



Taxation (International and Other Provisions) Act 2010

2010 CHAPTER 8

[^{F1}PART 9A

CONTROLLED FOREIGN COMPANIES

CHAPTER 6

THE CFC CHARGE GATEWAY: TRADING FINANCE PROFITS

[^{F1}371FA] The basic rule

- (1) Take the following steps to determine the CFC's profits falling within this Chapter for the purposes of step 2 in section 371BB(1) (the CFC charge gateway).

This is subject to regulations under section 371FD or 371FE.

Step 1 Determine if, during the accounting period, the CFC's free capital exceeds what it is reasonable to suppose its free capital would be were it a company which is not the 51% subsidiary of any other company. If there is excess free capital, "the step 1 amount" is—

- (a) the excess free capital, or
- (b) if less, the CFC's free capital so far as deriving (directly or indirectly) from UK connected capital contributions.

Step 2 This step applies only if the CFC carries on insurance business during the accounting period; if it does not, go straight to step 3. Determine if, during the accounting period when the CFC is carrying on insurance business, the CFC's free assets exceeds what it is reasonable to suppose its free assets would be were it a company which is not the 51% subsidiary of any other company. If there is excess free assets, "the step 2 amount" is—

- (a) the excess free assets, or

Changes to legislation: There are currently no known outstanding effects for the Taxation (International and Other Provisions) Act 2010, Section 371FA. (See end of Document for details)

(b) if less, the CFC's free assets so far as deriving (directly or indirectly) from UK connected capital contributions.

Step 3 If no excesses are determined at steps 1 and 2, no profits fall within this Chapter. Otherwise, the profits falling within this Chapter are the CFC's trading finance profits so far as it is reasonable to suppose that those profits arise from the investment or other use of the step 1 amount or the step 2 amount (or both

- (2) For the purposes of step 1 in subsection (1) the CFC's “free capital” is the funding it has for its business so far as the funding does not give rise to debits which are brought into account in determining the CFC's non-trading finance profits or trading finance profits.
- (3) For the purposes of step 2 in subsection (1) the CFC's “free assets” is the amount by which the value of its assets exceeds its loan capital.
- (4) Subsections (2) and (3) are subject to sections 371FB and 371FC and subsection (3) is also subject to subsection (6).
- (5) Subsection (6) applies if—
- (a) the CFC, acting outside its insurance business, gives a guarantee against losses of an insurance business of another company which is connected with the CFC,
 - (b) the guarantee is necessary for the purpose of meeting regulatory requirements applicable to the other company's insurance business,
 - (c) in consequence of having given the guarantee, the CFC is required by regulatory requirements applicable to its insurance business to hold more assets than it would otherwise be required to hold, and
 - (d) during the accounting period, the CFC holds assets solely for the purpose of meeting that requirement for more assets.
- (6) The value of the assets held by the CFC as mentioned in subsection (5)(d) is to be deducted from the CFC's free assets.
- (7) For the purposes of this section the “value” of an asset is the amount which it is reasonable to suppose the CFC would obtain for the transfer of all the CFC's rights in respect of the asset from a person not connected with the CFC.]

Textual Amendments

F1 Pt. 9A inserted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), **Sch. 20 para. 1** (with [ss. 56-58](#))

Modifications etc. (not altering text)

C1 S. 371FA(1) excluded (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Controlled Foreign Companies \(Excluded Banking Business Profits\) Regulations 2012 \(S.I. 2012/3041\)](#), regs. 1(2), **3(2)**

Changes to legislation:

There are currently no known outstanding effects for the Taxation (International and Other Provisions) Act 2010, Section 371FA.