



Corporation Tax Act 2010

2010 CHAPTER 4

PART 17

MANUFACTURED PAYMENTS AND REPOS

CHAPTER 4

FURTHER PROVISION ABOUT MANUFACTURED PAYMENTS

Manufactured payments exceeding, or less than, underlying payments

796 Manufactured dividends: amounts exceeding underlying payments

- (1) This section applies if an amount paid by way of manufactured dividend would otherwise exceed the amount of the dividend of which it is representative.
- (2) The payment, to the extent of an amount equal to the excess, is treated for the purposes of Chapter 2 and this Chapter as not made under the requirement mentioned in section 782(b) (meaning of “manufactured dividend”).
- (3) Instead it is treated, to that extent, for all purposes of the Corporation Tax Acts as a separate fee for entering into the arrangement under which it was made.

797 Manufactured overseas dividends: amounts exceeding underlying payments

- (1) This section applies if the sum of—
 - (a) an amount paid by way of manufactured overseas dividend, and
 - (b) the income tax required to be accounted for and paid in connection with the making of the payment,would otherwise exceed the gross amount of the overseas dividend of which it is representative.

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- (2) The payment, to the extent of an amount equal to the excess, is treated for the purposes of Chapter 3 and this Chapter as not made under the requirement mentioned in section 790(b) (meaning of “manufactured overseas dividend”).
- (3) Instead it is treated, to that extent, for all purposes of the Corporation Tax Acts as a separate fee for entering into the arrangement under which it was made.
- (4) But subsection (3) does not apply so far as Part 5 of CTA 2009 (loan relationships) applies to the amount as if it were interest under a loan relationship as a result of section 540 of that Act.

798 Manufactured overseas dividends less than underlying payments

- (1) This section applies if the sum of—
 - (a) an amount paid by way of manufactured overseas dividend, and
 - (b) the income tax required to be accounted for and paid in connection with the making of the payment,
 is less than the gross amount of the overseas dividend of which it is representative.
- (2) For the purpose of giving relief under the Corporation Tax Acts in a case to which section 792 or 794 applies (manufactured overseas dividends: treatment of recipient), the gross amount of the manufactured overseas dividend is not the amount specified in section 813(2).
- (3) Instead it is treated as being an amount equal to the sum of the amounts mentioned in paragraphs (a) and (b) of subsection (1).
- (4) In this section “relief” means relief by way of—
 - (a) deduction in calculating profits or gains, or
 - (b) deduction from total profits.

Manufactured payments under arrangements with unallowable purpose

799 Manufactured payments under arrangements with unallowable purpose

- (1) This section applies if—
 - (a) a manufactured payment falls to be made by a company in an accounting period in pursuance of any arrangements,
 - (b) the arrangements have an unallowable purpose at any time (see section 800),
 - (c) any of the manufactured payment is attributable to the unallowable purpose, and
 - (d) the company is not subject to another relevant tax relief restriction.
- (2) The company is not entitled (whether as a result of any provision made in or under this Chapter, or otherwise), to any relevant tax relief, so far as the relief is in respect of, or referable to, so much of the manufactured payment as is attributable to the unallowable purpose.
- (3) In this section “relevant tax relief” means—
 - (a) a deduction in calculating profits or gains for the purposes of corporation tax,
 - (b) a deduction from total profits,

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- (c) the bringing into account of any debit for the purposes of Part 5 of CTA 2009 (loan relationships), or
 - (d) the surrender of an amount by way of group relief.
- (4) For the purposes of this section a company is subject to another relevant tax relief restriction if it is not entitled to a relevant tax relief in respect of, or referable to, the whole or any part of the manufactured payment as a result of any of the provisions specified in subsection (5).
- (5) The provisions are—
 - (a) section 76(4)(d) of ICTA (expenses of insurance companies: unallowable purposes),
 - (b) section 441 of CTA 2009 (loan relationships with unallowable purposes), and
 - (c) section 1219(2)(b) of CTA 2009 (expenses of management of company’s investment business: unallowable purpose).
- (6) How far the manufactured payment is attributable to the unallowable purpose must be determined by just and reasonable apportionment.
- (7) For the meaning of “arrangements” see section 801(1).

800 Arrangements with an unallowable purpose

- (1) This section applies for the purposes of section 799.
- (2) Arrangements have an unallowable purpose at any time if at that time the purposes for which the company is a party to them include a purpose that is not among the business or other commercial purposes of the company.
- (3) Arrangements also have an unallowable purpose at any time if at that time such a purpose is the only purpose, or one of the purposes, for which the company is a party to—
 - (a) any related transaction, or
 - (b) any transaction in pursuance of the arrangements.
- (4) In section 799 “the unallowable purpose” in relation to any arrangements means such a purpose.
- (5) The business and other commercial purposes of a company only include the purposes of any part of its activities in respect of which it is within the charge to corporation tax.
- (6) Subsection (7) applies if a tax avoidance purpose is one of the purposes for which a company is at any time a party to—
 - (a) any arrangements,
 - (b) any related transaction in the case of any arrangements, or
 - (c) any transaction in pursuance of any arrangements.
- (7) The tax avoidance purpose is taken to be a business or other commercial purpose of the company only if it is not the main purpose, or one of the main purposes, for which the company is party to the arrangements or transaction at that time.
- (8) In this section “tax avoidance purpose” means any purpose that consists in securing a tax advantage for the company in question or any other person.
- (9) Section 1139 (“tax advantage”) applies for the purposes of this section.

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(10) For the meaning of other expressions used in this section, see section 801.

801 Sections 799 and 800: supplementary

- (1) For the purposes of sections 799 and 800 and this section—
 - (a) “arrangements” includes schemes, arrangements and understandings (whether or not they are legally enforceable), and
 - (b) “manufactured payment” means—
 - (i) any manufactured dividend,
 - (ii) any manufactured interest (as defined in section 539(5) of CTA 2009),
 - (iii) any manufactured overseas dividend, and
 - (iv) any payment which, as a result of section 796(3) or 797(3), constitutes a fee.
- (2) For the purposes of section 800, one or more transactions are treated as related transactions, in the case of any arrangements, if it would be reasonable to assume, from—
 - (a) the likely effect of the transactions,
 - (b) the circumstances in which the transactions are entered into or effected, or
 - (c) both that effect and those circumstances,
 that none of the transactions would have been entered into or effected independently of the arrangements.
- (3) Transactions may be related transactions, in the case of any arrangements, even if the transactions—
 - (a) are not between the same parties, or
 - (b) are not between the parties to the arrangements.

Miscellaneous

802 Powers about amounts representative of overseas dividends

- (1) The Treasury may by regulations make provision as mentioned in subsections (2) and (3) about prescribed cases where a person—
 - (a) pays or receives an amount representative of an overseas dividend, or
 - (b) is treated as doing so for any purposes of this Chapter or Chapter 3, or of regulations made under this Chapter.
- (2) The regulations may provide for removing or reducing any right of the person to claim relief under Part 2 of TIOPA 2010 (double taxation relief).
- (3) The regulations may provide for adjusting a relevant amount by reference to a provision that has effect under the law of a territory outside the United Kingdom.
- (4) A “relevant amount” is an amount which is treated for prescribed purposes of the Corporation Tax Acts as the amount paid or payable to a person in respect of a relevant transaction.
- (5) A “relevant transaction” is a sale, repurchase or other transfer of the overseas securities to which the amount mentioned in subsection (1)(a) relates.

803 Power to deal with special cases

- (1) The Treasury may by regulations make provision about—
 - (a) such manufactured dividends or manufactured overseas dividends as may be prescribed,
 - (b) such persons who receive, or become entitled to receive, manufactured dividends or manufactured overseas dividends as may be prescribed, or
 - (c) such payers of manufactured dividends or manufactured overseas dividends as may be prescribed.
- (2) The provision which may be made is for any prescribed manufactured dividend, manufactured overseas dividend or person to be treated, in prescribed circumstances, otherwise than as mentioned in any of sections 783 to 788, 791, 792, 794 and 795 (rules about manufactured dividends and manufactured overseas dividends), for any prescribed purposes of the Corporation Tax Acts.

804 Regulation-making powers: general

- (1) Regulations made under Chapter 2 or this Chapter may make different provision for different cases.
- (2) In this Chapter “prescribed” means prescribed in regulations under this Chapter.