



Taxation (International and Other Provisions) Act 2010

2010 CHAPTER 8

[^{F1}PART 6A

HYBRID AND OTHER MISMATCHES

CHAPTER 2

KEY DEFINITIONS

Ordinary income

[^{F1}259BC] **The basic rules**

- (1) This section has effect for the purposes of this Part.
- (2) “Ordinary income” means income that is brought into account, before any deductions, for the purposes of calculating the income or profits on which a relevant tax is charged (“taxable profits”).
- (3) But an amount of income is not brought into account for those purposes to the extent that [^{F2}—
 - (a) it is charged to the relevant tax at a nil rate, or
 - (b) it is excluded, reduced or offset by any exemption, exclusion, relief, or credit—
 - (i) that applies specifically to all or part of the amount of income (as opposed to ordinary income generally), or
 - (ii) that arises as a result of, or otherwise in connection with, a payment or quasi-payment that gives rise to the amount of income.]

Changes to legislation: There are currently no known outstanding effects for the Taxation (International and Other Provisions) Act 2010, Section 259BC. (See end of Document for details)

- (4) If all the relevant tax charged on taxable profits is, or falls to be, refunded, none of the income brought into account in calculating those taxable profits is “ordinary income”.
- (5) If a proportion of the relevant tax charged on taxable profits is, or falls to be, refunded, the amount of any income brought into account in calculating those taxable profits that is “ordinary income” is proportionally reduced.
- (6) For the purposes of subsections (4) and (5) an amount of relevant tax is refunded if and to the extent that—
- (a) any repayment of relevant tax, or any payment in respect of a credit for relevant tax, is made to any person, and
 - (b) that repayment or payment is directly or indirectly in respect of the whole or part of the amount of relevant tax,
- but an amount refunded is to be ignored if and to the extent that it results from qualifying loss relief.
- (7) In subsection (6) “qualifying loss relief” means—
- (a) any means by which a loss might be used for corporation tax or income tax purposes to reduce the amount in respect of which a person is liable to tax, or
 - (b) any corresponding means by which a loss corresponding to a relevant tax loss might be used for the purposes of a relevant tax other than corporation tax or income tax to reduce the amount in respect of which a person is liable to tax,
- (and in paragraph (b) “relevant tax loss” means a loss that might be used as mentioned in paragraph (a)).
- (8) References to an amount of ordinary income being “included in” taxable profits are to that amount being brought into account for the purposes of calculating those profits.
- [Income is to be treated as “ordinary income” if it would fall to be brought into account
- ^{F3}(8A) for the purpose of calculating taxable profits of a person but for the fact that the person is a qualifying institutional investor (and, if the person is based in a territory under the law of which there is no relevant tax on income of the kind in question, if the territory had such a tax).
- For the meaning of “qualifying institutional investor” see section 259NDA.]
- (9) In this section “relevant tax” means a tax other than the CFC charge or a foreign CFC charge.
- (10) Section 259BD contains provision for ordinary income to arise to chargeable companies by virtue of the CFC charge or a foreign CFC charge.]

Textual Amendments

- F1** Pt. 6A inserted (with effect in accordance with Sch. 10 paras. 18-21 of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [Sch. 10 para. 1](#)
- F2** Words in s. 259BC(3) substituted (with effect in accordance with Sch. 7 para. 19(1) of the amending Act) by [Finance Act 2018 \(c. 3\)](#), [Sch. 7 para. 3](#)
- F3** [S. 259BC\(8A\)](#) inserted (with effect in accordance with Sch. 7 paras. 37-39 of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 7 para. 26](#)

Changes to legislation:

There are currently no known outstanding effects for the Taxation (International and Other Provisions) Act 2010, Section 259BC.