)—
- (a) for provision treating certain amounts shown in the distribution accounts of authorised investment funds as payments of yearly interest, and
  - (b) for exceptions from the duty to deduct under this section which would otherwise apply to such payments.
- (5) For the purposes of subsection (1) the following are to be treated as payments of yearly interest—
- (a) a payment of interest made by a registered industrial and provident society in respect of any mortgage, loan, loan stock or deposit, and
  - (b) any interest, dividend, bonus or other sum payable to a shareholder of such a society by reference to the amount of the shareholder's holding in the share capital of the society.
- (6) For the purposes of subsection (1)—
- (a) a payment made by a company in a fiduciary or representative capacity is not to be treated as a payment made by the company, and
  - (b) a payment made by a local authority in a fiduciary or representative capacity is not to be treated as a payment made by the local authority.

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- (7) For provision about the collection of income tax in respect of a payment from which a sum must be deducted under this section—
- (a) see Chapter 15 if the person making the payment is a UK resident company, and
  - (b) otherwise see Chapter 16.

*Exceptions from duty to deduct*

**875 Interest paid by building societies**

The duty to deduct a sum representing income tax under section 874 does not apply to a payment of interest made by a building society.

**876 Interest paid by deposit-takers**

- (1) The duty to deduct a sum representing income tax under section 874 does not apply to a payment of interest in respect of which a deposit-taker has a duty to deduct under section 851.
- (2) The duty to deduct a sum representing income tax under section 874 does not apply to a payment in respect of which a deposit-taker would have a duty to deduct under section 851 but for—
  - (a) regulations under section 852, or
  - (b) any of sections 858 to 861.

**877 UK public revenue dividends**

The duty to deduct a sum representing income tax under section 874 does not apply to a payment of interest in respect of a UK public revenue dividend.

**878 Interest paid by banks**

- (1) The duty to deduct a sum representing income tax under section 874 does not apply to a payment of interest made by a bank if that payment is made in the ordinary course of its business.
- (2) Section 991 (meaning of “bank”) applies for the purposes of this section.

**879 Interest paid on advances from banks**

- (1) The duty to deduct a sum representing income tax under section 874 does not apply to a payment of interest on an advance from a bank if, at the time when the payment is made, the person beneficially entitled to the interest is within the charge to corporation tax as respects the interest.
- (2) Section 991 (meaning of “bank”) applies for the purposes of this section.
- (3) Subsection (1) applies to the European Investment Bank as if the words from “if” to the end were omitted.

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- (4) An order under subsection (2)(e) of section 991 designating an international organisation as a bank may provide that subsection (1) applies to the organisation with the modification mentioned in subsection (3).

**880 Interest paid on advances from building societies**

The duty to deduct a sum representing income tax under section 874 does not apply to a payment of interest on an advance from a building society.

**881 National Savings Bank interest**

The duty to deduct a sum representing income tax under section 874 does not apply to a payment of interest on deposits with the National Savings Bank.

**882 Quoted Eurobond interest**

The duty to deduct a sum representing income tax under section 874 does not apply to a payment of interest on a quoted Eurobond (see section 987).

**883 Interest on loan to buy life annuity**

The duty to deduct a sum representing income tax under section 874 does not apply to a payment of interest to which section 369 of ICTA applies (interest on loan to buy life annuity payable under deduction of tax).

**884 Relevant foreign income**

- (1) The duty to deduct a sum representing income tax under section 874 does not apply to a payment of interest which is chargeable to income tax as relevant foreign income.
- (2) For the meaning of “relevant foreign income”, see section 989.

**885 Authorised persons dealing in financial instruments**

- (1) The duty to deduct a sum representing income tax under section 874 does not apply to a payment of interest made by a person authorised for the purposes of FISMA 2000 if—
- (a) the person's business consists wholly or mainly of dealing in financial instruments as principal, and
  - (b) the payment is made by that person in the ordinary course of that business.
- (2) For the meaning of “financial instrument”, see section 984.

**886 Interest paid by recognised clearing houses etc**

- (1) The duty to deduct a sum representing income tax under section 874 does not apply to a payment of interest made by a recognised clearing house (“RCH”) or recognised investment exchange (“RIE”) if—
- (a) the RCH or RIE is carrying on business as the provider of a central counterparty clearing service, and
  - (b) the interest is paid in the ordinary course of that business, on margin or other collateral deposited with it by users of the service.

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- (2) The duty to deduct a sum representing income tax under section 874 does not apply to interest treated by virtue of section 607 (treatment of price differences under repos) as paid by an RCH or RIE in respect of contracts made by it as the provider of a central counterparty clearing service.
- (3) In this section—
- “central counterparty clearing service” means the service provided by an RCH or RIE to the parties to a transaction where there are contracts between each of the parties and the RCH or RIE (in place of, or as an alternative to, a contract directly between the parties), and
- “recognised clearing house” and “recognised investment exchange” have the same meaning as in FISMA 2000 (see section 285 of that Act).

### **887 Industrial and provident society payments**

- (1) The duty to deduct a sum representing income tax under section 874 does not apply to either of the following payments if they are payable to a person whose usual place of abode is in the United Kingdom—
- (a) a payment of interest made by a registered industrial and provident society in respect of any mortgage, loan, loan stock or deposit, or
  - (b) any interest, dividend, bonus or other sum payable to a shareholder of such a society by reference to the amount of the shareholder's holding in the share capital of the society.
- (2) A registered industrial and provident society must, within 3 months after the end of each of its accounting periods, deliver to an officer of Revenue and Customs a return containing the information mentioned in subsection (3).
- (3) That information is—
- (a) the name and place of residence of every person to whom the society has, as a result of this section, made one or more payments in the period amounting in total to at least £15 without deducting a sum (or sums) representing income tax, and
  - (b) the amount so paid in the period to each of those persons.
- (4) See section 486(7) of ICTA as to the consequences of not making a return as required by subsection (2).
- (5) In this Chapter “registered industrial and provident society” means a society registered or treated as registered under the Industrial and Provident Societies Act 1965 (c. 12) or the Industrial and Provident Societies Act (Northern Ireland) 1969 (c. 24 (N.I.)).
- (6) For the purposes of this section crediting interest (or amounts treated as interest) counts as paying it.

### **888 Statutory interest**

The duty to deduct a sum representing income tax under section 874 does not apply to a payment of interest made by virtue of the contractual term implied by section 1(1) of the Late Payment of Commercial Debts (Interest) Act 1998 (c. 20) (statutory interest).



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## CHAPTER 4

### DEDUCTION FROM PAYMENTS IN RESPECT OF BUILDING SOCIETY SECURITIES

#### 889 Payments in respect of building society securities

- (1) This section applies to any payment made in a tax year if—
  - (a) it is a payment of a dividend or interest in respect of a security issued by a building society, and
  - (b) conditions A and B are met in relation to the security.
- (2) Condition A is that the security was listed or capable of being listed on a recognised stock exchange at the time the dividend or interest became payable.
- (3) Condition B is that the security is not—
  - (a) a qualifying certificate of deposit (see section 985),
  - (b) a qualifying uncertificated eligible debt security unit (see section 986), or
  - (c) a quoted Eurobond (see section 987).
- (4) The person by or through whom the payment is made must, on making it, deduct from it a sum representing income tax on it at the savings rate in force for the tax year.
- (5) For provision about the collection of income tax in respect of a payment from which a sum must be deducted under this section—
  - (a) see Chapter 15 if the person making the payment is a UK resident company, and
  - (b) otherwise see Chapter 16.
- (6) See also Chapter 11 (payments between companies) for an exception from the duty to deduct sums representing income tax under this section.
- (7) In this section—
  - “dividend” includes any distribution (whether or not described as a dividend), and
  - “security” includes a share (and, in particular, a permanent interest bearing share as defined in section 117 of TCGA 1992).

## CHAPTER 5

### DEDUCTION FROM PAYMENTS OF UK PUBLIC REVENUE DIVIDENDS

#### *Introduction*

#### 890 Overview of Chapter

- (1) This Chapter contains provision about the deduction of sums representing income tax from payments of UK public revenue dividends.
- (2) Section 891 defines “UK public revenue dividend”.
- (3) Section 892 contains a duty to deduct sums representing income tax from payments of UK public revenue dividends unless they are payable gross.

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- (4) Sections 893 and 894 explain when such payments are payable gross.
- (5) Sections 895 and 896 make provision for the making, and withdrawal, of applications for payments to be subject to the duty to deduct under this Chapter.
- (6) Section 897 contains a regulation-making power in connection with payments from which sums must be deducted under this Chapter.

### **891 Meaning of “UK public revenue dividend”**

In this Chapter “UK public revenue dividend” means any income from securities which—

- (a) is paid out of the public revenue of the United Kingdom or Northern Ireland, but
- (b) is not interest on local authority stock.

*Duty to deduct sums representing income tax*

### **892 Duty to deduct from certain UK public revenue dividends**

- (1) This section has effect if—
  - (a) a payment of a UK public revenue dividend is made, and
  - (b) it is not payable gross under section 893.
- (2) The person by or through whom the payment is made must, on making the payment, deduct from it a sum representing income tax on it at the savings rate in force for the tax year in which it is made.
- (3) For provision about the collection of income tax in respect of a payment from which a sum must be deducted under this section—
  - (a) see Chapter 15 if the person making the payment is a UK resident company, and
  - (b) otherwise see Chapter 16.

*Payments which are payable gross*

### **893 Payments of UK public revenue dividends which are payable gross**

- (1) A payment of a UK public revenue dividend is payable gross if—
  - (a) it is a payment of interest on gross-paying government securities, and
  - (b) no deduction at source application has effect in respect of the securities at the time the payment is made (see section 895).
- (2) In this Chapter “gross-paying government securities” means—
  - (a) gilt-edged securities (see section 1024), or
  - (b) securities which are the subject of a Treasury direction under section 894(1) or (3).

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## **894 Treasury directions**

- (1) The Treasury may direct that any securities to which subsection (2) applies are gross-paying government securities.
- (2) This subsection applies to any securities, so far as they are not gilt-edged securities, issued or treated as issued under—
  - (a) the National Loans Act 1939 (c. 117), or
  - (b) the National Loans Act 1968 (c. 13).
- (3) The Treasury may, at the request of the Department of Finance and Personnel for Northern Ireland, direct that any securities issued under section 11(1)(c) of the Exchequer and Financial Provisions Act (Northern Ireland) 1950 (c. 3 (N.I.)) are gross-paying government securities.
- (4) In relation to any securities which are gross-paying government securities by virtue of a direction under subsection (3)—
  - (a) references in sections 895 and 896 to “the Registrar” are to be read as references to the bank in the books of which the securities are registered or inscribed, and
  - (b) references in those sections to the Treasury are to be read as references to the Department of Finance and Personnel for Northern Ireland.
- (5) A direction under subsection (1) or (3) in respect of any securities may provide that the direction is to have effect in relation only to payments of interest on the securities made on or after a date specified in the direction.

### *Deduction at source applications*

## **895 Deduction at source application**

- (1) The holder of registered gross-paying government securities may make a deduction at source application in respect of the securities.
- (2) A deduction at source application in respect of any securities is an application—
  - (a) for payments of interest on those securities to be subject to the duty to deduct sums representing income tax under section 892,
  - (b) made to the Registrar, and
  - (c) made in such form as the Registrar may, with the approval of the Treasury, prescribe.
- (3) A deduction at source application in respect of any securities has effect from the date which is one month after the date on which it is made until—
  - (a) the securities cease to be registered in the name of the person who made the application, or
  - (b) the application ceases to have effect under section 896 following its withdrawal in accordance with that section.
- (4) If any registered gross-paying government securities are held on trust, the holders of the securities may make a deduction at source application in respect of them without the consent of any other person.
- (5) Subsection (4) applies despite anything in the instrument creating the trust.

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(6) In this Chapter—

“registered” means—

- (a) entered in the register of the Registrar, or
- (b) entered in a register maintained in accordance with regulations under section 207 of the Companies Act 1989 (c. 40) (transfer of securities without written instrument), and

“the Registrar” means the person or persons appointed in accordance with regulations under section 47(1)(b) of FA 1942 (see regulation 3 of the Government Stock Regulations 2004 (S.I. 2004/1611)).

### **896 Withdrawal of application**

- (1) A deduction at source application may be withdrawn by notice given to the Registrar by the holder of the securities.
- (2) The notice must be given in such form as the Registrar may, with the approval of the Treasury, prescribe.
- (3) If withdrawn, a deduction at source application ceases to have effect on the date which is one month after the date on which the notice of withdrawal is received by the Registrar.

### *Regulations*

### **897 Power to make regulations**

- (1) The Commissioners for Her Majesty's Revenue and Customs may by regulations—
  - (a) make provision as to the time and manner in which persons are to account for and pay income tax in respect of payments from which they are required to deduct sums representing income tax under section 892, and
  - (b) otherwise modify the provisions of section 892 and Chapters 15 and 16 in their application to such payments.
- (2) Regulations under this section may—
  - (a) make different provision for different descriptions of UK public revenue dividend and for different circumstances, and
  - (b) contain incidental, supplemental, consequential and transitional provision and savings.
- (3) The Commissioners for Her Majesty's Revenue and Customs must not make any regulations under this section unless a draft of them has been laid before and approved by a resolution of the House of Commons.

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## CHAPTER 6

### DEDUCTION FROM ANNUAL PAYMENTS AND PATENT ROYALTIES

#### *Introduction*

#### **898 Overview of Chapter**

- (1) This Chapter deals with the deduction of sums representing income tax from—
  - (a) qualifying annual payments, and
  - (b) royalties or other sums paid in respect of the use of patents.
- (2) See also—
  - (a) Chapter 11 (payments between companies etc) for an exception from the duties to deduct sums representing income tax under this Chapter,
  - (b) Chapter 4 of Part 8, which gives relief for certain payments from which sums representing income tax must be deducted under this Chapter, and
  - (c) section 615(3) of ICTA (exemption from tax in respect of certain pensions) which contains a further exception from the duties to deduct sums representing income tax under this Chapter.
- (3) If a payment to which a provision of this Chapter applies is also one to which section 906 applies, it is treated as not being a payment to which a provision of this Chapter applies.

#### **899 Meaning of “qualifying annual payment”**

- (1) In this Chapter “qualifying annual payment” means an annual payment that meets the conditions in subsections (2) to (5).
- (2) The payment must arise in the United Kingdom.
- (3) If the recipient is a person other than a company, the payment must be—
  - (a) a payment charged to income tax under—
    - (i) Chapter 7 of Part 4 of ITTOIA 2005 (purchased life annuity payments),
    - (ii) section 579 of that Act (royalties etc from intellectual property),
    - (iii) Chapter 4 of Part 5 of that Act (certain telecommunication rights: non-trading income), or
    - (iv) Chapter 7 of Part 5 of that Act (annual payments not otherwise charged), or
  - (b) a payment charged to income tax under Part 9 of ITEPA 2003 because section 609 or 611 of that Act applies to it (certain employment-related annuities).
- (4) If the recipient is a company, the payment must be—
  - (a) a payment charged to income tax as mentioned in subsection (3)(a), or
  - (b) a payment charged to corporation tax under Case III of Schedule D.
- (5) The payment must not be—
  - (a) interest,

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- (b) a qualifying donation as defined in section 339 of ICTA (donations to charity by companies),
- (c) a payment which is a qualifying donation for the purposes of Chapter 2 of Part 8 (gift aid),
- (d) a payment in relation to which income tax is treated as having been paid under section 494(3) (income tax treated as paid by beneficiary or settlor in relation to discretionary trust),
- (e) a payment which would fall within paragraph (d) but for the fact that the trustees making the payment are non-UK resident, or
- (f) an annual payment to which section 904 applies (annual payments for dividends or non-taxable consideration).

*Duty to deduct from annual payments*

**900 Deduction from commercial payments made by individuals**

- (1) This section applies to any payment made in a tax year if—
  - (a) it is a qualifying annual payment,
  - (b) the person who makes it is an individual, and
  - (c) it is made for genuine commercial reasons in connection with the individual's trade, profession or vocation.
- (2) The individual must, on making the payment, deduct from it a sum representing income tax on it at the basic rate in force for the tax year.
- (3) Income tax equal to the sum required to be deducted is to be collected through the individual's self-assessment return (see Chapter 17).

**901 Deduction from annual payments made by other persons**

- (1) This section applies to any payment made in a tax year if—
  - (a) it is a qualifying annual payment, and
  - (b) the person who makes it is not an individual.
- (2) But this section does not apply if—
  - (a) an individual's personal representatives make the payment,
  - (b) the individual would have been liable to make it if the individual had not died, and
  - (c) the payment would not have been made for genuine commercial reasons in connection with the individual's trade, profession or vocation, had it been made by the individual.
- (3) If the person who makes the payment has some modified net income for the tax year (see section 1025)—
  - (a) the person must, on making it, deduct from it a sum representing income tax on it at the basic rate in force for the tax year, and
  - (b) income tax equal to the sum required to be deducted is to be collected through the person's self-assessment return (see Chapter 17).

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- (4) If the person who makes the payment has no modified net income for the tax year the person by or through whom the payment is made must, on making it, deduct from it a sum representing income tax on it at the applicable rate (see section 902).
- (5) For provision about the collection of income tax in respect of a payment from which a sum must be deducted under subsection (4)—
  - (a) see Chapter 15 if the person making the payment is a UK resident company, and
  - (b) otherwise see Chapter 16.

## **902 Meaning of “applicable rate” in section 901**

- (1) This section gives the meaning of “applicable rate” in section 901(4).
- (2) Except in the case dealt with in subsection (3), the applicable rate is the basic rate in force for the tax year in which the payment is made.
- (3) If the payment—
  - (a) is an annuity payment under a purchased life annuity, and
  - (b) meets the condition in subsection (4),the applicable rate is the savings rate in force for the tax year in which the payment is made.
- (4) The condition is that the payment either—
  - (a) is savings income, or
  - (b) would be savings income, if it were the income of an individual within the charge to income tax.
- (5) In this section “purchased life annuity” has the meaning given by section 423 of ITTOIA 2005.

### *Duty to deduct from patent royalties*

## **903 Deduction from patent royalties**

- (1) This section applies to any payment made in a tax year if—
  - (a) it is a payment of a royalty or other sum in respect of the use of a patent, and
  - (b) it meets the conditions in subsections (2) to (4).
- (2) The payment must not be—
  - (a) a qualifying annual payment, or
  - (b) an annual payment to which section 904 applies (annual payments for dividends or non-taxable consideration).
- (3) The payment must arise in the United Kingdom.
- (4) The payment must be one that is charged to income tax or corporation tax.
- (5) If the person who makes the payment is an individual—
  - (a) the person must, on making the payment, deduct from it a sum representing income tax on it at the basic rate in force for the tax year, and

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- (b) income tax equal to the sum required to be deducted is to be collected through the person's self-assessment return (see Chapter 17).
- (6) If the person who makes the payment is not an individual, and has some modified net income for the tax year (see section 1025)—
  - (a) the person must, on making the payment, deduct from it a sum representing income tax on it at the basic rate in force for the tax year, and
  - (b) income tax equal to the sum required to be deducted is to be collected through the person's self-assessment return (see Chapter 17).
- (7) If the person who makes the payment—
  - (a) is not an individual, and
  - (b) has no modified net income for the tax year,
 the person by or through whom the payment is made must, on making it, deduct from it a sum representing income tax on it at the basic rate in force for the tax year.
- (8) See Chapter 8 which makes special provision in relation to royalties (double taxation arrangements: deduction at treaty rate and EU companies: discretion to pay gross).
- (9) For provision about the collection of income tax in respect of a payment from which a sum must be deducted under subsection (7)—
  - (a) see Chapter 15 if the person making the payment is a UK resident company, and
  - (b) otherwise see Chapter 16.

### *Supplementary*

#### **904 Annual payments for dividends or non-taxable consideration**

- (1) For the purposes of section 899(5)(f) and 903(2)(b) this section applies to an annual payment which meets the conditions in subsections (2) to (7).
- (2) The payment must be a payment charged to—
  - (a) income tax under Part 5 of ITTOIA 2005, or
  - (b) corporation tax under Case III of Schedule D.
- (3) The payment must be made under a liability incurred for consideration in money or money's worth all or any of which—
  - (a) consists of a dividend or the right to receive a dividend, or
  - (b) is not required to be brought into account in calculating for the purposes of income tax or corporation tax the income of the person making the payment.
- (4) The payment must not be a payment of income—
  - (a) which arises under a settlement made by one party to a marriage or civil partnership by way of provision for the other—
    - (i) after the dissolution or annulment of the marriage or civil partnership, or
    - (ii) while they are separated under an order of a court, or under a separation agreement, or if the separation is likely to be permanent, and
  - (b) which is payable to, or applicable for the benefit of, the other party.



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- (5) The payment must not be made by an individual for genuine commercial reasons in connection with the individual's trade, profession or vocation.
- (6) The payment must not be made to an individual under a liability incurred at any time in consideration of the individual surrendering, assigning or releasing an interest in settled property to or in favour of a person with a subsequent interest.
- (7) The payment must not be a payment of an annuity granted in the ordinary course of a business of granting annuities.
- (8) In the application of this section to Scotland the reference in subsection (6) to settled property is to be read as a reference to property held in trust.

## **905 Interpretation of Chapter**

In this Chapter “individual” includes a Scottish partnership if at least one partner is an individual.

## **CHAPTER 7**

### **DEDUCTION FROM OTHER PAYMENTS CONNECTED WITH INTELLECTUAL PROPERTY**

*Certain royalties etc where usual place of abode of owner is abroad*

## **906 Certain royalties etc where usual place of abode of owner is abroad**

- (1) This section applies to any payment made in a tax year if—
  - (a) it is a payment of any royalties, or sums payable periodically, in respect of a relevant intellectual property right (see section 907),
  - (b) it is one that is charged to income tax or corporation tax, and
  - (c) condition A or B is met.
- (2) Condition A is that the usual place of abode of the owner of the right is outside the United Kingdom.
- (3) Condition B is that—
  - (a) a person (“the seller”) has assigned the right to another person,
  - (b) the usual place of abode of the seller is outside the United Kingdom,
  - (c) the seller is entitled to periodical payments in respect of the right, and
  - (d) the payments are in respect of that entitlement.
- (4) But this section does not apply if the payment is made in respect of copies of works, or articles, which have been exported from the United Kingdom for distribution outside the United Kingdom.
- (5) The person by or through whom the payment is made must, on making it, deduct from it a sum representing income tax on it at the basic rate in force for the tax year.
- (6) See—
  - (a) Chapter 8 which makes special provision in relation to royalties (double taxation arrangements: deduction at treaty rate and EU companies: discretion to pay gross), and

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- (b) Chapter 11 (payments between companies etc) for an exception from the duty to deduct sums representing income tax under this section.
- (7) For provision about the collection of income tax in respect of a payment from which a sum must be deducted under this section—
- (a) see Chapter 15 if the person making the payment is a UK resident company, and
  - (b) otherwise see Chapter 16.
- (8) If a payment to which this section applies is also one to which a provision of Chapter 6 applies, it is treated as not being a payment to which a provision of Chapter 6 applies.

### **907 Meaning of “relevant intellectual property right”**

- (1) In section 906 “a relevant intellectual property right” means—
- (a) a copyright,
  - (b) a right in a design, or
  - (c) the public lending right in respect of a book.
- (2) In this section—
- “copyright” does not include copyright in—
- (a) a cinematographic film or video recording, or
  - (b) the sound-track of a cinematographic film or video recording, except so far as it is separately exploited,
- “a right in a design” means the design right in a design, or the right in a registered design.

### **908 Royalty payments etc made through UK resident agents**

- (1) If—
- (a) a payment to which section 906 applies is made through an agent who is UK resident, and
  - (b) the agent is entitled as against the owner of the right to deduct a sum as commission for services provided,
- section 906(5) and Chapters 8 (deduction at special rates), 15 and 16 (collection) apply as if the amount of the payment were the amount net of the sum deductible as commission.
- (2) But if the person by or through whom the payment is made does not know the commission is payable, or does not know its amount—
- (a) the sum representing income tax required to be deducted under section 906 must be calculated in the first instance on the total amount of the payment, and
  - (b) the return to be made under Chapter 15 or the account of the payment under Chapter 16, must be based on that total amount.

### **909 Royalty payments: further provision**

- (1) A payment to which section 906 applies is treated for all income and corporation tax purposes as made when it is made by the first person who makes it, not when it is made by or through any other person.

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- (2) If, under section 906, a sum representing income tax must be deducted from a payment, any agreement to make the payment without deduction of that sum is void.
- (3) Section 906—
  - (a) applies to payments on account of royalties as it applies to payments of royalties, and
  - (b) applies to payments on account of sums payable periodically as it applies to payments of sums payable periodically.

### *Proceeds of a sale of patent rights*

## **910 Proceeds of a sale of patent rights: payments to non-UK residents**

- (1) This section applies if a non-UK resident sells the whole or part of any patent rights and is chargeable in respect of the sale—
  - (a) to income tax under section 587 of ITTOIA 2005, or
  - (b) to corporation tax under section 524(3) of ICTA.
- (2) The person by or through whom the proceeds of the sale are paid must, on making any payment of—
  - (a) the proceeds, or
  - (b) an instalment of the proceeds,deduct from it a sum representing income tax on the chargeable amount at the basic rate in force for the tax year in which the payment is made.
- (3) In subsection (2) “the chargeable amount” means—
  - (a) so much of the proceeds or instalment as consists of a capital sum, less
  - (b) any incidental expenses of the sale which are deducted before payment.
- (4) Sections 597 to 599 of ITTOIA 2005 (licences connected with patents etc) apply for the purposes of this section as they apply for the purposes of sections 587 to 596 of that Act.
- (5) Section 4 of CAA 2001 (meaning of “capital sums” etc) applies in relation to this section as it applies in relation to that Act.
- (6) For further provision about the sum required to be deducted, see—
  - (a) section 595 of ITTOIA 2005 (certain rules affecting the seller's income tax position do not affect the amount to be deducted), and
  - (b) section 524(9) of ICTA (certain rules affecting the seller's corporation tax position do not affect the amount to be deducted).
- (7) See Chapter 11 (payments between companies etc) for an exception from the duty to deduct sums representing income tax under this section.
- (8) For provision about the collection of income tax in respect of a payment from which a sum must be deducted under this section—
  - (a) see Chapter 15 if the person making the payment is a UK resident company, and
  - (b) otherwise see Chapter 16.

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## CHAPTER 8

### CHAPTERS 6 AND 7: SPECIAL PROVISION IN RELATION TO ROYALTIES

#### *Deduction at special rates*

#### **911 Double taxation arrangements: deduction at treaty rate**

- (1) This section applies if—
  - (a) a company pays a royalty from which it is required to deduct a sum representing income tax under Chapter 6 or 7,
  - (b) the income tax in respect of the payment is collectible under Chapter 15 or 16, and
  - (c) the company reasonably believes that, at the time the payment is made, the payee is entitled to relief in respect of the payment under double taxation arrangements.
- (2) The company may calculate the sum to be deducted from the payment under Chapter 6 or 7 by reference to the treaty rate.
- (3) But, if the payee is not at the time entitled to such relief, this Part has effect as if subsection (2) had never applied in relation to the payment.
- (4) In this section “the treaty rate” means the rate of income tax appropriate to the payee under the arrangements.

#### **912 Power to make directions disapplying section 911**

- (1) This section applies if an officer of Revenue and Customs is not satisfied that the payee will be entitled to relief under double taxation arrangements in respect of one or more payments of royalties that a company is to make.
- (2) The officer may direct the company that section 911 is not to apply to the payment or payments.
- (3) A direction under subsection (2) may be varied or revoked by a later direction.

#### **913 Interpretation of sections 911 and 912**

- (1) In sections 911 and 912 “royalty” includes—
  - (a) a payment received as consideration for the use of, or the right to use, a copyright, patent, trade mark, design, process or information, and
  - (b) the proceeds of the sale of the whole or part of any patent rights.
- (2) In sections 911 and 912 “payee” means the person beneficially entitled to the income in respect of which the payment is made.

#### *Discretion to make payments gross*

#### **914 EU companies: discretion to make payment gross**

- (1) This section applies if—

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- (a) a company makes a royalty payment and, at the time the payment is made, the company reasonably believes that the payment is exempt from income tax as a result of section 758 of ITTOIA 2005 (exemption for certain interest and royalty payments), but
  - (b) there is a duty to deduct a sum representing income tax from the payment under section 903(7) or 906 if the payment is not in fact exempt.
- (2) The company may make the payment without deducting a sum representing income tax under section 903(7) or 906 (as the case may be).
- (3) But if the payment is not in fact exempt from income tax as a result of section 758 of ITTOIA 2005, this Part has effect as if subsection (2) had never applied in relation to the payment.

### **915 Power to make directions disapplying section 914**

- (1) This section applies if an officer of Revenue and Customs is not satisfied that one or more payments to be made by a company will be exempt from income tax as a result of section 758 of ITTOIA 2005 (exemption for certain interest and royalty payments).
- (2) The officer may direct the company that section 914 is not to apply to the payment or payments.
- (3) A direction under subsection (2) may be varied or revoked by a later direction.

### **916 Duty of payee to notify if payment not exempt**

- (1) This section applies if before a payment of a royalty is made, the company beneficially entitled to the income in respect of which the payment is to be made—
  - (a) believed that the payment was exempt from income tax as a result of section 758 of ITTOIA 2005 (exemption for certain interest and royalty payments), but
  - (b) has subsequently become aware that any of conditions A to C in that section have ceased to be met.
- (2) The company must without delay notify—
  - (a) an officer of Revenue and Customs, and
  - (b) the company which is to make the payment.

### **917 Supplementary**

- (1) If section 763 of ITTOIA 2005 (special relationships) applies, sections 914 to 916 have effect in relation to only so much of the payment as does not exceed the arm's length amount (within the meaning of that section).
- (2) Expressions used in sections 914 to 916 and in sections 757 to 767 of ITTOIA 2005 have the same meaning in sections 914 to 916 as in those sections.

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## CHAPTER 9

### MANUFACTURED PAYMENTS

#### *Manufactured dividends*

#### **918 Manufactured dividends on UK shares: Real Estate Investment Trusts**

- (1) This section applies if—
  - (a) a person pays a manufactured dividend as mentioned in section 573(1), and
  - (b) the manufactured dividend is representative of a dividend which is—
    - (i) paid by a company to which Part 4 of FA 2006 applies (Real Estate Investment Trusts) in respect of profits of C (tax-exempt), or
    - (ii) paid by the principal company of a group to which that Part applies in respect of profits of G (property rental business).
- (2) This section applies only so far as the manufactured dividend is representative of such a dividend.
- (3) If the payer—
  - (a) is UK resident, or
  - (b) pays the manufactured dividend in the course of a trade carried on through a branch or agency in the United Kingdom,
 regulations under section 973 apply to the payer as they apply to a company to which Part 4 of FA 2006 applies, with any necessary modifications.
- (4) The Treasury may by regulations provide, in a case where the payer—
  - (a) is non-UK resident, and
  - (b) pays the manufactured dividend otherwise than in the course of a trade carried on through a branch or agency in the United Kingdom,
 for a United Kingdom recipient of the manufactured dividend to be liable to account for and pay income tax in respect of it.
- (5) A United Kingdom recipient is a recipient who—
  - (a) is UK resident, or
  - (b) is non-UK resident but receives the manufactured dividend for the purposes of a trade carried on by the recipient through a branch or agency in the United Kingdom.
- (6) The amount of income tax which the recipient may be liable to account for and pay under regulations under subsection (4) is equal to the amount of the sum representing income tax which the payer would have been required to deduct in accordance with regulations under section 973.
- (7) For the purposes of—
  - (a) regulations under section 973 as applied by subsection (3), and
  - (b) regulations under subsection (4),
 the “gross amount” of a manufactured dividend to which this section applies is equal to the gross amount of the dividend of which it is representative.

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### *Manufactured interest*

#### **919 Manufactured interest on UK securities: payments by UK residents etc**

- (1) This section applies if a person who pays manufactured interest as mentioned in section 578(1)—
  - (a) is UK resident, or
  - (b) pays the manufactured interest in the course of a trade carried on in the United Kingdom through a branch or agency.
- (2) The payer of the manufactured interest must, on making the payment, deduct from the gross amount of the manufactured interest a sum representing income tax on it at the savings rate in force for the tax year in which the payment is made.
- (3) The “gross amount” of manufactured interest is equal to the gross amount of the interest of which it is representative.
- (4) This section is subject (in particular) to—  
section 583 (manufactured payments exceeding underlying payments),  
section 585 (manufactured payments: power to deal with special cases),  
section 921 (cases where interest on underlying securities paid gross), and  
Chapter 11 (payments between companies etc: exception from duties to deduct).
- (5) For provision about the collection of income tax in respect of a payment from which a sum must be deducted under this section—
  - (a) see Chapter 15 if the payer of the manufactured interest is a company, and
  - (b) otherwise see Chapter 16.

#### **920 Foreign payers of manufactured interest: the reverse charge**

- (1) This section applies if a person who pays manufactured interest as mentioned in section 578(1)—
  - (a) is non-UK resident, and
  - (b) pays the manufactured interest otherwise than in the course of a trade carried on in the United Kingdom through a branch or agency.
- (2) The recipient must account for and pay income tax in respect of the manufactured interest if the recipient—
  - (a) is UK resident, or
  - (b) is non-UK resident but receives the manufactured interest for the purposes of a trade carried on by the recipient in the United Kingdom through a branch or agency.
- (3) The amount of income tax to be accounted for and paid is equal to the amount of the sum representing income tax which the payer would have been required to deduct under section 919(2) if the payer had been UK resident.
- (4) If the payer would not have been required to deduct any sum under section 919(2), the recipient is not required to account for and pay any income tax under this section.
- (5) For examples of cases in which subsection (4) applies see (in particular)—  
section 921 (cases where interest on underlying securities paid gross), and  
Chapter 11 (payments between companies etc: exception from duties to deduct).

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- (6) This section is subject to—
  - section 583 (manufactured payments exceeding underlying payments), and
  - section 585 (manufactured payments: power to deal with special cases).
- (7) Provision about the collection of income tax required to be accounted for and paid under this section may be included in regulations under section 586.

## **921 Cases where interest on underlying securities paid gross**

- (1) This section applies to manufactured interest which is representative of interest on—
  - (a) gilt-edged securities, or
  - (b) securities which are not gilt-edged securities but on which the interest is payable without deduction of income tax.
- (2) Section 919(2) does not require any deduction of a sum representing income tax to be made on the payment of the manufactured interest.
- (3) In this section “securities” includes loan stock or any similar security.

### *Manufactured overseas dividends*

## **922 Manufactured overseas dividends: payments by UK residents etc**

- (1) This section applies if a person who pays a manufactured overseas dividend as mentioned in section 581(1)—
  - (a) is UK resident, or
  - (b) pays the manufactured overseas dividend in the course of a trade carried on through a branch or agency in the United Kingdom.
- (2) The payer of the manufactured overseas dividend must, on making the payment, deduct from the gross amount of the manufactured overseas dividend a sum representing income tax equal to the relevant withholding tax on the gross amount.
- (3) This section is subject (in particular) to—
  - section 583 (manufactured payments exceeding underlying payments), and
  - section 585 (manufactured payments: power to deal with special cases).
- (4) Provision about the collection of income tax in respect of a payment from which a sum must be deducted under this section may be included in regulations under section 586 or 925.

## **923 Foreign payers of manufactured overseas dividends: the reverse charge**

- (1) This section applies if a person who pays a manufactured overseas dividend as mentioned in section 581(1)—
  - (a) is non-UK resident, and
  - (b) pays the manufactured overseas dividend otherwise than in the course of a trade carried on through a branch or agency in the United Kingdom.
- (2) The recipient must account for and pay income tax in respect of the manufactured overseas dividend if the recipient—
  - (a) is UK resident, or



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- (b) is non-UK resident but receives the manufactured overseas dividend for the purposes of a trade carried on by the recipient through a branch or agency in the United Kingdom.
- (3) The amount of income tax to be accounted for and paid is equal to the amount of the sum representing income tax which the payer would have been required to deduct under section 922(2) if the payer had been UK resident.
- (4) If the payer would not have been required to deduct any sum under section 922(2), the recipient is not required to account for and pay any income tax under this section.
- (5) This section is subject to—
  - section 583 (manufactured payments exceeding underlying payments),
  - section 585 (manufactured payments: power to deal with special cases), and
  - section 924 (power to reduce liability under this section).
- (6) Provision about the collection of income tax required to be accounted for and paid under this section may be included in regulations under section 586.

#### **924 Power to reduce section 923 liability**

- (1) The Treasury may by regulations provide for a reduction in the amount of tax to be accounted for and paid as a result of section 923.
- (2) The reduction must be a reduction, to such extent and for such purposes as may be determined under the regulations, by reference to amounts of overseas tax charged on, or in respect of—
  - (a) the making of the manufactured overseas dividend, or
  - (b) the overseas dividend of which the manufactured overseas dividend is representative.

#### **925 Power to provide set-off entitlement**

- (1) The Treasury may by regulations provide for a person who, in any prescribed period, pays a manufactured overseas dividend as mentioned in section 581(1) to be entitled—
  - (a) to set off relevant amounts of tax suffered against relevant tax liabilities, and
  - (b) to account to the Commissioners for Her Majesty's Revenue and Customs for the balance or claim credit in respect of it.
- (2) Regulations under this section may—
  - (a) prescribe the circumstances in which relevant amounts of tax suffered may be set off against relevant tax liabilities, and
  - (b) provide for relevant amounts of tax suffered to be set off against relevant tax liabilities in accordance with the regulations and so far as prescribed.
- (3) “Relevant amounts of tax suffered” are—
  - (a) amounts of overseas tax in respect of overseas dividends received by the person in the prescribed period,
  - (b) amounts of overseas tax charged on, or in respect of, the making of manufactured overseas dividends received by the person in the prescribed period, and
  - (c) amounts—

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- (i) deducted as a result of section 922, or
  - (ii) accounted for and paid as a result of section 923,
- from any manufactured overseas dividends received by the person in the prescribed period.
- (4) “Relevant tax liabilities” are sums due from the person on account of the amounts deducted by the person as a result of section 922 from the manufactured overseas dividends paid by the person in the prescribed period.
- (5) In this section—
- “credit” includes credit against corporation tax, and
  - “prescribed” means prescribed in regulations under this section.

### *Supplementary*

#### **926 Interpretation of Chapter**

- (1) Expressions (except “prescribed”) used in this Chapter and in Chapter 2 of Part 11 (manufactured payments) have the same meaning in this Chapter as in that Chapter.
- (2) References in this Chapter to a trade carried on through a branch or agency are to be read, in relation to a company, as references to a trade carried on through a permanent establishment.

#### **927 Regulation-making powers: general**

Regulations under this Chapter may make different provision for different cases.

## **CHAPTER 10**

### DEDUCTION FROM NON-COMMERCIAL PAYMENTS BY COMPANIES

#### **928 Chargeable payments connected with exempt distributions**

- (1) This section applies to any payment chargeable to tax under section 214(1) of ICTA (chargeable payments made within 5 years of an exempt distribution).
- (2) The person by or through whom the payment is made must, on making the payment, deduct from it a sum representing income tax on it at the basic rate in force for the tax year in which it is made.
- (3) See Chapter 11 (payments between companies etc) for an exception from the duty to deduct sums representing income tax under this section.
- (4) For provision about the collection of income tax in respect of a payment from which a sum must be deducted under this section—
  - (a) see Chapter 15 if the person making the payment is a UK resident company, and
  - (b) otherwise see Chapter 16.
- (5) In this section “payment” does not include a transfer of money's worth that is treated as a payment for the purposes of section 214 of ICTA.

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## CHAPTER 11

### PAYMENTS BETWEEN COMPANIES ETC: EXCEPTION FROM DUTIES TO DEDUCT

#### *Introduction*

#### **929 Overview of Chapter**

- (1) This Chapter makes provision allowing some payments made by companies, local authorities and qualifying partnerships to be paid gross where they would otherwise be subject to specified duties to deduct sums representing income tax under this Part.
- (2) Section 930 disapplies specified duties to deduct where a payment is made by a company, local authority or qualifying partnership which reasonably believes that the payment is an excepted payment.
- (3) Section 931 confers power on an officer of Revenue and Customs to disapply section 930 by direction.
- (4) Section 932 defines “qualifying partnership”.
- (5) Sections 933 to 937 make provision as to when a payment is an excepted payment.
- (6) Section 938 deals with what happens when a company, local authority or qualifying partnership makes a payment without deducting a sum representing income tax under a reasonable but incorrect belief that the payment is an excepted payment.

#### *Exception from duties to deduct for excepted payments*

#### **930 Exception from duties to deduct sums representing income tax**

- (1) The duties to deduct sums representing income tax mentioned in subsection (2) do not apply to a payment if—
  - (a) it is made by a company, local authority or qualifying partnership, and
  - (b) at the time the payment is made, the company, authority or partnership reasonably believes that it is an excepted payment.
- (2) The duties to deduct are those under—
  - (a) section 874(2) (certain payments of yearly interest),
  - (b) section 889(4) (payments in respect of building society securities),
  - (c) section 901(4) (annual payments made by persons other than individuals),
  - (d) section 903(7) (patent royalties),
  - (e) section 906(5) (certain royalty payments etc where the owner lives abroad),
  - (f) section 910(2) (proceeds of a sale of patent rights paid to non-UK residents),
  - (g) section 919(2) (manufactured interest on UK securities: payments by UK residents etc), and
  - (h) section 928(2) (chargeable payments connected with exempt distributions).
- (3) Subsection (1) has effect subject to any directions under section 931.
- (4) Subsection (1) does not apply to a payment made by a company, or qualifying partnership, acting as trustee or agent for another person.

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### **931 Power to make directions disapplying section 930**

- (1) An officer of Revenue and Customs may give a direction to a company, local authority or qualifying partnership directing that section 930 is not to apply in relation to any payment that—
  - (a) is made by the company, authority or partnership after the giving of the direction, and
  - (b) is specified in the direction or is of a description so specified.
- (2) A direction under this section may be given only if the officer has reasonable grounds for believing, as respects each payment to which the direction relates, that the payment will not be an excepted payment at the time it is made.
- (3) A direction under this section may be varied or revoked by a later direction.
- (4) A variation or revocation of a direction under this section has effect only in relation to payments made after the date of the variation or revocation.

### **932 Meaning of “qualifying partnership”**

For the purposes of this Chapter a partnership is a “qualifying partnership” if any partner in the partnership is a company or a local authority.

#### *Excepted payments*

### **933 UK resident companies**

A payment is an excepted payment if the person beneficially entitled to the income in respect of which the payment is made is a UK resident company.

### **934 Non-UK resident companies**

- (1) A payment is an excepted payment if each of the following conditions is met in relation to the payment.
- (2) The person beneficially entitled to the income in respect of which the payment is made must be a non-UK resident company.
- (3) The non-UK resident company must carry on a trade in the United Kingdom through a permanent establishment.
- (4) The payment must be one that is required to be brought into account in calculating the chargeable profits (within the meaning given by section 11(2) of ICTA) of the non-UK resident company.

### **935 PEP and ISA managers**

- (1) A payment is an excepted payment if each of the following conditions is met in relation to the payment.
- (2) The person to whom the payment is made must be, or must be the nominee of, the plan manager of a plan of a kind to which regulations under Chapter 3 of Part 6 of ITTOIA 2005 (income from individual investment plans) apply.

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- (3) The plan manager must receive the payment in respect of investments under the plan.

### **936 Recipients who are to be paid gross**

- (1) A payment is an excepted payment if it is made to, or to the nominee of, a recipient who is specified in subsection (2) as a recipient who is to be paid gross.
- (2) The following recipients are to be paid gross—
- (a) a local authority,
  - (b) a health service body within the meaning of section 519A(2) of ICTA,
  - (c) a public office or department of the Crown other than one mentioned in section 978(2),
  - (d) a charity,
  - (e) a body for the time being mentioned in section 507(1) of ICTA (bodies that are allowed the same exemption from tax as charitable companies the whole income of which is applied to charitable purposes),
  - (f) an Association which complies with the conditions in section 508(1) of ICTA (scientific research organisations),
  - (g) the scheme administrator of a registered pension scheme,
  - (h) the sub-scheme administrator of a sub-scheme which forms part of a split scheme pursuant to the Registered Pensions (Splitting of Schemes) Regulations 2006 (S.I. 2006/569),
  - (i) the trustees of a scheme entitled to exemption under section 613(4) of ICTA (Parliamentary pension funds), and
  - (j) the persons entitled to receive the income of a fund entitled to exemption under section 614(3) of ICTA (certain colonial, etc pension funds).
- (3) The Treasury may by order amend this section so as to add to, restrict or otherwise alter the persons or bodies who are to be paid gross.

### **937 Partnerships**

- (1) A payment is an excepted payment if each of the following conditions are met.
- (2) A partnership must be beneficially entitled to the income in respect of which the payment is made.
- (3) Each partner in the partnership must be—
- (a) a person or body mentioned in section 936, or
  - (b) a person or body to whom one of subsections (4) to (6) applies.
- (4) This subsection applies to a UK resident company.
- (5) This subsection applies to a company that—
- (a) is non-UK resident,
  - (b) carries on a trade in the United Kingdom through a permanent establishment, and
  - (c) is required to bring into account, in calculating its chargeable profits (within the meaning of section 11(2) of ICTA), the whole of any share of the payment that is attributable to it because of sections 114 and 115 of ICTA.
- (6) This subsection applies to the European Investment Fund.

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- (7) The Treasury may by order amend this section to add to, restrict or otherwise alter the persons or bodies falling within subsection (3)(b).

*Incorrect belief that payment is an excepted payment*

### **938 Consequences of reasonable but incorrect belief**

- (1) This section applies if—
- (a) a payment is made by a company, local authority or qualifying partnership without a sum representing income tax on the payment being deducted from it,
  - (b) at the time the payment is made, the company, authority or partnership reasonably believes that it is an excepted payment,
  - (c) one of the duties to deduct sums representing income tax mentioned in section 930(2) would apply to the payment if the company did not so believe, and
  - (d) the payment is not an excepted payment at the time it is made.
- (2) This Part has effect in relation to the payment as if section 930(1) had never disapplied the duties to deduct mentioned in section 930(2).

## **CHAPTER 12**

### FUNDING BONDS

### **939 Duty to retain bonds where issue treated as payment of interest**

- (1) This section applies if—
- (a) there is an issue of funding bonds to a creditor in respect of a liability to pay interest on a debt incurred by a government, public institution, other public authority or body corporate,
  - (b) by virtue of section 582(1)(a) of ICTA or section 380 of ITTOIA 2005, the issue is treated as if it were a payment of an amount of interest (“the deemed interest”), and
  - (c) the person by or through whom the bonds are issued is required, under this Part, to deduct a sum representing income tax from the deemed interest.
- (2) The person by or through whom the bonds are issued must retain bonds the value of which is, at the time of their issue, equal to income tax on the deemed interest at the savings rate in force for the tax year in which the bonds are issued.
- (3) A person who retains bonds in accordance with subsection (2) is treated as complying with the duty to deduct a sum representing income tax from the deemed interest.
- (4) The person may tender the bonds retained in satisfaction of any income tax to be collected from the person in respect of the deemed interest under Chapter 15 or 16.
- (5) But see section 940 for provision about circumstances where it is impracticable to retain bonds in accordance with subsection (2).
- (6) In this Chapter “funding bonds” includes any bonds, stocks, shares, securities or certificates of indebtedness.

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## **940 Exception from duty to retain bonds**

- (1) This section applies if an issue of funding bonds is treated as a payment of interest (“the deemed interest”) as mentioned in section 939(1) and—
  - (a) the person by or through whom the bonds are issued is required to retain bonds under section 939(2), but
  - (b) it is impracticable for the person to do so.
- (2) The duty to deduct a sum representing income tax from the deemed interest under this Part does not apply if the person tells the Commissioners for Her Majesty’s Revenue and Customs—
  - (a) the names and addresses of the persons to whom the bonds have been issued, and
  - (b) the amount of the bonds issued to each person.
- (3) Accordingly—
  - (a) the duty to retain bonds under section 939(2) does not apply, and
  - (b) the provisions in Chapters 15 and 16 about the collection of income tax in respect of the deemed interest do not apply.

## **CHAPTER 13**

### **UNAUTHORISED UNIT TRUSTS**

## **941 Deemed payments to unit holders and deemed deductions of income tax**

- (1) Subsections (2) and (3) apply if a unit holder in an unauthorised unit trust is treated under Chapter 10 of Part 4 of ITTOIA 2005 (distributions from unauthorised unit trusts if the trustees are UK resident) as having received income on a date.
- (2) The trustees are treated as making on that date a payment to the unit holder representing the gross amount of the income (see section 548(2) of ITTOIA 2005).
- (3) The trustees are also treated as deducting from that payment a sum representing income tax on the gross amount of the income at the basic rate for the tax year in which the payment is made.
- (4) Subsection (5) applies if the trustees of an unauthorised unit trust are treated under section 469(4A) of ICTA (distributions from unauthorised unit trusts if the trustees are UK resident) as making an annual payment to a unit holder.
- (5) The trustees are also treated as deducting from the annual payment a sum representing income tax on its gross amount (see section 469(4C) of ICTA) at the basic rate for the tax year in which the payment is made.
- (6) In this Chapter—
  - “deemed deduction” means a deduction within subsection (3) or (5),
  - “deemed payment” means a payment within subsection (2) or (4), and
  - “the gross amount” means, in relation to a deemed payment, the amount of the payment before the deemed deduction is made from it.

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## 942 Income tax to be collected from trustees

- (1) This section applies if in a tax year the trustees of an unauthorised unit trust are treated as making deemed payments.
- (2) Income tax is to be collected through trustees' self-assessment returns for the tax year (see Chapter 17).
- (3) The amount of income tax to be collected (“the collectable amount”) is the amount equal to the sum of the deemed deductions from the deemed payments.
- (4) But if the sum of the gross amounts of the deemed payments exceeds the trustees' modified net income for the tax year (see section 1025), the collectable amount is the amount calculated by taking the steps in subsection (5).
- (5) The steps to be taken are as follows.

### *Step 1*

Take the amount equal to the sum of the gross amounts of the deemed payments and reduce that amount by—

- (a) the amount of the trustees' income pool as at the start of the tax year (see section 943), or
- (b) if less, the amount by which the sum of the gross amounts of the deemed payments exceeds the trustees' modified net income.

### *Step 2*

Apply the basic rate for the tax year to the result from Step 1.

## 943 Calculation of trustees' income pool

- (1) This is how the amount of the trustees' income pool as at the start of a tax year (“the current tax year”) is calculated.

The calculation to be used depends on which of the following cases applies.

But this needs to be read with subsections (2) and (3).

### *Case 1*

This case applies if the trustees' modified net income for the previous tax year exceeded the sum of the gross amounts of the deemed payments treated as made by the trustees in that year.

The trustees' income pool as at the start of the current tax year is the sum of—

- (a) the amount of the trustees' income pool as at the start of the previous tax year, and
- (b) the amount by which the trustees' modified net income for the previous tax year exceeded the sum of the gross amounts of the deemed payments treated as made by the trustees in that year.

### *Case 2*

This case applies if the trustees' modified net income for the previous tax year was less than the sum of the gross amounts of the deemed payments treated as made by the trustees in that year.



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The trustees' income pool as at the start of the current tax year is—

- (a) the amount of the trustees' income pool as at the start of the previous tax year, less
- (b) the amount of the reduction made at Step 1 in section 942(5) for the purpose of calculating the collectable amount for the previous tax year.

### Case 3

This case applies if the trustees' modified net income for the previous tax year equalled the sum of the gross amounts of the deemed payments treated as made by the trustees in that year.

The trustees' income pool as at the start of the current tax year is the same as the amount of the trustees' income pool as at the start of the previous tax year.

- (2) If the trustees were non-UK resident for the previous tax year, references in subsection (1) to the previous tax year are to be read as references to the last tax year prior to the current tax year for which the trustees were UK resident.
- (3) The income pool as at the start of the current tax year is nil if—
  - (a) the current tax year is the tax year during which the unauthorised unit trust is established, or
  - (b) the trustees have been UK resident for no tax year prior to the current tax year.

## CHAPTER 14

### TAX AVOIDANCE: DIRECTIONS FOR DUTY TO DEDUCT TO APPLY

#### 944 Directions for deduction from payments to non-UK residents

- (1) This section applies if it appears to an officer of Revenue and Customs that any person entitled to an amount taxable under—
  - (a) Chapter 3 of Part 13 (tax avoidance: transactions in land), or
  - (b) Chapter 4 of that Part (tax avoidance: sales of occupation income),is non-UK resident.
- (2) The officer may, in relation to any payment forming the whole or part of that amount, direct that the person by or through whom the payment is made must, on making it, deduct from it a sum representing income tax on it at the basic rate in force for the tax year in which the payment is made.
- (3) Subsection (2) does not affect the final liability of the person entitled to the amount mentioned in subsection (1) including any liability under section 768(4) or 786(4) (recovery of tax where consideration receivable by person not assessed).
- (4) For provision about the collection of income tax in respect of a payment from which a sum must be deducted under subsection (2)—
  - (a) see Chapter 15 if the person making the payment is a UK resident company, and
  - (b) otherwise see Chapter 16.

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## CHAPTER 15

### COLLECTION: DEPOSIT-TAKERS, BUILDING SOCIETIES AND CERTAIN COMPANIES

#### *Introduction*

#### **945 Overview of Chapter**

- (1) This Chapter provides—
  - (a) for persons who have made payments within section 946 (“section 946 payments”) to make returns of the payments, and
  - (b) for the collection of income tax in respect of those payments.
- (2) Sections 947 and 948 contain definitions and other provisions in relation to the following basic concepts used in the Chapter: “return period” and “accounting period”.
- (3) Section 949 requires persons who have made section 946 payments to deliver returns of those payments made in return periods falling within accounting periods, and section 950 requires such persons to deliver returns of those payments made otherwise than in accounting periods.
- (4) Section 951 explains—
  - (a) how much income tax is due from persons in respect of section 946 payments made by them, and
  - (b) when that income tax must be paid.
- (5) Sections 952 to 955 allow persons who have made section 946 payments to make claims for income tax they have suffered to be set off against income tax payable by them in respect of the payments.
- (6) Sections 956 to 960 explain what happens in cases where income tax payable in respect of section 946 payments is not paid when it is due, or where returns are incomplete or incorrect.
- (7) Sections 961 and 962 contain supplementary provisions.
- (8) For further provisions applying to returns and set-off claims under this Chapter, see TMA 1970 (in particular section 113(1) (returns) and section 42 and Schedule 1A (claims)).

#### **946 Payments within this section**

The payments within this section are—

- (a) a payment from which a deposit-taker or building society is required to deduct a sum representing income tax under section 851,
- (b) a payment from which a UK resident company is required to deduct a sum representing income tax under—
  - (i) section 874(2) (payments of yearly interest),
  - (ii) section 889(4) (payments in respect of building society securities),
  - (iii) section 892(2) (certain payments of UK public revenue dividends),
  - (iv) section 901(4) (annual payments made by persons other than individuals),

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- (v) section 903(7) (patent royalties),
  - (vi) section 906(5) (royalty payments etc where the owner lives abroad),
  - (vii) section 910(2) (proceeds of a sale of patent rights paid to non-UK residents),
  - (viii) section 928(2) (chargeable payments connected with exempt distributions), or
  - (ix) section 944(2) (directions for deduction from payments to non-UK residents), and
- (c) a payment from which a company is required to deduct a sum representing income tax under section 919(2) (manufactured interest on UK securities: payments by UK residents etc).

#### **947 Return periods**

- (1) For the purposes of this Chapter, the return periods which fall within a person's accounting period are determined as follows.
- (2) If at least one quarter date falls within the accounting period, each of the following is a return period which falls within the accounting period—
- (a) any complete quarter which falls within the accounting period, and
  - (b) any part of the accounting period which is not a complete quarter and which—
    - (i) ends with the first (or only) quarter date in that period, or
    - (ii) begins immediately after the last (or only) quarter date in that period.
- (3) If no quarter date falls within the accounting period, the accounting period itself is to be treated as a return period which falls within the accounting period.
- (4) In this section—
- “quarter” means a period of three months ending—
- (a) unless paragraph (b) applies, with the last day of March, June, September or December, or
  - (b) if the person mentioned in subsection (1) is a building society, with the last day of February, May, August or November, and
- “quarter date” means—
- (a) unless paragraph (b) applies, the last day of March, June, September or December, or
  - (b) if the person mentioned in subsection (1) is a building society, the last day of February, May, August or November.

#### **948 Meaning of “accounting period”**

- (1) In this Chapter “accounting period”, in relation to a deposit-taker who is not a company, means a period for which the deposit-taker's accounts are drawn up. “Deposit-taker” has the same meaning as in Chapter 2 (see section 853).
- (2) See section 12 of ICTA (basis of, and periods for, assessment) for provision about accounting periods of companies.

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### *Returns of income tax*

#### **949 Payments in an accounting period**

- (1) This section applies if a person makes a section 946 payment on a date which falls within an accounting period of the person.
- (2) The person must deliver a return to an officer of Revenue and Customs for each return period—
  - (a) which falls within the accounting period, and
  - (b) in which the person makes a section 946 payment.
- (3) The person must deliver the return within 14 days after the end of the return period to which it relates.
- (4) The return must show the amount of—
  - (a) any section 946 payments made by the person in the return period, and
  - (b) the income tax payable by the person in respect of those payments (see section 951).

#### **950 Payments otherwise than in an accounting period**

- (1) This section applies if a person makes a section 946 payment on a date which does not fall within an accounting period of the person.
- (2) The person must deliver a return to an officer of Revenue and Customs within 14 days after the date on which the payment is made.
- (3) The return must show the amount of—
  - (a) the payment, and
  - (b) the income tax payable by the person in respect of that payment (see section 951).

### *Collection and payment of income tax*

#### **951 Collection and payment of income tax**

- (1) Income tax in respect of a section 946 payment is due, from the person who makes the payment, on the date by which the return on which the payment must be included is required to be delivered.
- (2) The income tax due is equal to the sum which the person is required to deduct from the payment under the applicable provision mentioned in section 946.
- (3) The income tax is payable by the person without an officer of Revenue and Customs making any assessment.

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## Set-off

### 952 Conditions for a set-off claim

- (1) A person who makes a section 946 payment may make a set-off claim if conditions A and B are met at the end of a return period which falls within an accounting period of the person.
- (2) Condition A is that in the return period the person has—
  - (a) made a section 946 payment, or
  - (b) received a payment on which the person has suffered income tax by deduction.
- (3) Condition B is that at the end of the return period there is—
  - (a) a net amount of income tax suffered (see subsection (4)), and
  - (b) a net amount of income tax payable (see subsection (5)).
- (4) There is a net amount of income tax suffered at the end of a return period if—
  - (a) the person has received any payments on which income tax has been suffered by deduction in the return period or in any previous return period which falls within the accounting period, and
  - (b) the amount of income tax so suffered by the person on those payments exceeds the amount of such income tax treated as repaid for the accounting period to date as a result of any previous set-off claim.
- (5) There is a net amount of income tax payable at the end of a return period if—
  - (a) the person has made any section 946 payments in the return period or in any previous return period which falls within the accounting period, and
  - (b) the amount of income tax payable by the person in respect of those payments exceeds the amount of such income tax treated as paid for the accounting period to date as a result of any previous set-off claim.

### 953 How a set-off claim works

- (1) A set-off claim is a claim for the net amount of income tax suffered at the end of the return period to be set off against the net amount of income tax payable at the end of the return period.
- (2) The effect of a claim is that, to the extent of the set-off—
  - (a) the income tax comprised in the net amount of income tax suffered is treated as repaid, and
  - (b) the income tax comprised in the net amount of income tax payable is treated as paid.
- (3) Accordingly—
  - (a) any liability of the person making the set-off claim to pay any of the income tax treated as paid under subsection (2)(b) is discharged, and
  - (b) any of that income tax which has been paid is to be repaid to the person.
- (4) A set-off claim must be made in a return under section 949 for the return period.
- (5) A return may be made under that section for the purposes of making a set-off claim despite the fact that the person making the claim may not have made any section 946 payments in the return period.

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- (6) Income tax suffered which is taken into account in a set-off claim may not also be taken into account for the purposes of—
- (a) section 7(2) of ICTA (income tax deducted from payments to UK resident company to be set off against corporation tax), or
  - (b) section 11(3) of that Act (income tax deducted from payments to non-UK resident company to be set off against corporation tax).
- (7) Income tax suffered by a deposit-taker is to be taken into account in a set-off claim only if the payment on which the income tax is suffered is to be taken into account in calculating the deposit-taker's liability to corporation tax.
- “Deposit-taker” has the same meaning as in Chapter 2 (see section 853).

#### **954 Proceedings begun after a set-off claim is made**

- (1) If a set-off claim has been made no proceedings for collecting income tax which would have to be discharged if the claim were allowed may be brought until the claim is finally determined.
- (2) Subsection (1) does not affect the date when the income tax is due.
- (3) Any income tax underpaid as a result of this section must be paid when the claim is finally determined.
- (4) In this section “proceedings” includes proceedings by way of distraint or attachment.

#### **955 Proceedings begun before a set-off claim is made**

- (1) This section applies if—
  - (a) a person has made a set-off claim, and
  - (b) before the claim was made, proceedings were brought for collecting income tax assessed, or interest on income tax assessed, under section 956 or 957.
- (2) No effect is to be given to the set-off claim so as to affect or delay the collection or recovery of the income tax, or of interest on that income tax, until the claim is finally determined.
- (3) Any income tax overpaid as a result of this section must be repaid when the claim is finally determined.
- (4) In this section “proceedings” includes proceedings by way of distraint or attachment.

#### *Assessments and errors*

#### **956 Assessments where section 946 payment included in return**

- (1) This section applies if any income tax in respect of a section 946 payment which is included in a return under this Chapter has not been paid at or before the date mentioned in section 951.
- (2) An officer of Revenue and Customs may make an assessment on the person who made the payment.

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- (3) Income tax may be assessed under this section whether or not it has been paid when the assessment is made.

### **957 Assessments in other cases**

- (1) This section applies if an officer of Revenue and Customs thinks—
- (a) that there is a section 946 payment which should have been included in a return under this Chapter and which has not been so included, or
  - (b) that a return under this Chapter is otherwise incorrect.
- (2) An officer of Revenue and Customs may make an assessment, to the best of the officer's judgement, on the person who made the return, or who should have made one.

### **958 Payer's duty to deliver amended return**

- (1) This section applies if a person who has made a section 946 payment becomes aware that—
- (a) anything which should have been included in a return delivered by the person under this Chapter has not been so included,
  - (b) anything which should not have been included in a return delivered by the person under this Chapter has been so included, or
  - (c) any other error has occurred in a return delivered by the person under this Chapter.
- (2) The person must deliver an amended return correcting the error to an officer of Revenue and Customs without delay.
- (3) If the person delivers an amended return such assessments, adjustments, set-offs or payments or repayments of income tax as are necessary for achieving the objective mentioned in subsection (4) must be made.
- (4) The objective is that the resulting liabilities to income tax (including interest on unpaid or overpaid income tax) of the person or any other person are the same as they would have been if a correct return had been delivered.

### **959 Application of Income Tax Acts provisions about time limits for assessments**

- (1) This section deals with the application of the provisions of the Income Tax Acts about time limits for making assessments.
- (2) So far as the provisions refer or relate to—
- (a) the tax year for which an assessment is made, or
  - (b) the year to which an assessment relates,
- they apply to assessments under this Chapter despite the fact that an assessment under this Chapter may relate to a return period which is not a tax year.
- (3) Subsection (4) applies if an assessment under this Chapter relates to income tax due in respect of a payment required to be included in a return for a return period under section 949 (payments in an accounting period).
- (4) In that case, for the purposes of the provisions mentioned in subsection (1), the assessment is treated as made for the tax year in which the return period ends.

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- (5) Subsection (6) applies if an assessment under this Chapter relates to income tax due in respect of a payment required to be included in a return under section 950 (payments otherwise than in an accounting period).
- (6) In that case, for the purposes of the provisions mentioned in subsection (1), the assessment is treated as made for the tax year in which payment is made.

## **960 Further provisions about assessments**

- (1) Income tax assessed on a person under this Chapter is due on the date mentioned in section 951 and an appeal against the assessment does not affect the date when the income tax is due under that section.
- (2) On the determination of an appeal against an assessment under this Chapter any income tax overpaid must be repaid.
- (3) Any income tax assessable under any one or more of the provisions of this Chapter may be included in a single assessment if all the income tax is due on the same date.

### *Supplementary*

## **961 Relationship between Chapter and Income Tax Acts powers**

Nothing in this Chapter affects any powers conferred by the Income Tax Acts for the recovery of income tax by means of an assessment or otherwise.

## **962 Power to make regulations modifying Chapter**

- (1) The Commissioners for Her Majesty's Revenue and Customs may by regulations modify, replace or supplement any of the provisions of this Chapter for the purpose of regulating the time and manner in which persons making section 946 payments—
  - (a) are to account for and pay income tax which is to be collected from them in respect of those payments, and
  - (b) are to be repaid income tax in respect of payments received by them.
- (2) In particular, regulations under this section may, in relation to income tax for which a person is liable to account,—
  - (a) modify any provision of Parts 2 to 6 of TMA 1970, or
  - (b) apply any such provision with or without modifications.
- (3) Regulations under this section may—
  - (a) make different provision for different kinds of payer,
  - (b) make different provision for different circumstances, and
  - (c) authorise the Commissioners for Her Majesty's Revenue and Customs, if they think there are special circumstances justifying it, to make special arrangements in relation to—
    - (i) income tax for which a person is liable to account, or
    - (ii) the repayment of income tax suffered by a person.
- (4) Regulations under this section may contain incidental, supplemental, consequential and transitional provision and savings.



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- (5) The Commissioners for Her Majesty's Revenue and Customs must not make any regulations under this section unless a draft of them has been laid before and approved by a resolution of the House of Commons.
- (6) References in this Act and in any other enactment to any of the provisions of this Chapter are to be read as references to those provisions as modified, replaced or supplemented by provision made by regulations under this section.

## CHAPTER 16

### COLLECTION: CERTAIN PAYMENTS BY OTHER PERSONS

#### 963 Collection of income tax on certain payments by other persons

- (1) This section makes provision for the collection of income tax in respect of—
  - (a) a payment from which a person other than a UK resident company is required to deduct a sum representing income tax under—
    - (i) section 874(2) (certain payments of yearly interest),
    - (ii) section 889(4) (payments in respect of building society securities),
    - (iii) section 892(2) (certain payments of UK public revenue dividends),
    - (iv) section 901(4) (annual payments made by persons other than individuals),
    - (v) section 903(7) (patent royalties),
    - (vi) section 906(5) (royalty payments etc where the owner lives abroad),
    - (vii) section 910(2) (proceeds of a sale of patent rights paid to non-UK residents),
    - (viii) section 928(2) (chargeable payments connected with exempt distributions), or
    - (ix) section 944(2) (directions for deduction from payments to non-UK residents), and
  - (b) a payment from which a person other than a company is required to deduct a sum representing income tax under section 919(2) (manufactured interest for UK securities: payments by UK residents etc).
- (2) The person required to deduct the sum must deliver to an officer of Revenue and Customs an account of the payment without delay.
- (3) An officer of Revenue and Customs may make an assessment on that person for income tax equal to the sum required to be deducted.
- (4) The provisions of the Income Tax Acts relating to—
  - (a) persons chargeable to income tax,
  - (b) income tax assessments, and
  - (c) the collection and recovery of income tax,apply (unless excluded expressly or by implication) to the assessment, collection and recovery of income tax which is assessable on persons under this section.

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## CHAPTER 17

### COLLECTION THROUGH SELF-ASSESSMENT RETURN

#### 964 Collection through self-assessment return

- (1) This section applies if—
  - (a) a person makes a payment from which the person is required to deduct a sum representing income tax, and
  - (b) income tax equal to the sum required to be deducted is, under section 900(3), 901(3) or 903(5) or (6), to be collected through the person's self-assessment return.
- (2) This section also applies if, in accordance with section 942, income tax is to be collected through a trustee's self-assessment return.
- (3) The income tax is to be treated for the purposes of TMA 1970 as if it were income tax charged on the person or trustee.
- (4) Accordingly, the income tax must be taken into account for the purposes of—
  - (a) the person's or trustee's return under section 8 or 8A of TMA 1970, and
  - (b) the person's or trustee's assessment to income tax under section 9 of that Act, (in addition to the person or trustee's income tax liability calculated in accordance with Chapter 3 of Part 2 (calculation of income tax liability)).
- (5) But the relevant amount under section 59A of TMA 1970 (payments on account of income tax) is to be calculated as if the income tax were not taken into account for the purposes of the assessment to income tax under section 9 of TMA 1970.

## CHAPTER 18

### OTHER REGIMES INVOLVING THE DEDUCTION OF INCOME TAX AT SOURCE

#### *Visiting performers*

#### 965 Overview of sections 966 to 970

- (1) Sections 966 to 970 make provision for the payment of sums representing income tax to the Commissioners for Her Majesty's Revenue and Customs where certain payments or transfers are made in connection with activities performed in the United Kingdom by non-UK resident entertainers, sportsmen and sportswomen.
- (2) See also—
  - section 556 of ICTA (entertainers and sportsmen) which makes provision in relation to such payments or transfers for the purposes of corporation tax,
  - Chapter 8 of Part 2 of ITEPA 2003 (application of provisions to workers under arrangements made by intermediaries), in particular section 48(2) (exclusions from the scope of the Chapter), and
  - sections 13 and 14 of ITTOIA 2005 (trades and trade profits: visiting performers).

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## **966 Duty to deduct and account for sums representing income tax**

- (1) This section applies if—
  - (a) an entertainer, sportsman or sportswoman of a prescribed description (“a performer”) who is non-UK resident for a tax year performs a relevant activity in the United Kingdom in the tax year, and
  - (b) a payment or transfer connected with the relevant activity is made.
- (2) It does not matter—
  - (a) whether the payment or transfer is made to the performer or anyone else, or
  - (b) when the payment or transfer is made.
- (3) If a payment within subsection (1)(b) is made the person who makes the payment must, on making it, deduct from it a sum representing income tax and account to the Commissioners for Her Majesty's Revenue and Customs for the sum.
- (4) If a transfer within subsection (1)(b) is made the person who makes the transfer must account to the Commissioners for Her Majesty's Revenue and Customs for a sum representing income tax.
- (5) See section 967 as to the calculation of the sums representing income tax mentioned in subsections (3) and (4).
- (6) This section does not apply to payments or transfers of such a kind as may be prescribed.
- (7) In this section—
  - (a) “relevant activity” means an activity of a prescribed description, and
  - (b) a payment or transfer is connected with a relevant activity if it has a connection of a prescribed kind with that activity.

## **967 Calculation of sums representing income tax**

- (1) The sums representing income tax mentioned in section 966(3) and (4) are to be calculated in accordance with prescribed rules.
- (2) But the sums must not exceed the relevant proportion of the payment concerned or of the value of what is transferred.

“Relevant proportion” means a proportion equal to the basic rate of income tax for the tax year in which the payment or transfer is made.
- (3) Regulations made by the Treasury may provide, in relation to a transfer to which section 966 applies, that for the purposes of the Tax Acts the value of what is transferred is to be calculated in accordance with prescribed rules.
- (4) In particular, rules may include provision—
  - (a) for the calculation of an amount representing the actual value of what is transferred,
  - (b) for that amount to be treated as a net amount corresponding to a gross amount from which income tax at the basic rate has been deducted, and
  - (c) for the gross amount to be taken to be the value of what is transferred.

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## **968 Treatment of sums representing income tax**

- (1) This section applies if, in accordance with section 966(3) or (4), a person pays a sum to the Commissioners for Her Majesty's Revenue and Customs.
- (2) The sum is treated as paid on account of a liability of another person to income tax or corporation tax.
- (3) The liability and the other person are to be found in accordance with prescribed rules.
- (4) If the sum exceeds the liability concerned, the Commissioners must pay so much of the sum as is appropriate to the other person.
- (5) If no liability is found, the Commissioners must pay the sum to the recipient of the relevant payment or transfer.
- (6) The relevant payment or transfer is the payment or transfer—
  - (a) to which section 966 applies, and
  - (b) which gave rise to the payment of the sum.
- (7) A reference to a sum in this section does not include anything representing interest.

## **969 Regulations**

- (1) The Treasury may by regulations—
  - (a) make provision enabling the Commissioners for Her Majesty's Revenue and Customs to serve notices requiring persons who make payments or transfers to which section 966 applies to give them prescribed information in respect of such payments or transfers,
  - (b) make provision requiring persons who make payments or transfers to which section 966 applies to make, at prescribed times and for prescribed periods, returns to the Commissioners containing prescribed information about payments or transfers and the income tax for which those persons are accountable in respect of them,
  - (c) make provision for the collection and recovery of such income tax, for assessments and claims to be made in respect of it, and for the payment of interest on it, and
  - (d) adapt, or modify the effect of, any enactment relating to income tax for the purpose of making any provision mentioned in paragraphs (a) to (c).
- (2) The Treasury may also by regulations make provision generally for giving effect to this section and sections 966 to 968 (including different provision for different cases or descriptions of case).

## **970 Supplementary**

- (1) For the purposes of the Tax Acts a payment to which section 966 applies is treated as if it were not reduced by the deduction of a sum representing income tax under that section.
- (2) An officer of Revenue and Customs may disclose, to any person who appears to the officer to have an interest in the matter, information relevant to determining whether section 966 applies to a payment or transfer.

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- (3) An officer is not precluded from doing so by any obligation as to secrecy imposed by statute or otherwise.
- (4) In this section and sections 966 to 969—
  - (a) references to a payment include references to a payment by way of loan of money, and
  - (b) references to a transfer do not include references to a transfer of money but, subject to that, include references to—
    - (i) a temporary transfer (as by way of loan), and
    - (ii) a transfer of a right (whether or not a right to receive money).
- (5) In sections 966 to 969 “prescribed” means prescribed by regulations made by the Treasury.

#### *Non-resident landlords*

### **971 Income tax due in respect of income of non-resident landlords**

- (1) The Commissioners for Her Majesty's Revenue and Customs may by regulations make provision for—
  - (a) the collection, from non-resident landlord representatives of a prescribed description, of prescribed amounts of income tax in respect of non-resident landlord income, and
  - (b) the assessment and recovery of the income tax on or from such persons.
- (2) “Non-resident landlord income” means income of a person whose usual place of abode is outside the United Kingdom (“the non-resident”) and which is or may become chargeable—
  - (a) under Schedule A, or
  - (b) as the profits of a UK property business under Chapter 3 of Part 3 of ITTOIA 2005.
- (3) “Non-resident landlord representative” means—
  - (a) a person by whom any sums are payable to the non-resident which are to be treated as receipts of a Schedule A business, or a UK property business, carried on by the non-resident, or
  - (b) a person who acts on behalf of the non-resident in connection with the management or administration of any such business.
- (4) A non-resident landlord representative who must pay prescribed amounts of income tax to the Commissioners for Her Majesty's Revenue and Customs under regulations under this section is entitled—
  - (a) to be indemnified by the non-resident for all such payments, and
  - (b) to retain out of any sums otherwise due from the representative to the non-resident, or received by the representative on behalf of the non-resident, sums representing income tax sufficient for meeting any liabilities under the regulations to make such payments.
- (5) Subsection (4)(b) applies whether the liability is one which the representative has discharged or to which the representative is subject.

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## **972 Regulations under section 971**

- (1) Regulations under section 971 may, in particular, include all or any of the following provisions—
- (a) provision for the amount of any income tax in respect of non-resident landlord income, which is to be paid to the Commissioners for Her Majesty's Revenue and Customs, to be calculated by reference to prescribed factors,
  - (b) provision for the determination in accordance with the regulations of the period for which, the circumstances in which and the times at which any payments are to be made to the Commissioners,
  - (c) provision for requiring the payment of interest on amounts which are not paid to the Commissioners at the times required under the regulations,
  - (d) provision as to the certificates to be given in prescribed circumstances to the non-resident by a non-resident landlord representative, and as to the particulars to be included in any such certificate,
  - (e) provision for the making of repayments of income tax to the non-resident and for such repayments to be made in prescribed cases to non-resident landlord representatives,
  - (f) provision for the payment of interest by the Commissioners on sums repaid under the regulations,
  - (g) provision for the rights and obligations arising under the regulations to depend on the giving of such notices and the making of such claims and determinations as may be prescribed,
  - (h) provision for the making and determination of applications for requirements of the regulations not to apply in certain cases, and for the variation or revocation, in prescribed cases, of the determinations made on such applications,
  - (i) provision for appeals with respect to questions arising under the regulations,
  - (j) provision requiring non-resident landlord representatives within section 971(3)(b) who are of a prescribed description to register with the Commissioners,
  - (k) provision requiring persons registered with the Commissioners and other non-resident landlord representatives of a prescribed description to make returns and supply prescribed information to the Commissioners and to make available prescribed books, documents and other records for inspection on behalf of the Commissioners,
  - (l) provision for the partnership, as such, to be treated as the non-resident landlord representative if a liability to make a payment under the regulations arises from amounts payable or things done in the course of a business carried on by persons in partnership, and
  - (m) provision which, in relation to payments of income tax to be made by virtue of section 971 or to sums retained in respect of such payments, applies (with or without modifications) any enactment or subordinate legislation having effect apart from section 971 with respect to cases in which tax is or is treated as deducted from any income.
- (2) Interest required to be paid by regulations under section 971 is to be paid without deduction of a sum representing income tax and is not to be taken into account in calculating any income, profits or losses for any tax purposes.
- (3) Regulations under section 971 may—

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- (a) make different provision for different cases, and
  - (b) contain incidental, supplemental, consequential and transitional provision and savings.
- (4) Provision made by virtue of subsection (3)(b) may, in particular, in connection with any other provision made by regulations under section 971, modify the operation in any case of section 59A of TMA 1970 (payments on account of income tax).
- (5) In this section and section 971 “prescribed” means prescribed by, or determined by an officer of Revenue and Customs in accordance with, regulations made by the Commissioners for Her Majesty's Revenue and Customs under section 971.
- (6) See section 121(2)(c) of FA 2006 which prevents certain distributions of Real Estate Investment Trusts being non-resident landlord income for the purposes of regulations under section 971.

### *Real Estate Investment Trusts*

#### **973 Income tax due in respect of distributions**

- (1) The Treasury may make regulations providing for the assessment, collection and recovery of income tax where—
- (a) a distribution to which subsection (2) or (3) applies is made, and
  - (b) tax is or may become chargeable in respect of the distribution (whether by virtue of section 121(1) of FA 2006 (distributions: liability to tax) or otherwise).
- (2) This subsection applies to a distribution if—
- (a) it is made by a company to which Part 4 of FA 2006 applies (Real Estate Investment Trusts), and
  - (b) it is a distribution of profits or gains (or of both) of C (tax-exempt).
- (3) This subsection applies to a distribution if—
- (a) it is made by the principal company of a group to which Part 4 of FA 2006 applies, and
  - (b) it is a distribution of amounts shown in the financial statements of G (property rental business) as—
    - (i) profits and gains of UK resident members of the group, or
    - (ii) profits and gains of the property rental business in the United Kingdom of non-UK resident members of the group.
- (4) In this section—
- “C (tax-exempt)” has the meaning given by section 105(3)(b) of FA 2006,
  - “G (property rental business)” has the meaning given by paragraph 2 of Schedule 17 to that Act,
  - “group” and “principal company” have the meanings given by section 134 of that Act, and
  - “property rental business” has the meaning given by section 104 of that Act (read with paragraph 32(2) of Schedule 17 to that Act).
- (5) References in this section to a UK resident company have the same meaning as in Schedule 17 to FA 2006 (see paragraph 3(1) of that Schedule).

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(6) In this section “gains” includes chargeable gains.

## **974 Regulations under section 973**

- (1) Regulations under section 973 may, in particular—
- (a) require a company to deduct sums representing income tax at the basic rate before payment of distributions,
  - (b) specify classes of shareholder to whom distributions may be made without deduction of such sums,
  - (c) make provision about the calculation of the sums to be deducted by a company,
  - (d) require a company to account for income tax equal to the sums deducted,
  - (e) apply an enactment (with or without modification) in respect of cases where a sum representing income tax is deducted or treated as deducted from income,
  - (f) specify the time at which a distribution is to be treated as made by a company,
  - (g) specify periods in respect of which payments of income tax are to be made,
  - (h) specify times at which payments of income tax are to be made,
  - (i) make provision about the making of claims and determinations in respect of over-payment or under-payment (which may include provision for appeals),
  - (j) include provision requiring the payment of interest in respect of late payments of income tax (which may—
    - (i) provide for payment without deduction of sums representing income tax,
    - (ii) allow interest paid as a deduction from profits of the company's tax-exempt business),
  - (k) require a company to provide a shareholder with a statement in writing containing specified information,
  - (l) make provision about the repayment to a shareholder of sums deducted and paid to the Commissioners for Her Majesty's Revenue and Customs in respect of income tax,
  - (m) make provision for the payment of interest in respect of repayments under paragraph (l),
  - (n) require notices to be given by or to a company,
  - (o) require a company to make returns, and
  - (p) require a company to make records available to the Commissioners for Her Majesty's Revenue and Customs for inspection.
- (2) A reference in subsection (1) to a distribution in respect of profits of tax-exempt business includes a distribution made after Part 4 of FA 2006 has ceased to apply to a company.
- (3) A distribution which is treated as having been made by virtue of section 107(9)(b) of FA 2006 is also to be treated as having been made for the purposes of regulations under section 973.
- (4) Regulations under section 973—
- (a) may make provision which applies generally or only in specified cases or circumstances,
  - (b) may make different provision for different cases or circumstances, and



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- (c) may contain incidental, supplemental, consequential and transitional provision and savings.
- (5) In subsections (1) and (2), so far as they apply to cases within section 973(1)(a), “profits” includes gains (including chargeable gains).
- (6) In this section “tax-exempt business” has same meaning as in Part 4 of FA 2006 (see section 107(2) of that Act).

## CHAPTER 19

### GENERAL

#### *Supplementary*

#### **975 Statements about deduction of income tax**

- (1) Subsection (2) applies if a person makes a payment from which a sum representing income tax must be deducted under any provision of Chapters 2 to 7 or under section 919 or 928.
- (2) If the recipient requests it in writing, the person must provide the recipient with a statement showing—
  - (a) the gross amount of the payment,
  - (b) the amount of the sum deducted, and
  - (c) the actual amount paid.
- (3) Subsection (4) applies if the trustees of an unauthorised unit trust are treated as making a deemed payment to a unit holder (“U”).
- (4) If U requests it in writing, the trustees must provide U with a statement showing—
  - (a) the gross amount of the payment,
  - (b) the amount of the deemed deduction from the payment, and
  - (c) the amount of the payment after the deemed deduction.
- (5) A statement under this section must be in writing.
- (6) The duty to comply with a request under subsection (2) or (4) is enforceable by the recipient or U (as the case may be).
- (7) In this section “deemed deduction”, “deemed payment” and “the gross amount” have the same meanings as in Chapter 13 (see section 941(6)).

#### **976 Arrangements for payments of interest less tax or at specified net rate**

- (1) This section applies if—
  - (a) provision is made for the payment of interest, and
  - (b) the interest is payable without deduction of a sum representing income tax.
- (2) It applies—
  - (a) whenever the provision was made, and
  - (b) whether it was made orally or in writing.

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- (3) If the provision is for the payment of interest “less tax” (or uses words to similar effect) it is to be read as if the words “less tax” (or the equivalent words) were not included.
- (4) Subsection (5) applies if the provision is (however worded)—
  - (a) for the payment of interest to which subsection (6) applies, and
  - (b) for that interest to be paid at such a rate (“the gross rate”) that the amount of interest payable at that rate is, after deduction of a sum representing income tax, equal to the amount of interest payable at a specified rate (“the net rate”).
- (5) In that case the provision is to be read as if it were for the payment of interest at the gross rate.
- (6) This subsection applies to—
  - (a) interest on which the recipient is chargeable to income tax, which falls within Chapter 2 of Part 4 of ITTOIA 2005 but which is not relevant foreign income, or
  - (b) interest on which the recipient is chargeable to corporation tax under Case III of Schedule D.

#### **977 Payments to companies**

- (1) The provisions of this Part relating to the deduction from payments of sums representing income tax are not affected by the fact that the recipient is a company not chargeable to income tax on the payment.
- (2) References in subsection (1) to payments received by a company—
  - (a) include payments received by another person on behalf of or in trust for the company, but
  - (b) do not include payments received by the company on behalf of or in trust for another person.
- (3) For further provision about payments received by companies, see—
  - (a) sections 7(2) and 11(3) of ICTA (set-off of income tax deducted at source against liability to corporation tax), and
  - (b) section 952 (set-off of income tax suffered against income tax payable under Chapter 15).

#### **978 Application to public departments**

- (1) This Part applies in relation to payments made by public offices and departments of the Crown except as mentioned in subsection (2).
- (2) This Part does not apply to payments made by public offices and departments of—
  - (a) any country mentioned in Schedule 3 to the British Nationality Act 1981 (c. 61) (which contains a list of Commonwealth countries) or the Republic of Ireland, or
  - (b) any state or province of a country within paragraph (a).

#### **979 Designated international organisations: exceptions from duties to deduct**

- (1) The Treasury may by order designate for the purposes of this section any international organisation of which the United Kingdom is a member.

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- (2) The duty to deduct under section 874 (duty to deduct from certain payments of yearly interest) does not apply to a payment of interest made by—
  - (a) an organisation designated under subsection (1), or
  - (b) a partnership of which an organisation so designated is a member.
- (3) None of the duties to deduct under Chapters 6, 7 (deduction from annual payments, patent royalties and other payments connected with intellectual property) and 14 (directions for duty to deduct to apply in tax avoidance cases) apply to a payment made by an organisation designated under subsection (1).
- (4) The duties to deduct under sections 919(2) and 922(2) do not apply in a case where the payer of the manufactured interest or (as the case may be) the manufactured overseas dividend is an organisation designated under subsection (1).

#### **980 Derivative contracts: exception from duties to deduct**

- (1) Despite the provisions of this Part, a company is not required to deduct a sum representing income tax from a payment made under a derivative contract to which this section applies.
- (2) This section applies to a derivative contract if profits and losses arising from it are calculated in accordance with Schedule 26 to FA 2002.

#### **981 Foreign currency securities etc: exception from duties to deduct**

Despite the provisions of this Part there is no duty to deduct a sum representing income tax from a payment of interest within section 755(1) of ITTOIA 2005 (interest on foreign currency securities etc owned by non-UK residents).

#### **982 Income tax is calculated by reference to gross amounts**

If any provision of this Part requires the deduction from a payment of a sum representing income tax at a specified rate, the rate is to be applied to the gross payment, that is to the payment before deduction of a sum representing income tax under this Part.

### *Interpretation*

#### **983 Meaning of “deposit”**

In this Chapter “deposit” means a sum of money paid on terms which mean that it will be repaid (with or without interest)—

- (a) on demand, or
- (b) at a time or in circumstances agreed by or on behalf of the person who pays it and the person who receives it.

#### **984 Meaning of “financial instrument”**

- (1) In this Part “financial instrument” includes—
  - (a) any money,
  - (b) any shares or securities,

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- (c) an option, future or contract for differences if its underlying subject-matter is (or is primarily) one or more financial instruments, and
  - (d) an instrument the underlying subject-matter of which is (or is primarily) creditworthiness.
- (2) For the purposes of subsection (1) if the effect of an instrument depends on an index or factor, the “underlying” subject-matter of the instrument is the matter by reference to which the index or factor is determined.

### **985 Meaning of “qualifying certificate of deposit”**

- (1) In this Part “qualifying certificate of deposit” means a certificate of deposit under which—
- (a) the amount payable is at least £50,000, exclusive of interest, and
  - (b) that amount is payable at a specified time within 5 years beginning with the date on which the deposit is made.
- (2) If an amount is denominated in a foreign currency, subsection (1)(a) has effect as if it referred to an amount which is at least the equivalent in that currency of £50,000 at the time the deposit is made.
- (3) For the meaning of “certificate of deposit”, see section 1019.

### **986 Meaning of “qualifying uncertificated eligible debt security unit”**

- (1) In this Part “qualifying uncertificated eligible debt security unit” means an uncertificated eligible debt security unit under which—
- (a) the amount payable is at least £50,000, exclusive of interest, and
  - (b) that amount is payable at a specified time within 5 years beginning with the date on which the deposit is made.
- (2) If an amount is denominated in a foreign currency, subsection (1)(a) has effect as if it referred to an amount which is at least the equivalent in that currency of £50,000 at the time the deposit is made.
- (3) In this section “uncertificated eligible debt security unit” means an uncertificated unit of an eligible debt security where the issue of the unit corresponds, in accordance with the current terms of issue of the eligible debt security, to the issue of a certificate of deposit.
- (4) In subsection (3)—
- (a) “eligible debt security”,
  - (b) “uncertificated” (in relation to a unit), and
  - (c) “unit”,
- have the meanings given by regulation 3(1) of the Uncertificated Securities Regulations 2001 (S.I. 2001/3755).
- (5) For the meaning of “certificate of deposit”, see section 1019.

### **987 Meaning of “quoted Eurobond”**

In this Part “quoted Eurobond” means a security, including a share (in particular any permanent interest bearing share as defined in section 117 of TCGA 1992), that—

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- (a) is issued by a company,
- (b) is listed on a recognised stock exchange, and
- (c) carries a right to interest.

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