



Corporation Tax Act 2010

2010 CHAPTER 4

[^{F1}PART 8C

RESTITUTION INTEREST

[^{F1}CHAPTER 3

MIGRATION, TRANSFERS OF RIGHTS ETC

Textual Amendments

- F1** Pt. 8C inserted (18.11.2015) (with effect in accordance with s. 38(9)-(12) of the amending Act) by Finance (No. 2) Act 2015 (c. 33), s. 38(3)

357YM Assignment of rights to person not chargeable to corporation tax

- (1) Subsection (4) applies if—
 - [^{F2}(a) a chargeable company (“the transferor”) transfers to a person who either—
 - (i) is not a company, or
 - (ii) is a non-qualifying company,a right in respect of a claim, or possible claim, for restitution,]
 - (b) the transfer is made on or after 21 October 2015, and
 - (c) conditions A and B are met.
- (2) Condition A is that the main purpose, or one of the main purposes, of the transfer is to secure a tax advantage for any person in relation to the application of the charge to tax on restitution interest under this Part.
- (3) Condition B is that as a result of that transfer (or that transfer together with further transfers of the rights) restitution interest arises to a person who [^{F3}either—
 - (a) is not a company, or

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- (b) is a non-qualifying company.]
- (4) Any restitution interest which arises as mentioned in Condition B is treated for corporation tax purposes as restitution interest arising to the transferor.
- [^{F4}(5) For the purposes of this section a company is a “chargeable company” if it meets the first and second conditions.
- The first condition is that the company is UK resident or carries on a trade in the United Kingdom through a permanent establishment in the United Kingdom.
- The second condition is that the company is not a charitable company and would not be exempt from corporation tax on restitution interest (were such interest to arise to it).
- (5A) For the purposes of this section a company is a “non-qualifying company” if—
- (a) it is non-UK resident, or
- (b) it is a charitable company, or would be exempt from corporation tax on restitution interest (were such interest to arise to it).]
- (6) In this section “tax advantage” has the meaning given by section 357YI.

Textual Amendments

- F2** S. 357YM(1)(a) substituted (with effect in accordance with reg. 2 of the amending S.I.) by [The Corporation Tax Act 2010 \(Part 8C\) \(Amendment\) Regulations 2017 \(S.I. 2017/364\)](#), regs. 1, **10(a)**
- F3** Words in s. 357YM(3) substituted (with effect in accordance with reg. 2 of the amending S.I.) by [The Corporation Tax Act 2010 \(Part 8C\) \(Amendment\) Regulations 2017 \(S.I. 2017/364\)](#), regs. 1, **10(b)**
- F4** S. 357YM(5)(5A) substituted for s. 357YM(5) (with effect in accordance with reg. 2 of the amending S.I.) by [The Corporation Tax Act 2010 \(Part 8C\) \(Amendment\) Regulations 2017 \(S.I. 2017/364\)](#), regs. 1, **10(c)**

357YN Migration of company with claim to restitution interest

- (1) This section applies where—
- (a) restitution interest arises to a non-UK resident company,
- (b) the rights in respect of which the company is entitled to the restitution interest had (to any extent) accrued when the company ceased to be UK resident, and
- (c) the company's main purpose, or one of its main purposes, in changing its residence was to secure a tax advantage for any person in relation to the application of the charge to tax on restitution interest under this Part.
- (2) The company is treated as a UK resident company for the purposes of the application of this Part in relation to so much of that restitution interest as is attributable to relevant accrued rights.
- (3) “Relevant accrued rights” means rights which had accrued to the company when it ceased to be UK resident.
- (4) The company is to be treated for the purposes of sections 185 and 187 of TCGA 1992 as not having disposed of its assets on ceasing to be resident in the United Kingdom, so far as its assets at that time consisted of rights to receive restitution interest.
- (5) Any adjustments that are necessary as a result of subsection (4) are to be made; and any time limits for the making of adjustments are to be ignored for this purpose.]

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[^{F5}357YNA] Transfer of rights: restitution interest arising after a winding up or dissolution

- (1) Subsection (2) applies if an amount of restitution interest which is paid or payable to a person would be treated under section 357YM(4) as arising to a company (“the transferor”) but for the fact that the company no longer exists at the time when the restitution interest arises.
- (2) If an officer of Revenue and Customs gives a related company a notice under this subsection in respect of the restitution interest, the restitution interest is treated for corporation tax purposes as restitution interest arising to that company.
- (3) Subsection (4) applies if an amount of restitution interest which is paid or payable to a person would apart from this section be treated by virtue of section 357YM(4) as arising to a company which has been wound up (“the transferor”).
- (4) If an officer of Revenue and Customs gives a related company a notice under this subsection in respect of the restitution interest, the restitution interest is treated for corporation tax purposes as restitution interest arising not to the transferor but to that company.
- (5) A notice under subsection (2) or (4) must specify—
 - (a) the amount of the restitution interest, and
 - (b) the date on which it is paid or payable.
- (6) A notice under subsection (2) or (4) in respect of an amount of restitution interest must be given by the later of—
 - (a) the date on which the amount is paid or payable, or
 - (b) the time when any notice under section 357YQ(2) in respect of the amount is given to the related company.

Textual Amendments

- F5** Ss. 357YNA, 357YNB inserted (with effect in accordance with reg. 2 of the amending S.I.) by [The Corporation Tax Act 2010 \(Part 8C\) \(Amendment\) Regulations 2017 \(S.I. 2017/364\)](#), regs. 1, **11**

357YNB Meaning of “related company”

- (1) A company is a “related company” for the purposes of section 357YNA(2) if at any time in the relevant period (see subsection (5)) that company was a member of the same group as the transferor (see section 357YNA(1)).
- (2) A company is a “related company” for the purposes of section 357YNA(4) if at any time in the relevant period (see subsection (6)) that company was a member of the same group as the transferor (see section 357YNA(3)).
- (3) For the purposes of this section two companies are members of the same group if—
 - (a) one is a 51% subsidiary of the other, or
 - (b) both are 51% subsidiaries of a third company.
- (4) In subsection (1) “the relevant period” means the period which—
 - (a) begins—

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- (i) if the transferor was not wound up before it was dissolved, at the beginning of the 12 months ending with the date on which the company is dissolved,
 - (ii) if the transferor was wound up before it was dissolved, at the beginning of the 12 months before the commencement of the winding up, and
- (b) ends when the amount mentioned in section 357YNA(1) is paid or becomes payable (whichever is later).
- (5) In subsection (2) the “relevant period” means the period which—
- (a) begins at the beginning of the 12 months before the commencement of the winding up of the transferor, and
 - (b) ends when the amount mentioned in section 357YNA(3) is paid or becomes payable (whichever is later).]

Textual Amendments

- F5** Ss. 357YNA, 357YNB inserted (with effect in accordance with reg. 2 of the amending S.I.) by [The Corporation Tax Act 2010 \(Part 8C\) \(Amendment\) Regulations 2017 \(S.I. 2017/364\)](#), regs. 1, **11**

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