

INCOME TAX ACT 2007

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 15: Deduction of income tax at source

Overview

Chapter 12: Funding bonds

Overview

2856. This Chapter adapts the requirement to deduct sums representing income tax from certain payments of interest to deal with cases where the debtor has issued securities (“funding bonds”) instead of paying the interest. It is based on section 582 of ICTA.
2857. Sections 582(1) of ICTA and 380 of ITTOIA provide that the recipient of such bonds is treated as receiving an amount of interest equal to the market value of the bonds. This Chapter deals with the effect of that provision on the duty to deduct at source. This is usually to require the debtor to retain bonds to cover the amount of the deduction. But if that is impracticable, there is alternative provision.

Section 939: Duty to retain bonds where issue treated as payment of interest

2858. This section requires a debtor who issues funding bonds to retain bonds instead of deducting sums representing income tax. It is based on section 582(2), (2A) and (4) of ICTA.
2859. *Subsection (2)* makes it explicit that the rate by reference to which bonds are to be retained is the savings rate. The debtor is then treated as having complied with the duty to deduct at source (*subsection (3)*).
2860. The bonds themselves may be tendered in satisfaction of any income tax due from the debtor under Chapter 15 or 16 of Part 15 of this Act. Because the source legislation links into the deduction and collection requirements of sections 349 and 350 of ICTA, this provision is affected by the removal of the charge to income tax in section 350(1) of ICTA. See *Change 147* in Annex 1 and the commentary on section 963.

Section 940: Exception from duty to retain bonds

2861. This section makes provision for cases where it is impracticable for the debtor to retain bonds. It is based on section 582(2) of ICTA.
2862. The duty to deduct (which under section 939 becomes a duty to retain bonds) does not apply if the debtor notifies the Commissioners for Her Majesty’s Revenue and Customs of the details required by *subsection (2)*.