



Corporation Tax Act 2010

2010 CHAPTER 4

[^{F1}PART 8A

PROFITS ARISING FROM THE EXPLOITATION OF PATENTS ETC

[^{F2}CHAPTER 2A

RELEVANT IP PROFITS: CASES MENTIONED IN SECTION 357A(6)

[^{F1}][^{F2}Steps for calculating relevant IP profits of a trade

Textual Amendments

- F1** Pt. 8A inserted (with effect in accordance with [Sch. 2 paras. 7, 8](#) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 2 para. 1\(1\)](#)
- F2** Pt. 8A Chs. 2A, 2B inserted (with effect in accordance with s. 64(7) of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [s. 64\(3\)](#)

357BF Relevant IP profits

- (1) This section applies for the purposes of determining the relevant IP profits of a trade of a company for an accounting period in a case where—
- the accounting period begins on or after 1 July 2021, or
 - the company is a new entrant (see section 357A(11)).
- (2) To determine the relevant IP profits—

Step 1 Take any amounts which are brought into account as credits in calculating the profits of the trade for the accounting period, other than any amounts of finance income (see section 357BG), and divide them into two “streams”, amounts of relevant IP income (see sections 357BH to 357BHC) and amounts that are not amounts of relevant IP income. The stream consisting of relevant

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IP income is “the relevant IP income stream”; the other stream is the “standard income stream”.

Step 2 Divide the relevant IP income stream into “relevant IP income sub-streams” so that each sub-stream is—

- (a) a sub-stream consisting of income properly attributable to a particular qualifying IP right (an “individual IP right sub-stream”),
- (b) a sub-stream consisting of income properly attributable to a particular kind of IP item (a “product sub-stream”), or
- (c) a sub-stream consisting of income properly attributable to a particular kind of IP process (a “process sub-stream”).

See subsection (5) for the meaning of “IP item” and “IP process” and see subsections (6) and (7) for further provision in connection with product sub-streams and process sub-streams.

Step 3 Take any amounts which are brought into account as debits in calculating the profits of the trade for the accounting period, other than any excluded debits (see section 357BI), and allocate them on a just and reasonable basis between the standard income stream and each of the relevant IP income sub-streams.

Step 4 Deduct from each relevant IP income sub-stream—

- (a) the amounts allocated to the sub-stream at Step 3, and
- (b) the routine return figure for the sub-stream (see section 357BJ).

But see section 357BIA (which provides that certain amounts allocated to a relevant IP income sub-stream at Step 3 are not to be deducted from the sub-stream at this Step).

Step 5 Deduct from each relevant IP income sub-stream which is greater than nil following Step 4 the marketing assets return figure for the sub-stream (see section 357BK).

Step 6 Multiply the amount of each relevant IP income sub-stream (following the deductions required at Steps 4 and 5) by the R&D fraction for the sub-stream (see section 357BL).

Step 7 Add together the amounts of the relevant IP income sub-streams (following Step 6).

Step 8 If the company has made an election under section 357BM (which provides in certain circumstances for profits arising before the grant of a right to be treated as relevant IP profits), add to the amount given by Step 7 any amount determined in accordance with subsection (3) of that section.

- (3) If the amount given by subsection (2) is greater than nil, that amount is the relevant IP profits of the trade for the accounting period.
- (4) If the amount given by subsection (2) is less than nil, that amount is the relevant IP losses of the trade for the accounting period (see Chapter 5).
- (5) In this section—
 - “IP item” means—
 - (a) an item in respect of which a qualifying IP right held by the company has been granted, or
 - (b) an item which incorporates one or more items within paragraph (a);
 - “IP process” means—
 - (a) a process in respect of which a qualifying IP right held by the company has been granted, or

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- (b) a process which incorporates one or more processes within paragraph (a).
- (6) For the purposes of this section two or more IP items, or two or more IP processes, may be treated as being of a particular kind if they are intended to be, or are capable of being, used for the same or substantially the same purposes.
- (7) Income may be allocated at Step 2 of subsection (2) to a product sub-stream or process sub-stream only if—
 - (a) it would not be reasonably practicable to apportion the income between individual IP right sub-streams, or
 - (b) it would be reasonably practicable to do that but doing so would result in it not being reasonably practicable to apply any of the remaining steps in subsection (2).
- (8) Any reference in this section to a qualifying IP right held by the company includes a reference to a qualifying IP right in respect of which the company holds an exclusive licence.]]

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