



# Corporation Tax Act 2010

## 2010 CHAPTER 4

### [<sup>F1</sup>PART 8A

PROFITS ARISING FROM THE EXPLOITATION OF PATENTS ETC

### [<sup>F2</sup>CHAPTER 2A

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

*R&D fraction*

#### [<sup>F1</sup>[ <sup>F2</sup>357BLB] **Qualifying expenditure on relevant R&D undertaken in-house**

- (1) In section 357BLA, the company's "qualifying expenditure on relevant R&D undertaken in-house" means the expenditure incurred by the company during the relevant period which meets conditions A and B.
- (2) Condition A is that the expenditure is—
  - (a) incurred on staffing costs,
  - (b) incurred on software [<sup>F3</sup>, data licences, cloud computing services] or consumable items,
  - (c) qualifying expenditure on externally provided workers, or
  - (d) incurred on relevant payments to the subjects of clinical trials.
- (3) Condition B is that the expenditure is attributable to relevant research and development undertaken by the company itself.
- (4) If an election made by the company under section 18A of CTA 2009 (election for exemption for profits or losses of company's foreign permanent establishments) applies to the relevant period, expenditure incurred by the company during the period which meets conditions A and B—
  - (a) is not "qualifying expenditure on relevant R&D undertaken in-house", but

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*Changes to legislation: There are currently no known outstanding effects for the Corporation Tax Act 2010, Section 357BLB. (See end of Document for details)*

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- (b) is “qualifying expenditure on relevant R&D sub-contracted to connected persons”,
- so far as it is expenditure brought into account in calculating a relevant profits amount, or a relevant losses amount, aggregated at section 18A(4)(a) or (b) of CTA 2009 in calculating the company's foreign permanent establishments amount for the period.
- (5) In this section and sections 357BLC and 357BLD, “relevant research and development” means research and development (within the meaning of section 1138) which—
- (a) in a case where the sub-stream is an individual IP right sub-stream, relates to the qualifying IP right to which the income in the sub-stream is attributable,
  - (b) in a case where the sub-stream is a product sub-stream, relates to a qualifying IP right granted in respect of any item—
    - (i) to which income in the sub-stream is attributable, or
    - (ii) which is incorporated in an item to which income in the sub-stream is attributable, or
  - (c) in a case where the sub-stream is a process sub-stream, relates to a qualifying IP right granted in respect of any process—
    - (i) to which income in the sub-stream is attributable, or
    - (ii) which is incorporated in a process to which income in the sub-stream is attributable.
- (6) Research and development “relates” to a qualifying IP right for the purposes of subsection (5) if—
- (a) it creates, or contributes to the creation of, the invention,
  - (b) it is undertaken for the purpose of developing the invention,
  - (c) it is undertaken for the purpose of developing ways in which the invention may be used or applied, or
  - (d) it is undertaken for the purpose of developing any item or process incorporating the invention.
- (7) The following provisions of CTA 2009 apply for the purposes of this section—
- (a) section 1123 (meaning of “staffing costs”),
  - (b) section 1124 (when staffing costs are attributable to relevant research and development),
  - (c) section 1125 (meaning of “software [<sup>F4</sup>, data licences, cloud computing services] or consumable items”),
  - (d) sections 1126 to 1126B (when software [<sup>F5</sup>, data licences, cloud computing services] or consumable items are attributable to relevant research and development),
  - (e) sections 1127 to 1131 (meaning of “qualifying expenditure on externally provided workers”),
  - (f) section 1132 (when qualifying expenditure on externally provided workers is attributable to relevant research and development), and
  - (g) section 1140 (meaning of “relevant payments to the subjects of clinical trials”),
- and in the application of those provisions for the purposes of this section any reference to “relevant research and development” is to be read as a reference to relevant research and development within the meaning given by subsection (5).]]

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**Changes to legislation:** There are currently no known outstanding effects for the Corporation Tax Act 2010, Section 357BLB. (See end of Document for details)

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### 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\(3\)](#)
- F3** Words in s. 357BLB(2)(b) inserted (with effect in relation to accounting periods beginning on or after 1.4.2023) by [Finance \(No. 2\) Act 2023 \(c. 30\)](#), [Sch. 1 para. 9\(a\)](#), **20**
- F4** Words in s. 357BLB(7)(c) inserted (with effect in relation to accounting periods beginning on or after 1.4.2023) by [Finance \(No. 2\) Act 2023 \(c. 30\)](#), [Sch. 1 para. 9\(b\)\(i\)](#), **20**
- F5** Words in s. 357BLB(7)(d) inserted (with effect in relation to accounting periods beginning on or after 1.4.2023) by [Finance \(No. 2\) Act 2023 \(c. 30\)](#), [Sch. 1 para. 9\(b\)\(ii\)](#), **20**

**Changes to legislation:**

There are currently no known outstanding effects for the Corporation Tax Act 2010, Section 357BLB.