



# Taxation (International and Other Provisions) Act 2010

## 2010 CHAPTER 8

### PART 4

#### TRANSFER PRICING

### CHAPTER 4

#### POSITION, IF ONLY ONE AFFECTED PERSON POTENTIALLY ADVANTAGED, OF OTHER AFFECTED PERSON

*Alternative way of claiming if a security is involved*

#### **181 Section 182 applies to claims where actual provision relates to a security**

- (1) Subsection (2) applies if—
  - (a) both of the affected persons are companies, and
  - (b) the actual provision is provision in relation to a security issued by one of those companies.
- (2) A claim under section 174 may be made in accordance with section 182.
- (3) For the purposes of this Part, a “section 182 claim” is a claim under section 174 made in accordance with section 182.
- (4) In subsections (1)(b) and (5)(a) “security” includes securities not creating or evidencing a charge on assets.
- (5) For the purposes of subsection (1)(b), any—
  - (a) interest payable by a company on money advanced without the issue of a security for the advance, or
  - (b) other consideration given by a company for the use of money so advanced,

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is to be treated as if payable or given in respect of a security issued for the advance by the company, and references to a security are to be read accordingly.

### **182 Making of section 182 claims**

- (1) A section 182 claim may be made by—
  - (a) the disadvantaged person, or
  - (b) the advantaged person.
- (2) A section 182 claim made by the advantaged person is to be taken to be made on behalf of the disadvantaged person.
- (3) A section 182 claim may be made before or after a calculation within section 176(1) has been made.
- (4) A section 182 claim must be made either—
  - (a) at any time before the end of the period mentioned in section 177(2), or
  - (b) within the period mentioned in section 177(3).
- (5) Subsection (4) has effect subject to section 186(3) (which provides for the extension of the period for making a claim).

### **183 Giving effect to section 182 claims**

- (1) A section 182 claim is not a claim within paragraph 57 or 58 of Schedule 18 to FA 1998 (company tax returns, assessments and related matters).
- (2) Accordingly, paragraph 59 of that Schedule (application of Schedule 1A to TMA 1970) has effect in relation to a section 182 claim.
- (3) If—
  - (a) a section 182 claim is made before a calculation within section 176(1) has been made,
  - (b) such a calculation is subsequently made, and
  - (c) the claim is not consistent with the calculation,
 the affected persons are to be treated as if (instead of the claim actually made) a claim had been made that was consistent with the calculation.
- (4) All such adjustments are to be made (including by the making of assessments) as are required to give effect to subsection (3).
- (5) Subsection (4) has effect despite any limit on the time within which any adjustment may be made.

### **184 Amending a section 182 claim if it is followed by relevant notice**

- (1) Subsection (2) applies if—
  - (a) a section 182 claim is made,
  - (b) a return is subsequently made by the advantaged person on the basis mentioned in section 176(1), and
  - (c) a relevant notice (see section 190) taking account of such a determination as is mentioned in section 176(3)(b) is subsequently given to the advantaged person.

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- (2) If any amendment of the claim is appropriate in consequence of the determination contained in the relevant notice, the amendment may be made by—
  - (a) the disadvantaged person, or
  - (b) the advantaged person.
- (3) If an amendment under subsection (2) is made by the advantaged person it is to be taken to be made on behalf of the disadvantaged person.
- (4) Any amendment under subsection (2) must be made within the period mentioned in section 177(3).
- (5) Subsection (4) has effect subject to section 186(3) (which provides for the extension of the period for making an amendment).

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