These notes refer to the Finance Act 2015 (c.11)
which received Royal Assent on 26 March 2015

FINANCE ACT 2015

EXPLANATORY NOTES

INTRODUCTION

Section 107: "Effective Tax Mismatch Outcome"

Summary

1. This section describes the effective tax mismatch outcome which is a condition at subsection (1) of section 80 and subsection (2) of section 86.

Details of the Section

2. Subsection (2) sets out the meaning of "the first party" and "the second party". For the purposes of section 80 these are, respectively, the UK-resident company ("C") and another person ("P"). For the purposes of section 86 these are, respectively, the foreign company and another person ("A").

3. Subsection (3) sets out the conditions which result in an effective tax mismatch outcome for an accounting period.

4. Subsection (4) defines "the tax reduction" by reference to subsection (3)(b).

5. Subsection (5) specifies that, for the purpose of the effective tax mismatch outcome, it does not matter whether the tax reduction results from the application of different tax rates, the operation of a relief, the exclusion of any amount from a charge to tax, or another reason.

6. Subsection (6) describes the cases in which a material provision which might otherwise result in an effective tax mismatch outcome is exempted from doing so. These are where the result arises solely by reason of: employer contributions to a qualifying pension scheme; a payment to a charity; a payment to a person entitled to sovereign immunity in respect of a relevant tax; and certain investment funds, provided they meet the conditions set out in subparagraph (d)(i) or (ii).

7. Subsection (7) sets out the conditions under which "the 80% payment test" is met, for the purposes of subsection (3)(d).

8. Subsection (8) defines "authorised investment fund", "employer", "genuine diversity of ownership condition", "offshore fund", "overseas pension scheme", "registered pension scheme", and "relevant tax" for the purposes of the section.

9. Subsection (9) signposts section 108 for further provisions relevant to the application of this section.

Background Note

10. The diverted profits tax is a new charge on diverted profits. The main objective is to counteract contrived arrangements used by large groups (typically multinational enterprises) that result in the erosion of the UK tax base.