



Income and Corporation Taxes Act 1988

1988 CHAPTER 1

PART XVII

TAX AVOIDANCE

CHAPTER II

TRANSFERS OF SECURITIES

Other transfers of securities

729 Sale and repurchase of securities

- (1) Where the owner of any securities (“the owner”) agrees to sell or transfer those securities and by the same or any collateral agreement—
- (a) agrees to buy back or re-acquire the securities, or
 - (b) acquires an option, which he subsequently exercises, to buy back or re-acquire the securities,

then, if the result of the transaction is that any interest becoming payable in respect of the securities is receivable otherwise than by the owner, the following provisions shall have effect—

- (i) the interest so payable shall, whether it would or would not have been chargeable to tax apart from the provisions of this section, be deemed for all the purposes of the Tax Acts to be the income of the owner and not to be the income of any other person; and
 - (ii) if the securities are of such a character that the interest payable in respect thereof may be paid without deduction of tax, the owner shall be chargeable to tax under Case VI of Schedule D in respect of the interest which is so deemed to be his income, but shall be entitled to credit for any tax which that income is shown to have borne.
- (2) In relation to corporation tax—

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- (a) subject to the provisions of the Tax Acts about distributions, interest deemed under subsection (1)(i) above to be the income of the owner shall be chargeable under Case VI of Schedule D, and
 - (b) subsection (1)(ii) above shall not apply.
- (3) The references in subsection (1) above to buying back or re-acquiring the securities shall be deemed to include references to buying or acquiring similar securities, so, however, that where similar securities are bought or acquired, the owner shall be under no greater liability to tax than he would have been under if the original securities had been bought back or re-acquired.
- (4) Where any person carrying on a trade which consists wholly or partly in dealing in securities agrees to buy or acquire any securities, and by the same or any collateral agreement—
- (a) agrees to sell back or re-transfer the securities, or
 - (b) acquires an option, which he subsequently exercises, to sell back or re-transfer the securities,
- then, if the result of the transaction is that any interest becoming payable in respect of the securities is receivable by him, no account shall be taken of the transaction in computing for any of the purposes of the Tax Acts the profits arising from or loss sustained in the trade.
- (5) Subsection (4) above shall have effect, subject to any necessary modifications, as if references to selling back or re-transferring the securities included references to selling or transferring similar securities.
- (6) This section shall not apply to any income to which section 786(4) applies.
- (7) Subsections (1) and (2) above shall not apply where—
- (a) the securities are Eurobonds or foreign government stock; and
 - (b) the owner of the securities carries on a trade which consists wholly or partly in dealing in securities and the person who agrees to buy or acquire the securities carries on such a trade.
- (8) Subsection (4) above shall not apply where—
- (a) the securities are Eurobonds or foreign government stock; and
 - (b) the person from whom the person there mentioned agrees to buy or acquire the securities carries on a trade which consists wholly or partly in dealing in securities.
- (9) In subsections (7) and (8) above—
- “Eurobond” has the same meaning as in section 732(5); and
 - “foreign government stock” means stock which is issued by a government other than that of the United Kingdom and is denominated in a currency other than sterling.
- (10) For the purposes of this section—
- (a) “interest” includes a dividend;
 - (b) “securities” includes stocks and shares, except securities which are securities for the purposes of sections 710 to 728; and
 - (c) securities shall be deemed to be similar if they entitle their holders to the same rights against the same persons as to capital and interest and the same remedies for the enforcement of those rights, notwithstanding any difference in the total

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nominal amounts of the respective securities or in the form in which they are held or the manner in which they can be transferred.

- (11) The Board may by notice require any person to furnish them within such time as they may direct (not being less than 28 days), in respect of all securities of which he was the owner at any time during the period specified in the notice, such particulars as they consider necessary for the purposes of this section and for the purpose of discovering whether tax has been borne in respect of the interest on all those securities.
- (12) In any case where the owner agrees to sell or transfer before such day as the Board may by order appoint for the purposes of this section or the person referred to in subsection (4) above agreed to buy or acquire before that day—
 - (a) subsections (1) and (2) above shall not apply if the owner's agreement to sell or transfer constitutes a transfer to which section 713(2)(a) applies; and
 - (b) subsection (10)(b) above shall have effect with the omission of the words "except securities which are securities for the purposes of sections 710 to 728".

730 Transfers of income arising from securities

- (1) Where in any chargeable period the owner of any securities ("the owner") sells or transfers the right to receive any interest payable (whether before or after the sale or transfer) in respect of the securities without selling or transferring the securities, then, for all the purposes of the Tax Acts, that interest, whether it would or would not be chargeable to tax apart from the provisions of this section—
 - (a) shall be deemed to be the income of the owner or, in a case where the owner is not the beneficial owner of the securities and some other person ("a beneficiary") is beneficially entitled to the income arising from the securities, the income of the beneficiary, and
 - (b) shall be deemed to be the income of the owner or beneficiary for that chargeable period, and
 - (c) shall not be deemed to be the income of any other person.
- (2) For the purposes of subsection (1) above, in the case of a sale or other realisation the proceeds of which are chargeable to tax under Schedule C or under section 123(3) the interest so deemed to be the income of the owner or beneficiary shall be deemed to be equal in amount to the amount of those proceeds.
- (3) Nothing in subsection (1) above shall affect any provision of this Act authorising or requiring the deduction of income tax—
 - (a) from any interest which, under that subsection, is deemed to be the income of the owner or beneficiary, or
 - (b) from the proceeds of any subsequent sale or other realisation of the right to receive that interest;but the proceeds of any such subsequent sale or other realisation shall not, for any of the purposes of the Tax Acts, be deemed to be the income of the seller or the person on whose behalf the right is otherwise realised.
- (4) Where—
 - (a) the securities are of such a character that the interest payable in respect thereof may be paid without deduction of income tax, and
 - (b) the owner or beneficiary does not show that the proceeds of any sale or other realisation of the right to receive the interest which is deemed to be his income

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by virtue of this section have been charged to tax under Schedule C or under section 123(3),

then the owner or beneficiary shall be chargeable to tax under Case VI of Schedule D in respect of that interest, but shall be entitled to credit for any tax which that interest is shown to have borne.

- (5) For the purposes of subsection (4) above, in any case where, if the interest had been chargeable under Case IV or Case V of Schedule D, the computation of tax would have been made by reference to the amount received in the United Kingdom, the tax under Case VI shall be computed on the full amount of the sums which have been or will be received in the United Kingdom in the year of assessment or any subsequent year in which the owner remains the owner of the securities.
- (6) In relation to corporation tax, subsections (4) and (5) above shall not apply but, subject to the provisions of the Tax Acts about distributions, the owner or beneficiary shall, in respect of any interest which is deemed to be his income by virtue of this section, be chargeable to corporation tax under Case VI of Schedule D unless he shows that the proceeds of any sale or other realisation of the right to receive that interest have been charged to tax under Schedule C or under section 123(3).
- (7) In this section—
 - “interest” includes dividends, annuities and shares of annuities, and
 - “securities” includes stocks and shares.
- (8) The Board may by notice require any person to furnish them within such time as they may direct (not being less than 28 days), in respect of all securities of which he was the owner at any time during the period specified in the notice, with such particulars as they consider necessary for the purposes of this section and for the purpose of discovering whether—
 - (a) tax has been borne in respect of the interest on all those securities; or
 - (b) the proceeds of any sale or other realisation of the right to receive the interest on the securities have been charged to tax under Schedule C or section 123(3).